

**IN THE NATIONAL COMPANY LAW TRIBUNAL
 “CHANDIGARH BENCH, CHANDIGARH”
 (Exercising powers of Adjudicating Authority under
 the Insolvency and Bankruptcy Code, 2016)**

**CA No.84/2018
 IN
 CP (IB) No. 07/Chd/Hry/2017**

**Under Section 31 of Insolvency
 and Bankruptcy Code, 2016.**

In the matter of :

Recorders and Medicare Systems Pvt. Ltd.
 Plot No.196, Industrial Area, Phase-1,
 Panchkula-134113(Haryana). ...Corporate Debtor

And in the matter of:

Anil Goel,
 Resolution Professional,
 Recorders and Medicare Systems Pvt. Ltd.
 Plot No.196, Industrial Area, Phase-1,
 Panchkula-134113(Haryana). ...Applicant/Resolution Professional

Order delivered on: 14.09.2018

**Coram: Hon’ble Mr. Justice R.P. Nagrath, Member (Judicial)
 Hon’ble Mr. Pradeep R. Sethi, Member(Technical)**

For the Applicant : Mr. G.S. Sarin, Practising Company Secretary.
 (Resolution Professional)

For the Promoter Director of
 suspended Board of Directors :Mr. Savar Mahajan, Advocate

For the Resolution Applicant :Mr. Krishan Vrind Jain, C.A.

Per: Pradeep R. Sethi, Member(Technical)

ORDER

Petition was filed by Recorders and Medicare Systems (P) Ltd. (hereinafter referred to as Corporate Debtor) under Section 10 of the Insolvency and Bankruptcy Code 2016 (hereinafter referred to as Code) for initiating Corporate Insolvency Resolution Process (CIRP) in the case of the Corporate Debtor. The petition was admitted by order dated 16.03.2017, moratorium under Section 14 of the Code was declared and Mr. Purushottam Ram Singhania was appointed as Interim Resolution Professional (IRP).

2. The IRP constituted the Committee of Creditors (COC) of the Corporate Debtor comprising of State Bank of India (SBI), HDFC Ltd. (HDFC) and ICICI Bank Ltd. (ICICI) and called for the first meeting of the COC on 27.04.2017 in which it was resolved that Mr. Purushottam Ram Singhania, IRP be replaced with another Resolution Professional Mr. Anil Goel. CA No.60/2017 was filed and order was passed on 31.05.2017 appointing Mr. Anil Goel as Resolution Professional (RP). The CIRP period of the Corporate Debtor was expiring on 11.09.2017. In its fourth meeting on 05.09.2017, the COC authorized the RP to file an application for extension of CIRP period in accordance with Section 12 (2) of the Code for the said purpose CA No.140 of 2017 was filed by the Resolution Professional. By order dated 12.09.2017, the period of completion of CIRP was extended for another 90 days.

3. The instant CA No.84/2018 is filed by the RP under Section 31 of the Code read with Regulation 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations,

2016 (hereinafter referred to as Regulations) for approval of resolution plan submitted by RMS Employees Welfare Trust, stated to be a Private Trust registered under Indian Trust Act, 1882. The copy of the Trust Resolution Plan is stated to be attached as Annexure-O of the application. It is stated that consequent to appointment as IRP, Shri Purushottam Ram Singhania published the necessary intimation for the commencement of CIRP and called the creditors to submit their claims alongwith proof in the prescribed format. It is further stated that the IRP/RP appointed Valuers for determining the liquidation value of the corporate debtor as per Regulation 35 of the Regulations and as per the reports submitted by the Valuers (Annexure-D of the application), the liquidation value of the corporate debtor is ₹14.83 crores.

4. It is stated that consequent to change of resolution professional and confirmation of Shri Anil Goel as RP by order dated 31.05.2017, Shri Anil Goel called for the third meeting of the COC on 11.07.2017 and in the said meeting, the RP submitted the information memorandum as prepared under Section 29 of the Code read with Regulation 36 (2) of the Regulations and vide email dated 13.07.2017, the RP invited the corporate debtor and financial creditors to submit the resolution plan. It is stated that on 29.08.2017, Shri Suman Jolly, promoter director of the corporate debtor (Promoter Director) submitted a resolution plan under Section 30 of the Code to the RP. It is stated that the resolution plan was examined in the 4th and 5th meetings of the COC and while the plan was pending final approval with the SBI, the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017 was promulgated on 23.11.2017 adding Section 29A to the Code prescribing certain disqualifications for persons not eligible to submit the resolution plan and thus,

the promoter director became ineligible to submit a resolution plan in respect of the corporate debtor. It is stated that the promoter director, aggrieved by the Ordinance and the decision of the COC not to approve his resolution plan on account of the Ordinance filed a Civil Writ Petition (CWP No.27730 of 2017) against the Union of India challenging the vires of the Ordinance including its retrospective application to the promoter director's plan and that in the hearing on 08.12.2017, the Hon'ble High Court of Punjab and Haryana issued notice to the Union of India and passed an order stating that "in the meantime, status quo with regard to the functioning of the creditors qua the company shall continue".

5. It is stated that during the pendency of the Civil Writ Petition before the Hon'ble High Court of Punjab and Haryana, the employees of the corporate debtor approached the RP vide an email dated 12.12.2017 and expressed their interest to submit a resolution plan for revival of the corporate debtor in order to safeguard the livelihood of hundreds of people and that pursuant thereto the employees formed the Trust in the name and style of "RMS Employees Welfare Trust" (Trust) on 03.01.2017 and the Trust submitted its resolution plan to the RP via email dated 10.01.2017. It is stated that thereafter, the RP examined the Trust resolution plan and found the same to be compliant with the requirements of Section 30 (2) of the Code read with Regulation 38 of the Regulations and therefore, the RP circulated the plan to the members of the COC who discussed the plan in the 7th and 8th meetings held on 09.03.2018 and 23.03.2018 respectively and after discussion, voting on the plan was conducted by the RP with the following results:-

Member of COC	% Voting Share	Assent/Dissent
SBI	96.04	Assent
ICICI	0.69	Assent
HDFC	3.27	Abstained

6. It is stated that during the 8th meeting the COC, the promoter director and SBI also informed the RP that for release of their personal guarantees, promoter director intends to pay certain dues through a compromise with the members of COC and SBI informed the RP that it shall be selling the primarily/collateral securities already mortgaged with the SBI by the promoters pursuant to an agreement entered between them and the promoter. It is stated that the promoter director submitted a letter to the RP, stating that while he may continue his proceedings before the Hon'ble High Court of Punjab and Haryana on his challenge to the vires of the Ordinance supra, given the time it may take to pass the final order, and given the urgent need to revive the corporate debtor, he shall not be challenging the approval of the resolution plan of the Trust and since his primary concern is ensuring continuity of the corporate debtor and branch RMS (rather than liquidation of the corporate debtor) he has no objection to the approval of the resolution plan of the Trust.

7. It is prayed that since the resolution plan was approved by vote of more than 75% of voting share of the financial creditors, the resolution plan as submitted by RMS Employees Welfare Trust and as duly approved by the COC in its meeting dated 23.03.2018 in terms of Section 31(1) of the Code may be approved.

8. When the matter was listed on 25.04.2018, the learned counsel for the promoter director stated that CWP No.27730 of 2017 filed by Suman Jolly suspended Managing Director of the Board of Directors in the Hon'ble Punjab & Haryana High Court (supra) was withdrawn on 24.04.2018.

9. The matter was thereupon listed for arguments on 04.05.2018. On the said date, the Tribunal directed issuance of notice to the members of COC namely SBI, HDFC Ltd. and ICICI Ltd. When the matter was listed on 16.05.2018, representatives of the three members of COC were present but they had nothing to say other than that what was recorded in the minutes of meeting of COC. The representative of HDFC Ltd. stated that the bank abstained from voting because no amount was being offered to HDFC Ltd.

10. It was however, observed that the Trust Deed dated 03.01.2018 under which resolution applicant was found/constituted was not placed on the record. The RP filed the Trust Deed as well as the Information Memorandum vide diary No.2081 dated 08.06.2018 and copy of the minutes book of RMS Employees Association and RMS Employees Welfare Trust were filed by diary No.2549 dated 18.07.2018. Certificate in Form H as per Regulation 39 (4) as amended by the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2018 was filed by the RP by diary No.2763 dated 30.07.2018.

11. During the course of the hearing, the authorised representative for the RP stated that the requirements of Section 31 of the Code read with Regulation 39 of the Regulations were satisfied in the present case and that the resolution plan submitted by RMS Employees Welfare Trust was approved by the COC in its 8th meeting held on 23.03.2018 with more than 75% of voting

share of the financial creditors and therefore, the resolution plan be approved by the Adjudicating Authority under the provisions of Section 31(1) of the Code. The learned counsel for the promoter director was present and stated that there was no objection to the approval of the resolution plan.

12. We have carefully considered the submissions of the authorized representative for the RP and the authorized representative for the resolution applicant, promoter director as well as the representatives of the three members of the COC and have also perused the record. The corporate debtor is stated to be engaged in the manufacture of medical equipment. The resolution plan under consideration has been filed by RMS Employees Welfare Trust, a private trust registered under the Indian Trust Act, 1882. The copy of the Trust Deed has been submitted at Annexure-2 of diary No.2081 dated 08.06.2018.

13. Section 30(4) of the Code states that the COC may approve a resolution plan by a vote of not less than 75% (substituted by 66% by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 with effect from 06.06.2018) of the voting share of the financial creditors after considering its feasibility and viability, and such other requirements as may be specified by the Board. We have already discussed above that the resolution plan is stated to be approved by the COC in its 8th meeting held on 23.03.2018 with the assent of 96.73% of voting share of the financial creditors. The RP has submitted affidavit dated 28.03.2018 stating that the resolution plan does not contravene any of the provisions of law for the time being in force and the contents of the resolution plan meet all the requirements of the Code and the Regulations (Annexure-O of the petition).

14. The approval of the resolution plan sought for is to be given by the Adjudicating Authority under Section 31(1) of the Code reading as follows:-

Section 31 (1) of the Code reads as follows:-

“If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, guarantors and other stakeholders involved in the resolution plan.”

Provided that the Adjudicating Authority shall, before passing an order for approval of resolution plan under this sub-section, satisfy that the resolution plan has provisions for its effective implementation.

15. We have discussed above that the resolution plan has been approved by the COC under Section 30(4) of the Code. Section 30(2) of the Code reads as follows:-

“The resolution professional shall examine each resolution plan received by him to confirm that each 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;

(b) provides for the repayment of the debts of operational creditors in such manner as may be specified by the Board which shall not be less than the amount to be paid to the operational creditors in the event of a liquidation of the corporate debtor under section 53;

(c) provides for the management of the affairs of the Corporate debtor after approval of the resolution plan;

(d) the implementation and supervision of the resolution plan;

(e) does not contravene any of the provisions of the law for the time being in force;

(f) conforms to such other requirements as may be specified by the Board.”

16. We have stated above that the RP has filed an affidavit dated 28.03.2018 regarding the compliance of the provisions of Section 30 of the Code etc. Further, Form H has also been filed by the RP by diary No.2763

dated 30.07.2018 in which the compliance of the resolution plan is given as under :-

<i>Section of the Code / Regulation No.</i>	<i>Requirement with respect to Resolution Plan</i>	<i>Clause of Resolution Plan</i>	<i>Compliance (Yes / No)</i>
25(2)(h)	<i>Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?</i>	<i>Under Project Details at Pg No. 354</i>	Yes
Section 29A	<i>Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?</i>	<i>Undertaking given by resolution applicant at pg. No 285 of application.</i>	Yes
Section 30(1)	<i>Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?</i>	<i>Not Applicable (Amended vide Regulations dated 03.07.2018) The Resolution Applicant had provided an Undertaking at pg. No 285 of application.</i>	Yes
Section 30(2)	<i>Whether the Resolution Plan:</i> <i>(a) provides for the payment of insolvency resolution process costs?</i> <i>(b) provides for the payment of the debts of operational creditors?</i> <i>(c) provides for the management of the</i>	<i>Clause A pg. 340 of application</i> <i>Clause B Pg. 340</i> <i>Clause F Pg. 342</i> <i>Clause G pg. 344</i>	Yes

	<p><i>affairs of the Corporate debtor?</i></p> <p><i>(d) provides for the implementation and supervision of the resolution plan?</i></p> <p><i>(e) contravenes any of the provisions of the law for the time being in force?</i></p>	No	
Section 30(4)	<p><i>Whether the Resolution Plan</i></p> <p><i>(a) is feasible and viable, according to the CoC?</i></p> <p><i>(b) has been approved by the CoC with 66% voting share?</i></p>	<p><i>(a) Page No. 377,378 of application</i></p> <p><i>(b) Yes</i></p>	Yes
Section 31(1)	<p><i>Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?</i></p>	<p><i>Page No. 377,378 of application</i></p>	Yes
Regulation 35A	<p><i>Where the resolution profesional made a determination if the corporate debtor has been subjected to any transaction of the nature covered under sections 43, 45, 50 or 66, before the one hundred and fifteenth day of the insolvency commencement date, under intimation to the Board?</i></p>	<p><i>There were no such transactions. Stated by resolution profesional in his certificate at Page No. 276-280 of application</i></p>	Yes
Regulation 38 (1)	<p><i>Whether the Resolution Plan identifies specific sources of funds that will be used to pay the -</i></p> <p><i>(a) insolvency resolution process costs?</i></p> <p><i>(b) liquidation value due to operational creditors?</i></p> <p><i>(c) liquidation value</i></p>	<p><i>Pg. 331 & Pg.365 of application</i></p>	Yes

	<i>due to dissenting financial creditors?</i>		
<i>Regulation 38(1A)</i>	<i>Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?</i>	<i>Pg. 349 of application</i>	<i>Yes</i>
<i>Regulation 38(2)</i>	<i>Whether the Resolution Plan provides:</i> <i>(a) the term of the plan and its implementation schedule?</i> <i>(b) for the management and control of the business of the corporate debtor during its term?</i> <i>(c) adequate means for supervising its implementation?</i>	<i>Clause E Pg. 341</i> <i>Clause F Pg. 342</i> <i>Clause G Pg. 344</i>	<i>Yes</i>
<i>38(3)</i>	<i>Whether the resolution plan demonstrates that –</i> <i>(a) it addresses the cause of default?</i> <i>(b) it is feasible and viable?</i> <i>(c) it has provisions for its effective implementation?</i> <i>(d) it has provisions for approvals required and the timeline for the same?</i> <i>(e) the resolution applicant has the capability to implement the resolution plan?</i>	<i>Reasons of losses at Pg no 307 of application</i> <i>Justification and Projected profitability statement at Pg No- 349 & 361</i> <i>Not Applicable</i> <i>Not Applicable</i> <i>At Pg No-281 (detail of resolution applicant)</i>	
<i>39(2)</i>	<i>Whether the RP has filed applications in respect of transactions observed, found or</i>	<i>No. Resolution professional has given</i>	<i>Yes</i>

	<i>determined by him?</i>	<i>certificate at PgNo-276- 280</i>	
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17. We may first examine the amounts provided for the stakeholders under the resolution plan. The details given in para 7 of Form H are as under:-

<i>Sl. No.</i>	<i>Category of Stakeholder*</i>	<i>Amount Claimed</i>	<i>Amount Admitted</i>	<i>Amount Provided under the Plan#</i>	<i>Amount Provided to the Amount Claimed (%)</i>
1	<i>Dissenting Secured Financial Creditors</i>	319	319	-*	-
2	<i>Other Secured Financial Creditors</i>	9835	9802	1000	10.20**#%
3	<i>Dissenting Unsecured Financial Creditors</i>	-			-
4	<i>Other Unsecured Financial Creditors</i>	205	195	-	-
5	<i>Operational Creditors</i>				
	<i>Government</i>	-	-	159	
	<i>Workmen</i>	71	69	69	100
	<i>Employees</i>	244	231	-	-
	<i>Trade Payables</i>	630	562	-	-
6	<i>Other Debts and Dues</i>	-	-	-	-
Total		11304	11178	1257	

(Amount in Rs. lakh)

Annexure -1 enclosed for book liability of all stakeholders with claims filed, admitted & proposed in resolution plan.

**If there are sub-categories in a category, please add rows for each sub-category.*

- **HDFC loan was against the personal property of the promotor. It has been settled in full by the promotor.*
- ***SBI has been paid an amount of Rs. 35 crores by the promoters from their personal assets , in discharge of their personal guarantees.*
- *# Amount provided over time under the Resolution Plan and includes estimated value of non-cash components. It is not NPV.*

18. It is reported in serial No.19 of para 2 of Form H that the liquidation value is of ₹14.83 crores. The amount provided under the plan is only ₹12.57 crores. It has been submitted that HDFC Ltd. is the dissenting secured financial creditor and the amount admitted is ₹3.19 crores. It is stated that the loan of HDFC Ltd. was against the personal property of the promoter and has been settled in full by the promoter. It is further submitted that the other secured financial creditors include SBI with admitted claim of ₹97.35 crores (refer to Annexure-I of Form H) and over and above the proposed amount of ₹10.00 crores under the resolution plan, SBI has been paid an amount of ₹35.00 crores by the promoters from their personal assets, in discharge of their personal guarantees. Taking into consideration the extent of payments to the financial creditors and the liquidation value, it was considered necessary to hear the views of the members of COC namely SBI, HDFC Ltd. and ICICI Bank Ltd. Order in this regard was made on 04.05.2018. The three members of the COC were present through their representatives on 16.05.2018 and all the financial creditors representatives stated that they have nothing to say other than what was recorded in the meeting of COC. Further, the representative of HDFC Ltd. stated that they abstained from voting because no amount was being offered to HDFC Ltd. The Assistant Manager of HDFC

Ltd. recorded his statement on 11.06.2018 that the dues of HDFC Ltd. have been cleared by the promoter director of the suspended Board of Directors, Shri Suman Jolly in his personal capacity. Therefore, we find that during the course of hearing no objections have been raised by the members of COC to the resolution plan. The decision taken by the members of the COC is based on their commercial and banking wisdom. We are therefore, not interfering with the decision taken by the COC in the approval of the resolution plan. We may add here that the liquidation value for operational creditors, other creditors and shareholders is NIL and the Resolution Plan only provides for payment to the financial creditors, workmen dues and some Government dues.

19. As regards the satisfaction of the conditions provided for in Section 30(2) of the Code, we have already stated above that the compliance is given in Form H. The satisfaction of the conditions is being discussed further as below.

Section 30(2)(a):- The resolution plan (page 340 of the application) states that the insolvency resolution process cost will be paid in priority to all other payments to creditors as prescribed in the Code.

Section 30(2)(b):- It is stated in the resolution plan (page 340 of the application) that the plan provides for payment of all dues to the workmen and since the total liquidation value of the corporate debtor is only ₹14.8 crores, no liquidation value is due to any other operational creditor.

Section 30(2)(c):- The resolution plan (page 342 of the application) states that after approval of the resolution plan by the Adjudicating Authority, the corporate debtor shall be owned managed and controlled by the resolution applicant, RMS Employees Welfare Trust which will acquire all existing shares

of the corporate debtor from the existing shareholders at NIL value and the existing directors of the corporate debtor shall resign and the representatives of RMS Employees Welfare Trust shall be appointed as directors of the corporate debtor.

Section 30(2) (d):- The resolution plan (page 344 of the application) states that to supervise the implementation of the resolution plan, it is proposed to appoint Monitoring Agency identified in consultation with COC and the cost will be borne by the corporate debtor from its cash flows. It is stated at para CC.11 of the application that Mr. Anil Goel, RP has been identified for supervision in consultation with COC and further it is proposed to set up a joint assets committee comprising representatives of secured financial creditors and Trust for sale of non-core assets (reference in this regard be also to the resolution plan-page 344 of the application).

Section 30(2) (e):- In para 4 of Form H, the RP has certified that the resolution plan does not contravene any of the provisions of the law for the time being in force. Similar certificate is also given in the affidavit dated 28.03.2018 of the RP (Annexure-O of the petition).

Section 30(2)(f):- The RP has furnished a certificate dated 28.03.2018 (Annexure-O of the application) stating that the resolution plan submitted by the Trust complies with the requirements of the Code and the Regulations, including the amendments made to the Regulations on 07.11.2017. It is further certified that the Trust (including its trustees) are eligible to submit the resolution plan and are not disqualified under any of the categories mentioned in Section 29A of the Code. It is stated in the certificate dated 28.03.2018 (supra) that requirement of Section 30(1)(b) of the Code read with Regulation

38(1)(b) of CIRP Regulations has been complied with, as except of ₹0.05 lacs to the workers no liquidation value is due to any other operational creditors and resolution plan provides for payment of ₹0.05 lacs to the workers within a period of one month from the date of approval of the plan by the Adjudicating Authority. It is further stated that the resolution plan takes into account the interest of all the stakeholders including financial and operational creditors. It is *inter alia* certified in certificate dated 28.03.2018 (supra) that no preferential transactions under Section 43 of the Code, no under valued transaction under Section 45 of the Code, no extortionate credit transaction under Section 50 of the Code and no fraudulent transaction under Section 66 of the Code have been observed, found or determined by the RP in respect of the corporate debtor.

20. The next issue is whether the resolution plan has provisions for its effective implementation. The minutes of the 8th meeting of the COC held on 23.03.2018 are at Annexure- Q of the petition. Para No.3 of part C thereof relates to approval and passing of the resolution plan submitted by RMS Employees Welfare Trust. It is stated therein that the amount of ₹10.00 crores is proposed to be paid to SBI in 3 and ¼ years; no amount is proposed to HDFC but as already discussed the dues of HDFC stand fully paid. As regards ICICI, it is stated that an amount of ₹29.00 lacs is proposed to be paid to ICICI under the resolution plan before 30.06.2018 from the sale proceeds of vehicles in the name of the corporate debtor. In the resolution plan (page 332 of the petition), the available cash flows as well as cash out flows projected for financial 2017-18 to 2020-21 have been given enclosing cash balance of ₹0.12 crores in FY 2020-21 has been projected. The resolution plan (page 344 of

the application) also states that the RMS Employees Welfare Trust shall create a pledge in respect of total 53% of shares of the company in favour of SBI during the term of resolution plan which pledge shall be released only after the successful implementation of resolution plan. As already discussed above, the resolution plan (page 344 of the application) provides for appointing Monitoring Agency, cost to be borne by the corporate debtor from its cash flows and Agency to be identified in consultation with COC. Para No.C.3 of the minutes of 8th meeting of COC states that it was decided that Mr. Anil Goel, RP will continue to be the supervisor as per Regulation 38(2)(c) of the Regulations and will continue to submit monthly reports to the stakeholders for providing the status on the implementation of the resolution plan. We are therefore, of the view that the resolution plan has provisions for its effective implementation.

21. We find that in para C.4 of the minutes of the meeting of COC held on 23.03.2018 (Annexure Q of the petition), it is inter alia stated that no payment under the resolution plan is envisaged for Government dues. The matter relating to the waiver of Government dues, including waiver of MAT liability under Section 115J of the Income Tax Act 1961, may be considered by the respective Government Department.

22. Para No.C.3 of the minutes of the meeting of COC held on 23.03.2018 (Annexure -Q of the petition) inter alia states that the promoters of the corporate debtor and the SBI informed the RP that for release of their personal guarantee, promoter intends to pay certain dues through a compromise with the members of the creditors and agreement between the promoters and the bank in this regard has been executed and the banks have

requested the RP to submit the same also to the Adjudicating Authority for information. We find that a copy of guarantee-cum-indemnity agreement dated 27.03.2018 has been filed as Annexure-R of the application. We may add here that in the aforesaid para No.C.3, it is also stated that SBI has stated (and the promoters have confirmed) that they shall be free to sell the primary/collateral securities already mortgaged with SBI by the promoters pursuant to the agreement entered between them and the promoters. Therefore, SBI is at liberty to enforce the personal/corporate guarantees and thereby recover its dues to the extent remaining after adjustment of ₹10.00 crores under the resolution plan.

23. In result thereof, the resolution plan as approved by the COC in its 8th meeting held on 23.03.2018 is approved (subject to comments as above) under the provisions of Section 31(1) of the Code and the resolution plan shall be binding on the corporate debtor and its employees, members, creditors, guarantors and other stakeholders involved in the resolution plan.

24. In view of Section 31(3) of the Code,
 (a) the moratorium order passed by the Adjudicating Authority under section 14 shall cease to have effect; and
 (b) the resolution professional shall forward all records relating to the conduct of the corporate insolvency resolution process and the resolution plan to the Board to be recorded on its database.

CA No.84/2018 stands disposed of.

Copy of this order be communicated to the resolution professional,
resolution applicant and the members of the Committee of Creditors.

Sd/-

(Justice R.P. Nagrath)
Member (Judicial)

Sd/-

(Pradeep R. Sethi)
Member(Technical)

September 14, 2018
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