



S.No.2

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
06-03-2025 AT 11:00 AM**

CP (IB) No. 391/7/HDB/ 2022

AND

IA (IBC) (Plan) 22/2024 in CP (IB) No. 391/7/HDB/ 2022

u/s. 7 of IBC, 2016

IN THE MATTER OF:

M/s. Edelweiss Asset Reconstruction
Company Limited

...Financial Creditor

AND

GVK Gautami Power Limited

...Corporate Debtor

C O R A M:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

O R D E R

IA (IBC) (Plan) 22/2024

Order pronounced. In the result **IA (IBC) (Plan) 22/2024 is allowed**. Resolution plan is approved as per the terms and conditions in the order.

Accordingly, IA is disposed of.

SD/-

MEMBER (T)

SD/-

MEMBER (J)



**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – I**

I.A. (IBC) (PLAN) NO. 22 OF 2024
IN
C.P. (IB) NO. 391/7/HDB/2022

IN THE MATTER OF:

EDELWEISS ASSET RECONSTRUCTION COMPANY LIMITED

VERSUS

GVK GAUTAMI POWER LIMITED

Filed by:

ANIL KOHLI

RESOLUTION PROFESSIONAL FOR
GVK GAUTAMI POWER LIMITED

... APPLICANT

AND

M/S RADHA SMELTERS PRIVATE LIMITED

... RESPONDENT

Date of order: 06.03.2025

Coram:

Dr. N. Venkata Ramakrishna Badarinath, Hon'ble Member (Judicial)

Shri Charan Singh, Hon'ble Member (Technical)

Appearance:

For the Applicant: Shri S. Ravi, Senior Advocate assisted by Shri Abhishek Anand, Shri Karan Kohli, Shri Akshit Awasthi and Ms. Vanshika Dhoot, Advocates



**PER: BENCH
ORDER**

1. The present Application is filed by the Resolution Professional i.e. the Applicant herein (hereinafter referred to as the “Resolution Professional” or the “Applicant”) of **M/s GVK Gautami Power Limited (Corporate Debtor)**, under Section 30(6) read with Regulation 39 (4) of IBBI (CIRP) Regulations 2016, seeking approval of the Resolution Plan submitted by M/s Radha Smelters Private Limited (Successful Resolution Applicant/ SRA), as approved by the Committee of Creditors (COC) with 100% of voting share.

2. Averments in the Application in brief: -

2.1 ADMISSION OF THE PETITION AND APPOINTMENT OF INTERIM RESOLUTION PROFESSIONAL / RESOLUTION PROFESSIONAL:

M/s GVK Gautami Power Limited is undergoing Corporate Insolvency Resolution Process (CIRP) by virtue of order dated 20.10.2023 passed in CP(IB) No. 391/7/HDB/2022 by this Tribunal, filed under Section 7 of Insolvency & Bankruptcy Code (IBC) by Edelweiss Asset Reconstruction Company Limited. Mr. Anil Kohli was appointed as Interim Resolution Professional who was later confirmed as Resolution Professional.

2.2 BRIEF OVERVIEW OF THE CIRP PROCESS

• **ISSUE OF PUBLIC ANNOUNCEMENT**

The IRP issued Public Announcement in FORM – A in Financial Express, The New Indian Express (English), Nava Telangana and Andhra Pradesh (Telugu) on 26.10.2023 as per Section 15 of Insolvency and Bankruptcy



Code, 2016 Read with Regulation 6 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, inviting claims from the creditors.

- **CONSTITUTION OF COC:**

After collating and verifying the claims, the Committee of Creditors (COC) was constituted on 10.11.2023 which comprised of the following Financial Creditors.

S. NO.	CREDITOR	NATURE OF CLAIM	VOTING SHARE (%)
1.	Edelweiss Asset Reconstruction Company Limited	Secured Financial Creditor	59.12
2.	Bank of Baroda (Indian Branch)	Secured Financial Creditor	11.35
3.	Indian Overseas Bank	Secured Financial Creditor	2.36
4.	Union Bank of India	Secured Financial Creditor	8.25
5.	Indian Bank	Secured Financial Creditor	9.54
6.	Bank of Baroda (UK Branch)	Secured Financial Creditor	6.41
7.	Punjab National Bank	Secured Financial Creditor	2.96
TOTAL			100

The document certifying constitution of the CoC of the Corporate Debtor as on 10.11.2023 was taken on record by this Tribunal on 13.11.2023 vide I.A. No. 238/HYD/2024.



- **CONDUCT OF FIRST COC MEETING AND APPOINTMENT OF REGISTERED VALUERS:**

The COC in its 1st meeting held on 20.11.2023 resolved to appoint the Applicant herein as the Resolution Professional. Further, in the 2nd COC meeting held on 14.12.2023, the COC resolved to appoint registered valuers, transaction auditor for a Transaction Audit review and the members directed the Applicant to issue FORM G inviting Expression of Interest as per Regulation 36A of the CIRP Regulations.

- **PUBLICATION OF FORM 'G' (EXPRESSION OF INTEREST)**

In pursuance of the resolution passed in the 2nd meeting of the CoC, the Applicant published FORM-G on 19.12.2023, in *Business Standard* (English) *Financial Express* (English) and *Andhra Prabha* (Telugu-Andhra Pradesh wide circulation) inviting Expression of Interest, wherein the last date for submission of Expression of Interest was 18.01.2024.

- **DECISIONS TAKEN IN SUBSEQUENT COC MEETINGS**

3rd CoC	24.01.2024	<p>The Applicant apprised the members about receipt of five (5) Expression of Interests along with the requisite EMD of Rs. 50 Lakhs from Prospective Resolution Applicants. Further, a corrigendum to FORM G dated 19.12.2023 was issued on 19.01.2024 extending the last date for submission of EOI from 18.01.2024 vide email and 19.01.2024 in physical form to 25.01.2024 vide email and 29.01.2024 in physical form. The members of the CoC resolved to consider & approve the Request For Resolution Plan and evaluation matrix for submission of the Resolution Plan.</p> <p>Further, the members of the CoC resolved to appoint M/s MKPS & Associates as the Transaction Review Auditor, Mr.</p>
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		<p>Prashant Chauhan as the Marketing Strategist in terms of Regulation 36C of the IBBI (CIRP) Regulations, 2016, M/s Adroit Appraisers & Research Private Limited as the valuer for all three asset classes of the Corporate Debtor and Mr. Jayesh Kamat (Kakode & Associates) for valuation of Land & Building, Mr. Jayesh Shah (Kakode & Associates) for valuation of Securities & Financial Assets and Mr. Anil Pai Kakode (Kakode & Associates) for valuation of Plant & Machinery of the Corporate Debtor.</p>
4th COC	18.03.2024	<p>The Applicant presented the Transaction Review Audit Report and apprised the members that the same has been sent to the Suspended Board of Directors for their comments/clarifications. The Applicant updated the final list of Prospective Resolution Applicants and issued the same on 11.02.2024 and sent the Information Memorandum and Request for Resolution Plan to PRAs on 13.03.2024. Further, time was extended for submission of the Resolution Plan till 31.03.2024.</p> <p>The Applicant herein further apprised the members about various litigations pending before the Hon'ble Appellate Tribunal and this Hon'ble Adjudicating Authority along with the Hon'ble High Courts, Petroleum and Natural Gas Board, Central Electricity Regulatory Commissions and the Debt Recovery Tribunals.</p>
5th COC	12.04.2024	<p>The Applicant apprised the members that he has received only one Resolution Plan from one M/s Radha Smelters Private Limited & M/s Vasavi Realty Private Limited (in Consortium) before the last date of submission i.e. 10.04.2024 as approved by the CoC vide email 29.03.2024</p> <p>After discussion & considerations, the CoC resolved to carry out another publication of FORM – G as the bid being low in the existing Resolution Plan.</p> <p>The resolution seeking extension of CIRP period by 90 days beyond 17.04.2024 was put up for e-voting.</p>
6th COC	24.04.2024	<p>The Applicant duly apprised the members of the CoC that I.A. No. 797 of 2024 has been filed before this Hon'ble Adjudicating Authority seeking an extension of the CIRP period by 90 days.</p>



		<p>The Applicant updated the CoC about the status of the waste oil lifting process and the refund received from the Custom Department.</p> <p>The members of CoC discussed about various issues including the Transaction Review Audit Report, methodology adopted by the Valuers and the way forward to the Resolution Process. Also, the Applicant duly updated the CoC Members about the status of the various litigations pending before the Hon'ble Appellate Tribunal, this Hon'ble Adjudicating Authority, High Courts, Petroleum and Natural Gas Board, Central Electricity Regulatory Commissions and the Debt Recovery Tribunals.</p> <p>Further, the members of the CoC through physical voting resolved to approve the extension of time period in submission of the Resolution Plan till 04.05.2024 as requested by M/s Sherisha Technologies Private Limited (PRA)</p>
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The Adjudicating Authority vide order dated 25.04.2024 in IA No. 797/2024, allowed extension of 90 days beyond the period of 180 days commencing from 18.04.2024 till 17.07.2024.

7th COC	06.05.2024	<p>The Applicant informed the CoC that the Transaction Review Audit Report has been received from M/s MKPS, Transaction Auditor.</p> <p>Further, the Applicant updated the CoC about the status of the waste oil lifting process, the valuation of the assets of the Corporate Debtor and about the status of the various litigations pending before the Hon'ble Appellate Authority and this Hon'ble Adjudicating Authority. Also, the CoC discussed about the way forward to the Resolution Process by passing resolution for reissuance of FORM-G and withdrawal of litigations pending against M/s Krishna Lubricants for an amicable settlement.</p>
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- In pursuance of the decision taken by the members of CoC, the Applicant published a fresh FORM G on 07.05.2024, thereby inviting PRA' s to submit their EOI by 22.05.2024 and to submit the Resolution Plans by 06.07.2024 (through email) and 08.07.2024 (hard copy).
- The Application bearing I.A. No. 1927 of 2023 filed by M/s Krishna Lubricants was withdrawn vide order dated 27.05.2024 in view of the amicable settlement between the parties. Further in pursuance of the resolutions passed in the 7th meeting of the CoC and the withdrawal of the Application bearing I.A. No. 1927 of 2023, the Company Appeal (AT) (Ins.) (CH) No. 431 of 2023 filed by the Applicant herein was dismissed as infructuous.

8th COC	30.05.2024	<p>The Applicant informed the CoC that the Transaction Review Audit Report has been received from M/s MKPS, Transaction Auditor and that certain transactions fell within the purview of fraudulent transactions as per Section 66 of the Code.</p> <p>Further, the Applicant updated the CoC about the status of the waste oil lifting process, the valuation of the assets of the Corporate Debtor and about the status of the various litigations pending before the Hon'ble Appellate Authority and this Hon'ble Adjudicating Authority. Also, the CoC discussed about the way forward to the Resolution Process</p>
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		by passing resolution for reissuance of FORM-G and withdrawal of litigations pending against M/s Krishna Lubricants for an amicable settlement.
9th COC	26.06.2024	<p>The Applicant informed the CoC that the Applicant is in receipt of 12 EOI's and the last date of submission of Resolution Plan is 06.07.2024. The Applicant further apprised that one of the PRA's i.e., Sherisha Technologies Pvt Ltd sought extension of 10 days for submission of the Resolution Plan.</p> <p>However, the CoC decided not to extend the time considering that the last date of CIRP is 16.07.2024.</p>
10th COC	12.07.2024	COC passed resolution with 68.49% for extension of CIRP period by 60 days beyond 90 days as the Applicant has to undertake due diligence of 04 resolution plans.

- Pursuant to above, the Applicant herein preferred I.A. No. 1583 of 2024 under Section 12(2) of the Code read with Regulation 40 of the CIRP Regulations, 2016 before this Hon'ble Adjudicating Authority seeking an extension of 60 days period for completion of the CIRP process beyond the 270 days, which has been allowed vide order dated 30.07.2024.



11th COC	05.08.2024	<p>The Applicant apprised the CoC members about receipt of the email dated 30.07.2024 from M/s AKSON Oil regarding presence of substantial mud sediment/ residue settled at the bottom of the waste oil consignment of 70 Kl lifted on 25.07.2024 and requested for return of both the tankers of the waste oil.</p> <p>Further, it was decided that the quality of the waste oil be checked once the tankers report at the plant and accordingly future course of actions will be decided in due course of time.</p> <p>The Applicant further apprised the members of the CoC that pursuant to the opening of the Resolution Plan received from the PRAs, the compliance check in terms of Code, Regulations made therein was done and prepared RFRP. Further, the Applicant apprised the members of the CoC that he has invited PRAs in the present meeting for negotiation and discussion on the indicative curings. It was discussed and decided by the members of the COC that the Fair Value should be considered for negotiations with the PRAs and the same be kept as benchmark for negotiation.</p>
12th COC	23.08.2024	<p>The Applicant apprised the COC that he is in receipt of a Notice dated 17.08.2024 vide email mentioning the dues of energy imported from APEPDCL which was duly responded by the Applicant vide email and requested APDISCOM not to disconnect the electricity connection of the Corporate Debtor and restrain from taking any coercive actions and comply with the terms of Insolvency & Bankruptcy Code, 2016.</p> <p>Further, the Applicant apprised the members of the CoC that he is in receipt of a letter dated 30.07.2024 vide email dated 16.08.2024 regarding some queries for maintaining the GAIL's gas metering station and other equipment installed at the plant. The Applicant has replied indicating that the CIRP of the Corporate</p>



		<p>Debtor is at an advanced stage wherein Resolution Plans are being considered by the COC and thereby requested for their cooperation in the matter.</p> <p>The Applicant further apprised the members of the CoC that the last date of CIRP being 330th day from CIRP initiation date is 14.09.2024 and the COC with 76.88% resolved to seek an extension of 30 days beyond 330 days as voting on the Resolution Plans requires at least 15 days' time.</p>
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- Pursuant to above, on 23.08.2024 the Applicant herein filed an Application bearing I.A. No. 1843/HYD/2024 seeking an extension of 30 days beyond 14.09.2024 i.e. the 330th day of the CIRP in view of the peculiar facts and circumstances of the present case, which was allowed vide order dated 13.09.2024.

- **APPROVAL OF RESOLUTION PLAN :**

13th COC	30.08.2024	<p>The Resolution Plans submitted by M/s Radha Smelters Private Limited, M/s Sherisha Technologies Private Limited and M/s Orissa Metaliks Private Limited along with their respective clarification/addendum sheets received by the Applicant were placed before the CoC for discussions whereas the Resolution Plan submitted by M/s Great Value Industries Limited was found to be non-compliant with the provisions of the Code and the Regulations framed thereunder and the same was not placed before the CoC.</p>
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		<p>The CoC evaluated the feasibility and viability of each Resolution Plan as per Regulation 39(3) of the IBBI (CIRP) Regulations, 2016.</p> <p>The resolution plans were put for e-voting from 17.09.2024 to 23.09.2024 and the Resolution Plan dated 22.08.2024 submitted by M/s Radha Smelters Private Limited (Successful Resolution Applicant) along with the Addendum sheet dated 09.09.2024 was approved with 100% voting share in favour of it.</p>
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- **LETTER OF INTENT**

Pursuant to approval of the Resolution Plan by the CoC, the Applicant issued Letter of Intent dated 08.10.2024 to the Resolution Applicant and the Resolution Applicant has acknowledged the same on 10.10.2024.

- **PERFORMANCE BANK GUARANTEE**

As per Regulation 39(4A) of CIRP Regulations, the SRA through its SPV has furnished the Performance Bank Guarantee to the tune of Rs. 29,98,50,000 /-(Rupees Twenty Nine Crores, Ninety-Eight Lakhs and Fifty Thousand Only).

3. **CONTOUR OF RESOLUTION PLAN:**

- (a) M/s Radha Smelters Private Limited (Successful Resolution Applicant) was incorporated on 28-06-2007 as an ISO 9001:2008



Certified Company having its registered office of the company at 8-2-269/S/ 75&76 Sagar Society, Road no.2, Banjara Hills, Hyderabad-500034. The company is engaged in the manufacturing in steel segment, using its own full-fledged infrastructure with the latest rolling mills and induction furnace located in the heart of Hyderabad industrial belt at Nacharam Hyderabad and Chegunta Village in Medak District. The Company is led Mr. Sunil Kumar Saraf and Mr. Suman Kumar Saraf, the promoters of the Company.

- (b) The COC comprised of the following Financial Creditors and distribution of voting share among them is as under:

S. NO.	FINANCIAL CREDITOR	AMOUNT CLAIMED (IN RUPEES)	AMOUNT VERIFIED IN RUPEES)	VOTING %
1.	Bank of Baroda (UK Branch)	1,76,98,14,536	1,76,98,14,536	6.41
2.	Bank of Baroda (Indian Branch)	3,13,18,25,798	3,13,18,25,798	11.35
3.	Indian Overseas Bank	65,09,02,227	65,09,02,227	2.36
4.	Union Bank of India	2,33,36,31,578	2,27,69,58,683	8.25
5.	Indian Bank	2,63,37,04,199	2,63,37,04,199	9.54
6.	Edelweiss Asset Reconstruction	16,31,49,64,165	16,31,49,64,165	59.12



	Company Limited			
7.	Punjab National Bank	92,53,98,605	81,75,52,042	2.96
Total		27,76,02,41,108	27,59,57,21,650	100.00

- (c) The proposed distribution of the Resolution Plan amount to the stakeholders as approved by the CoC is mentioned below.

(Amount in lakhs)

Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NA	NA	NA	NA
		(b) Other than (a) above:	NA	NA	NA	NA
		(i) who did not vote in favour of the resolution Plan	NA	NA	NA	NA
		(ii) who voted in favour of the resolution plan	277602.41	275957.22	19990	7.20%



		Total[(a) + (b)]	277602.41	275957.22	19990	7.20%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NA	NA	NA	NA
		(b) Other than (a) above:	NA	NA	NA	NA
		(i) who did not vote in favour of the resolution Plan	NA	NA	NA	NA
		(ii) who voted in favour of the resolution plan	NA	NA	NA	NA
		Total[(a) + (b)]	NA	NA	NA	NA
3	Operational Creditors	(a) Related Party of Corporate Debtor	NA	NA	NA	NA
		(b) Other than (a) above:				
		(i) Government *	-	-	700	NA
		(ii) Workmen	-	-	-	-
		(iii) Employees			-	-
(iv) Other Operational Creditors	3189	9.24	-	-		
		Total [(a) + (b)]	3189	9.24	0	0
4	Other debts and dues	-	0	0	0	0
Grand Total			280791.43	275966.46	20690	7.36%



**That the Resolution Applicant in the Resolution Plan has specified in Clause 3(d) of the Financial Proposal that Rs. 700 lakhs is allocated for payment towards Increase/admission of the ESIC/EPFO/Gratuity claims, if any received before closing date. If the amount payable towards these is less than Rs. 700 lakhs then the savings will be allocated to the Secured Financial Creditors proportionately as per their admitted claims.*

(d) TERM OF THE RESOLUTION PLAN:

The term of the Resolution Plan will be 90 days from the approval of the Resolution Plan by this Hon'ble Adjudicating Authority and the implementation of the plan will commence from the date when this Hon'ble Adjudicating Authority approves the Resolution Plan.

(e) PROPOSED PAYMENT DISTRIBUTION TO ALL STAKEHOLDERS

(IN LAKHS)

S NO.	STAKEHOLDERS	AMOUNT CLAIMED	AMOUNT ADMITTED	AMOUNT PROPOSED UNDER PLAN (IN RS.)
1.	Payment of unpaid CIRP costs			10.00
2.	Secured Financial Creditors	2,77,602.41	2,75,957.22	19,990.00
3.	Operational Creditors (Other than workmen & Employees, statutory dues) Eastern Power * Distribution Company of AP Limited & Others	3,189.02	9.24	0.00



4.	ESIC/EPFO/Gratuity claims.			700.00
	Total	2,80,791.43	2,75,966.46	20,700.00

****The total claim filed by Easter Power Distribution Company of Andhra Pradesh Limited is an amount of Rs. 31,79,78,131, however, the same is pending adjudication before the Hon'ble Central Electricity Regulatory Commission which shall be pursued by the Successful Resolution Applicant and 50% of recovery of any amount shall be distributed between the SRA and the Secured Financial Creditors in proportion of their admitted claim.***

(f) MONITORING COMMITTEE

The approved Resolution Plan provides for constitution of the Monitoring Committee consisting of Resolution Professional, a representative of the COC, one representative of the Resolution Applicant to oversee and monitor the implementation of the Resolution Plan from the date of approval of Resolution Plan by this Tribunal till the final payment as per the resolution plan.

(a) Compliance of mandatory contents of Resolution Plan under the Code and Regulations.

The Applicant has conducted a thorough compliance check of the Resolution Plan in terms of the Code as well as Regulations 38 & 39 of the Insolvency and Bankruptcy Board of India (Corporate Insolvency Resolution Process) Regulations, 2016 and has filed Form 'H' prescribed under Regulation 39(4) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The fair value and Liquidation value as submitted in Form-H is Rs. 4,17,41,56,589/- and Rs. 2,65,03,03,258/- respectively.



4. In the above backdrop we heard the Ld. Senior Counsel Shri S. Ravi assisted by Shri Abhishek Anand, Ld. Counsel for the Resolution Professional. He submits that the Resolution Plan meets the requirement of Section 30 (2) of the Code, as under: -

Provisions under Section 30(2) of the Code	Compliance under Resolution Plan
(a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the repayment of other debts of the Corporate Debtor;	Yes, provision has been made for payment of the Insolvency Resolution Process Cost of Rs 10 Lakhs in Clause 1 read with Clause 3(b) of the financial proposal under the Resolution Plan and Section 3(b) of the Resolution Plan.
[(b) Whether the plan provides for the payment to the Operational Creditors (workmen dues and Employees dues)	Though NIL payments are proposed, the Successful Resolution Applicant has incorporated Section 30(2)(b) of the Code under Clause 3(a) of the Resolution Plan.
(c) Payment to Financial creditors who did not vote in favour of the resolution plan	Under Clause 4 of the financial proposal under the Resolution Plan the dissenting financial creditors shall be paid their proportionate share in priority of payment of proportionate share to assenting financial creditors (financial creditors who have right to vote and voted in favour of the resolution plan). The dissenting financial creditor shall be paid a minimum amount as per Section 30(2) of IBC Act 2016. If any excess amount is required to be paid to dissenting financial creditors, then the amount provided in resolution plan, then the same shall be paid by reducing the



	amount available to other financial creditor. However, the plan is approved with 100% voting share in favour of it.
(d) Management of the affairs of the Corporate Debtor after approval of the resolution plan	Yes the Resolution Plan provides for the management of the affairs of the Corporate Debtor in Clause 6 of the Resolution Plan.
(e) Provides for the implementation and supervision of the Resolution Plan	Yes, the Resolution Plan provides for the management of the affairs of the Corporate Debtor in Clause 8.24 of the Resolution Plan.
(f) That the plan does not contravene any of the provisions of the law for the time being in force	Statement has been included in the Resolution Plan on Clause 10 & 13 of the Resolution Plan.

5. Further, the Resolution Plan is in compliance of Regulation 38 of the Regulations in the following manner:

CIRP Regulation	Provisions of CIRP Regulations	Relevant clause / page no. of Resolution Plan document
Regulation 38(1)(a)	The amount payable under the resolution plan to the operational creditors, shall be paid in priority over financial creditors.	Clause (3) & (4) page 4 of the Resolution Plan.
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with interest of all stakeholders including Financial Creditors and Operational Creditors of the Corporate Debtor.	Clause (3) (c) page 4 of the Resolution Plan. Declaration by the Resolution Applicant that the Resolution Plan has considered the interest of all the stakeholders of the Corporate Debtor, keeping in view the objectives of the Code.
Regulation 38(1B)	Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code	Clause 10(C), Pg. 24 of the Resolution Plan. Declaration by the Resolution Applicant that neither the Resolution Applicant nor any of its



	If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation	related party has either failed or contributed to the failure of the implementation of any Resolution Plan approved under the Code.
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6. It is further stated by the Ld. Counsel for the Resolution Professional that an IA filed under Section 66 of the Code (PUFE transactions) before this Tribunal is under scrutiny and yet to be numbered. However, as per the approved Resolution Plan, the recoveries from PUFE Application filed under Section 66 of the Code belong to the Financial Creditors and post the NCLT Approval Date, the Financial Creditors shall pursue the said Application.

7. At the outset we refer to the following judgements: -

(a) Hon'ble Apex Court in *re Sashidhar v. Indian Overseas Bank & Others* (in Civil Appeal No. 10673/2018) held that

“if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per Section 30 (6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority. On receipt of such proposal, the Adjudicating Authority (NCLT) is required to satisfy itself that the resolution plan as approved by CoC meets the requirements specified in Section 30(2). No more and no less”.

(b) The Hon'ble Supreme Court has further held at para 35 of the above judgement that:

the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 limited to scrutiny of the resolution plan “as approved” by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the adjudicating authority can reject the resolution plan is in reference to matters specified in Section 30(2), when the resolution plan does not conform to the stated requirements.



- (c) The Hon'ble Supreme Court in **Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors**, held that:-

“the limited judicial review available to AA has to be within the four corners of section 30(2) of the Code. Such review can in no circumstance trespass upon a business decision of the majority of the CoC. As such the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved”.

- (d) The Hon'ble Supreme Court of India, in the recent ruling in re **Vallal RCK vs M/s Siva Industries and Holdings Limited & Ors**, has held as under:-

21. This Court has consistently held that the commercial wisdom of the CoC has been given paramount status without any judicial intervention for ensuring completion of the stated processes within the timelines prescribed by the IBC. It has been held that there is an intrinsic assumption, that financial creditors are fully informed about the viability of the corporate debtor and feasibility of the proposed resolution plan. They act on the basis of thorough examination of the proposed resolution plan and assessment made by their team of experts. A reference in this respect could be made to the judgments of this Court in the cases of K. Sashidhar v. Indian Overseas Bank and Others, Committee of Creditors of Essar Steel India Limited through Authorised Signatory v. Satish Kumar Gupta and Others, Maharashtra Seamless Limited v. Padmanabhan Venkatesh and Others, Kalpraj Dharamshi and Another v. Kotak Investment Advisors Limited and Another, and Jaypee Kensington Boulevard Apartments Welfare Association and Others v. NBCC (India) Limited and Others.

27. This Court has, time and again, emphasized the need for minimal judicial interference by the NCLAT and NCLT in the framework of IBC. We may refer to the recent observation of this Court made in the case of Arun Kumar Jagatramka v. Jindal Steel and Power Limited and Another:

“95. However, we do take this opportunity to offer a note of caution for NCLT and NCLAT, functioning as the adjudicatory authority and appellate authority under the IBC respectively, from judicially interfering in the framework envisaged under the IBC. As we have noted earlier in the judgment, the IBC was introduced in order to overhaul the insolvency and bankruptcy regime in India. As such, it is



a carefully considered and well thought out piece of legislation which sought to shed away the practices of the past. The legislature has also been working hard to ensure that the efficacy of this legislation remains robust by constantly amending it based on its experience. Consequently, the need for judicial intervention or innovation from NCLT and NCLAT should be kept at its bare minimum and should not disturb the foundational principles of the IBC.....”

8. According to the Applicant from the date of commencement of CIRP to till date of filing this instant application, a total of 16 COC meetings were convened.
9. It is further noted that the 180 days' time limit for completion of the CIRP as per Section 12 of the Code was 17.04.2024. However, the time was extended three times and the date of expiry of extended period of CIRP was 14.10.2024.
10. It is further observed from the Form-H compliance report filed by the Resolution Professional that the total resolution amount provided by the Resolution Applicant to the stakeholders is Rs. 207.00 crores as against the admitted amount of Rs. **2759.67** crores (hair cut of 92.5%).
11. Further, this Tribunal According to the Resolution Professional, the said Resolution Plan complies with all the provisions of the IBC, IBBI / CIRP Regulations and does not contravene any of the provisions of the law for the time being in force and the Successful Resolution Applicant has filed an Affidavit pursuant to Section 30 (1) of the Code, confirming its eligibility under Section 29A of the code and the Resolution Professional affirms that the contents of the said Affidavit are in order.
12. The record reveals that this Tribunal on 17.01.2025 sought the following clarifications:-



- (i) There is no claim received from Esi/PF/Gratuity claims and consequently the admitted claim for the same is also 'nil'. However, an amount of Rs. 7 crores have been provided in the plan without explaining the reasons for this provision., in view of the very high hair cut i.e 92.76% to the secured financial creditors.
- (ii) Further, on perusal of Form-H, there is no amount allocated to workmen/employees and other OCs. This discrepancy between the resolution plan and the Form-H needs to be clarified by the COC and the Resolution Professional.
- (iii) The RP is directed to call for a meeting of the COC within one week and seek clarification on this issue”.

13. In response to the above observations by this Tribunal, the Applicant filed clarificatory memo dated 25.01.2025 clarifying the points raised by the Bench, as under:-

- (a) That in the Financial Proposal of the Resolution Plan dated 22.08.2024 submitted by SRA and further clarified by the clarificatory Addendum dated 09.09.2024 that Rs. 700 lakhs is allocated for payment towards any increase/admission of the ESIC/EPFO/Gratuity claims, if any , are received before closing date through there are no existing claims filed under these Heads till date. However, if the amount payable towards these, is less than Rs. 7 crores then the savings will be allocated to the Secured Financial Creditors proportionately as per their admitted claims and accordingly, if no claim is received till closing date, entire



amount of Rs. 700 lakhs will be distributed to the secured financial creditors.

- (b) The Resolution Professional has furnished the revised Form-H incorporating the amount of Rs. 700 lakhs provided in the Resolution Plan read with the Addendum otherwise than against existing admitted claims, complying the order dated 17.01.2025, copy of which is annexed to the clarificatory memo and marked as Annexure-2.
- (c) The Resolution Professional has complied the direction of this Tribunal dated 17.01.2025 by convening the 16th CoC meeting on 24.01.2025 and apprising the COC members regarding various clauses of the Resolution Plan as well as Addendum submitted by the SRA regarding the payments proposed to ESIC/EPFO/Gratuity claims. The copy of the minutes of the 16th COC meeting is annexed to the memo and marked as Annexure A-3.
14. We are satisfied with the explanation/ clarification given by the Resolution Professional as above. Therefore, the resolution plan, when tested on the touch stone of the aforesaid facts and the rulings, we are of the view that the instant resolution plan satisfies the requirements of Section 30 (2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. We also find that the Resolution Applicant is eligible to submit the Resolution Plan under Section 29A of the Code.



15. We therefore, hereby approve the Resolution Plan submitted by **M/s Radha Smelters Private Limited** (“Successful Resolution Applicant”) along with addendums, annexures, schedules forming part of the Resolution Plan annexed to the Application and order as under: -
- (a) The Resolution Plan along with annexures and schedules forming part of the plan shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.
- (b) All crystallized liabilities and unclaimed liabilities of the Corporate Debtor as on the date of this order shall stand extinguished on the approval of this Resolution Plan.
- (c) The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/ liabilities of the Corporate Debtor and shall be dealt with by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned as held by Hon’ble Supreme Court in the matter of **Ghanashyam Mishra & Sons Private Limited Versus Edelweiss Asset Reconstruction Company Limited in CIVIL APPEAL NO.8129 OF 2019 dated 13.04.2021.**



- (d) It is hereby ordered that performance bank guarantee of Rs. 29,98,50,000 /- furnished by the Resolution Applicant shall remain as performance Guarantee till the amount proposed to be paid to the creditors under the plan, is fully paid off and the plan is fully implemented.
- (e) The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC) Hyderabad for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.
- (f) Henceforth, no creditors of the erstwhile Corporate Debtor can claim anything other than the liabilities referred to supra.
- (g) The moratorium under Section 14 of the Code shall cease to have effect from this date.
- (h) The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this order for information.
- (i) The Applicant shall forthwith send a copy of this order to the CoC and the Resolution Applicant.



- (j) The Registry is directed to furnish free copy to the parties as per Rule 50 of the NCLT Rules, 2016.
- (k) The Registry is directed to communicate this order to the Registrar of Companies, Hyderabad for updating the master data and also forward a copy to IBBI.
- (l) Accordingly, IA (plan) 22/2024 stands disposed of.

SD/-
(CHARAN SINGH)
Member (Technical)

SD/-
(DR. N. VENKATA RAMAKRISHNA BADARINATH)
Member (Judicial)

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