

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT -V**

IA. No. 2475/2023

In

CP(IB)No. 2520/MB/V/2018

Application filed under section 30(6) of the Insolvency and Bankruptcy Code, 2016 r/w Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution process for Corporate Persons) Regulations, 2016 r/w Rule 11 of the National Company Law Tribunal Rules, 2016.

Filed by

Mr. Pankaj Srivastava,

Resolution Professional

of Global Energy Private Limited

#29, 1st Floor, SN Complex,

14th Main Road, E-Block Extension
Sahakar Nagar, Bengaluru- 560092.

...Applicant

In the matter of

Mala Verma

...Operational Creditor

Versus

M/S Global Energy Private Limited

...Corporate Debtor

Order Dated: 03.07.2024

Coram:

Reeta Kohli

Madhu Sinha

Hon'ble Member (Judicial)

Hon'ble Member (Technical)

Appearances:

For the SRA: - Adv. Amir Arsiwala a/w Adv. Ashwini Gawde and Adv. Nashra Siddiqui i/b ASR & Associates

ORDER

1. The present Interlocutory Application is filed by Mr. Pankaj Srivastava, the Resolution Professional of M/s Global Energy Private Limited seeking approval of the Resolution Plan submitted by Mr. Harry Dhaul under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 ('the Code') read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulation ("the CIRP Regulations"). The Resolution Plan was duly approved by 100% of the Committee of Creditors (CoC) on 23.03.2023.
2. The Applicant submits that Mala Verma, the Operational Creditor initiated the Corporate Insolvency Resolution Process ('CIRP') against M/s Global Energy Private Limited. (hereinafter called 'the Corporate Debtor') under Section 9 of the Code. This Tribunal vide order dated 02.12.2019 initiated CIRP against the Corporate Debtor and one Mr. M.L. Shyamsunder, Insolvency Professional, was appointed as the Interim Resolution Professional. Subsequently, vide order dated 05.02.2020, one Mr. Arun Jain was appointed as the Interim Resolution Professional, replacing Mr. Shyamsunder. The order dated 02.12.2019 was challenged before the

Hon'ble National Company Law Appellate Tribunal ('NCLAT') vide Company Appeal (AT) (Insolvency) No. 1415 of 2019. Subsequently, upon the dismissal of the said Appeal, the CIRP of the Corporate Debtor was further challenged before the Hon'ble Supreme Court. During both such proceedings, the CIRP of the Corporate Debtor was halted on account of stay orders passed by the respective forums. The CIRP of the Corporate Debtor was finally resumed upon dismissal of the Civil Appeal of the suspended Director of the Corporate Debtor by the Hon'ble Supreme Court vide order dated 31.03.2022

3. An Interlocutory Application was filed by the Financial Creditor of the Corporate Debtor praying for consequential orders before the Hon'ble NCLT, including, inter alia the expedition of the process and replacement of the Interim Resolution Professional. Under the said Application, the Hon'ble NCLT was pleased to pass an order dated 06.05.2022 appointing one Mr. Dilikumar Natvarlal Jagad as the Interim Resolution Professional for the Corporate Debtor. The Committee of Creditors ("COC") decided to replace the Interim Resolution Professional with the current Resolution Professional ("RP"), Mr. Pankaj Srivastava in the 1st CoC meeting dated 07.07.2022 which was approved by the Hon'ble NCLT vide its order dated 03.08.2022
4. The Applicant filed an application for exclusion of 919 days from the CIRP period on account of stay on CoC formation by the Hon'ble NCLAT and stay granted by Hon'ble Apex Court. The Applicant on 10.06.2022 published the public announcement and invited the claims from the Creditors of the Corporate Debtor.

5. In terms of Regulation 27 of the CIRP Regulations, the Resolution Professional appointed two registered valuers for each class to determine the Fair & Liquidation value of the Corporate Debtor in accordance with Regulation 35 of the CIRP Regulations which is as follows:

- i. Land & Building: Valuation by Mr. Jagtap & Associates and GTech Valuers Pvt Ltd;
- ii. Plant & Machinery: Valuation by Mr. H.S. Arun Kumar and GTech Valuers Pvt Ltd;
- iii. SFA: Valuation by Ms. Harshali Damle and GTech Valuers Pvt Ltd

to ascertain the Fair Value and the Liquidation Value of the assets of the Corporate Debtor. The Fair Value and the Liquidation Value is detailed as under: -

S.NO.	ASSETS	AVERAGE FAIR VALUE	AVERAGE LIQUIDATION VALUE
1.	Land & Building	3,34,36,266.50	2,64,84,411.50
2.	Plant & Machinery	2,02,84,350.50	1,39,84,200.00
3.	Security & Financial Assets	77,32,008.50	61,39,506.50
	Total	6,14,52,625.00	4,65,08,118.00

Average Fair Value: Rs.6,14,52,625/-

Average Liquidation Value: Rs. 4,65,01,118/-

6. The Applicant on 02.09.2022, made publication of Form-G, inviting Expression of Interest (EoI) in Financial Express (English- All Edition), Govan Vaarta (Marathi- Goa Edition), Business Standard (Hindi-Delhi Edition) and Lok Darshan (Kannada-Belagavi Edition) and the last date for submission of EoI was 17.09.2022. Subsequently, in the 5th CoC meeting dated 10.10.2022 the last date for submission of EoI was extended from 17.09.2022 to 17.10.2022
7. Pursuant to the publication of Form-G, the Applicant received EoI from 8 (Eight) Prospective Resolution Applicants (PRAs). The Applicant on 01.11.2022, issued a final list of Eligible PRAs for participating in the Resolution Process of Corporate Debtor.
8. The Applicant released the Information Memorandum (IM) and also released the Request for Resolution Plan (RFRP) on 27.10.2022 to all the eligible PRAs for inviting submission of Resolution Plans. In terms of RFRP, the last date for submission of the Resolution Plan by the PRAs was 27.10.2022 which was subsequently extended to 26.11.2022.
9. In the 7th Committee of Creditors (CoC) meeting held on 18.1.2022, the Applicant apprised the members of CoC that he had received two Resolution Plans from the following PRAs :-

- i. Harry Dhaul (Promoter Group)
- ii. Salawat Group

In the 9th CoC meeting held on 20.02.2023, the plan submitted by both the PRAs were deliberated in detail. The Applicant invited the PRAs to present their Resolution Plans to the CoC. Both the PRAs agreed to address the compliance issues, enhancement of the offer and to submit the final resolution plan by the end of the week.

11. Further, as the CIRP period was coming to end on 05.03.2023, the Applicant in the 10th CoC meeting by a resolution passed by 100% CoC members filed an Application seeking extension of 60 days from 05.03.2023 and vide Order dated 01.05.2023 the Hon'ble Bench allowed the extension.
12. Thereafter, in the 11th CoC meeting held on 23.03.2023 the members discussed the reports received regarding the eligibility of Resolution Applicants from Insolvency Advisory Services and further discussed in detail the feasibility and viability of the Resolution Plan submitted by the Resolution Applicant.
13. In the said meeting, the agenda for approval of Resolution Plan was put for voting. **The Resolution Plan submitted by Mr. Harry Dhaul was approved by the members of the CoC unanimously by 100% voting and Mr. Harry Dhaul was declared as the Successful Resolution Applicant (SRA).** The Letter of Intent (LoI) came to be issued to Mr. Harry Dhaul on 01.05.2023.

14. **Brief background of the Corporate Debtor:**

The Corporate Debtor is a Private Limited unlisted Company, registered with the Registrar of Goa and incorporated on September 27, 1994. The Corporate Debtor is engaged in trading of power under bilateral contracts and through power exchanges and is also involved in trading of Renewal Energy Certificate.

15. **Brief background of the Resolution Applicant:**

- a. The Resolution Applicant is having over 36 years of experience in the field of power generation and power trading. The Resolution Applicant is the first retail electricity trader and started the activity in 1986. The same was started in the USA in California in 1991.
- b. The Resolution Applicant has been the founder and Director General of Independent Power Producers Association of India (IPPAI). He is qualified by virtue of his experience both in demand and supply of energy in the power sector in regulatory and policy issues. The Resolution Applicant was the first trader to trade renewable energy, particularly wind.

16. **Salient features of the approved Resolution Plan:**

INR in Crores

Sl. No	Nature of Debt	Claims Received	Claims Admitted	Resolution Applicant Proposal		Proposed payment
				Amount Allocated	% of total claim amount	No of days
1	Secured Financial Creditors (unrelated)*	18.4464	18.4464	9.2232	50.00%	Within 3 years of the of the Date of handover of the

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT V

I.A. NO. 2475/MB/V/2023

In

C.P. (IB) No. 2520/MB/V/2018

						management of the CD
2	Unsecured Financial Creditors (Others)	2.4763	Nil	Nil	Nil	NA
3	Operational Creditors (Government dues)	3.4542	3.4542	0.0345	1.00%	Within 360 days of the of the Date of handover of the management of the CD
4	Operational Creditors (Other than Employee, Workmen & Govt dues)	208.6045	24.7727	0.2477	1.00%	Within 360 days of the of the Date of handover of the management of the CD
5	Employee Dues	5.2235	0.9100	0.1820	20.00%	Within 360 days of the of the Date of handover of the management of the CD
6	Workmen Dues	NIL	NIL	NIL	NA	NA
7	IRPC	Estimated Cost as on 31-12-22: Rs. 0.60 CR		Actual unpaid IRP cost shall be paid in priority and estimated Rs. 0.80 CR		Within 180 days of the of the effective date
TOTAL PLAN VALUE				10.4874	NA	

The Successful Resolution Applicant prescribes total amount of **INR 10,48,74,000 (Indian Rupees Ten crores forty-eight lakhs and seventy-four thousand only)** to the stakeholders of the Corporate Debtor.

a. **Sources of Funds :**

The total amount of INR 10,48,74,000 (Indian Rupees Ten crores forty-eight lakhs and seventy-four thousand only) is the total proposed financial consideration in the following manner:

Of the above at least INR 1,00,00,000 (Indian Rupees One Crores only) shall be brought in by the investors/ shareholders in the equity form Balance INR 9,48,74,000 (Indian Rupees Nine crores forty-eight lakhs and seventy-four thousand only) shall be brought in by investors/ shareholders in the form of Equity / Shareholder Contribution with Equity like features/ Redeemable Optionally Convertible Debentures/ Unsecured Subordinated Debt sourced from Resolution Applicant its associate/group companies'/family members/ Internal Accruals of CD. Any instrument shall be ranked subordinate to the Secured Debt. The Resolution applicant shall also recover receivables of the corporate debtor and use the same for payment of proposed resolution amount. Further the resolution applicant is offering one of its property as collateral and disposal to meet his obligation under the plan. The said property is a commercial property, valued at approx. rupees five crores, situated at 301, Mahalaxmi Industrial Estate Premises CSL, Lower Parel (East), Mumbai- 400013.

b. **Financial Proposal of the Resolution Applicant**

I. **CIRP costs :**

- i. On the Effective Date, the Resolution Professional shall provide a certified statement containing details of the IRPC to the Resolution Applicant.

- ii. Section 30(2)(a) of the Code requires payment of IRPC in priority to the payment of other debts of the Corporate Debtor.
- iii. The total unpaid IRPC shall be fully paid, in priority.
- iv. The Resolution Professional has estimated unpaid IRPC of INR 0.60 crores as on December 31, 2022 and the Resolution applicant has made provision of unpaid IRPC of INR 0.80 Crores till approval of resolution plan by Hon'ble NCLT. The aforesaid amount shall be paid within 180 days of the effective date.

II. Payments to the Operational Creditors:

- i. The Resolution Applicant proposes to pay an amount of Rs. 24.7727/- cr. to the Operational Creditors.
- ii. The payment due to the Operational Creditors whether secured or unsecured, statutory, Governmental Authorities, trade creditors, should not be less than as prescribed under Section 30 payout to them i.e. not less than the amount payable to such Operational Creditors in the event of liquidation of the Corporate Debtor under Section 53 of the Code and the amount that would be have been paid to such Operational Creditors, if the amount to be distributed under the Resolution Plan is distributed in accordance with the order of priority in sub-section 1 of Section 53 whichever is higher. The Operational Creditors

is required to be paid in priority over the payments to Financial Creditors.

- iii. In order to maintain the status of the Corporate Debtor as operational and for running the business of the Corporate Debtor as a going concern, the Resolution Applicant proposes resolution of entire operational debt of the Corporate Debtor and settlement of all Operational Creditors at an aggregate amount out of the funds firstly by making payments as per Section 30 payout to the Operational Creditors and in case of insufficiency of funds, the shortfall is to be met from the Secured Financial Creditors consideration amount. Secondly payment towards the EPFO dues, in case of insufficiency of the funds, then the shortfall shall be met by the Resolution Applicant as part of the funds.
- iv. Further, no employees or the workmen of the Corporate Debtor have submitted their claim in the CIRP of the Corporate Debtor. If there are any admitted dues towards workmen and employees of the Corporate Debtor, the same shall be paid in the manner as provided in this clause and thirdly, the balance Operational Creditors payments, if any, shall be utilized for payment towards settlement of the admitted other Operational Creditors dues which shall be distributed amongst the Operational Creditors in a pro-rata basis on their respective portions of their admitted claims.

III. Secured Financial Creditors:

- i. The Resolution Applicant proposes to pay total amount of INR 9.2232 Crores to the Financial Creditors.
- ii. The claims of unrelated Secured Financial Creditors shall be paid an amount of INR 9.2232 Crores within three years of the handover of the management of the Corporate Debtor.
- iii. The Secured Financial Creditors shall be paid INR 9.2232 Crores.

IV. Unsecured Financial Creditors:

The Unsecured Financial Creditors shall be paid IN NIL out of the total allocation towards financial creditors.

V. Payment to the dissenting Financial Creditors:

The dissenting Financial Creditors (i.e. those Financial Creditors who vote against, or abstain from voting for, the Resolution Plan approved by the CoC) shall be paid an amount not less than the amount to be paid to them in accordance with Sec 53(1) in the event of Liquidation of the Corporate Debtor.

VI. Payment to Workmen & Employees:

- i. As per the Information Memorandum and information provided there are no claims received from the Workmen.
- ii. As per the Information Memorandum and information provided and verified by the Resolution Professional, the

admitted claims of employees are INR 91,00,000 Indian Rupees Ninety-One Lakh Only)

- iii. The Resolution Applicant proposes payment of INR 18,20,000 (Indian Rupees Eighteen Lakh and Twenty Thousand Only) towards Employees claims (including amount of the gratuity, if any) within 360 days of handover of the management of the Corporate Debtor.
- iv. The amount due to the employees under the Resolution Plan shall be given priority in payment over financial creditors as per Regulation 38(1) of the CIRP Regulations. All amounts payable under sub-clause ii) above shall be paid by the resolution applicant into a separate account Within 360 days of the of the Date of handover of the management of the CD, all other past dues of the Workmen & Employees of the Corporate Debtor shall stand discharged.

VII. Earnest Money Deposit:

As per clause F of the Request for Resolution Plan ("RFRP") dated 27th September, 2022 revised on 27th October, 2022, the Resolution Applicant has transferred EMD amount of INR 50,00,000 (Rupees Fifty Lakh Only) in the Bank account of the Corporate Debtor on 07.01.2023.

VIII. Performance Security:

The Resolution Applicant will be called upon to provide performance security of at least 5% of the total financial Bid in the form of a bank guarantee / Demand draft / Fixed Deposit,

unconditional and irrevocable, guaranteeing to pay the commitments within the time specified therein and such performance security shall stand forfeited if the resolution applicant of such plan, after its approval by the Adjudicating Authority, fails to implement or contributes to the failure of implementation of that plan in accordance with the terms of the plan and its implementation schedule. The Resolution Applicant has paid INR 10 lakhs is lying with the Resolution Professional which shall be used as Performance Guarantee, i.e. 5% Resolution Plan value of INR 10,48,74,000/- Crores in compliance to the RFRP requirements.

IX. Change in Capital Structure

The Corporate Debtor has following issued, subscribed and paid-up capital:

Class of Shares	Number of Class of shares	Value of Class of shares
Equity shares of Rs 10/- each fully paid in cash	2,95,91,626	29,59,16,260
Total	2,95,91,626	29,59,16,260

The Resolution Applicant pursuant to the approval of this plan proposes to cancel all the existing paid up equity and preference shares by way of capital reduction and adjust the said against the accumulated losses in the balance sheet.

X. Management Control of Business:

The Resolution Applicant proposes to form a Steering Committee to manage the affairs of the Corporate Debtor comprising of (a) one representative of the Secured Financial Creditors (SFC Nominee), (b) two representatives of the Resolution Applicant and (c) the Managing Agency (as defined under the Resolution Plan) within one day from the Tribunal approving the Resolution Plan. Further, the SFC Nominee and the Resolution Applicant Nominees shall be voting members of the Steering Committee with one vote each and the Managing Agency shall be a non-voting member.

XI. Implementation and Supervision of the Resolution Plan:

The implementation schedule for this Resolution Plan is set out below:

S No.	Activity	Timeline (Date)
1	Submission of the Resolution plan by the applicant	4 th March 2023
2	NCLT order for approval of the Resolution Plan	T
3	Appointment of Monitoring Agency	T+ 5 days
4	Reorganization of Equity share capital	T+15 days

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT V

I.A. NO. 2475/MB/V/2023

In

C.P. (IB) No. 2520/MB/V/2018

5	Payment of outstanding CIRP costs and handover of the management of the corporate debtor	T+180 days
6	Payment of/ operational creditors/ workmen/ dissenting financial creditors	Within 260 days from handover of the management of the CD
7	Payment of assenting secured financial creditors/ assenting unsecured financial creditors	Within 3 years from handover of the management of the CD, more particularly described at 6.3.4
8	Reconstitution of the Board of Directors, handing over of peaceful possession of assets, removal of all charge/ encumbrance on any of the assets of GEPL in all records, including but not limited to Companies Act, 2013/1956, revenue records including 7/12 or any kind of title documents as provided in Resolution Plan	T+ 3 years and 6 months

XII. Monitoring and Implementation:

During the Interim Period, till all the payments are made, the Monitoring Agency shall constitute of one secured financial CoC member (with veto power), who have majority stake in the Corporate Debtor and have voted in favour of the Resolution Plan and one nominee (without any voting rights) of the Resolution Applicant, so as to be aware of the operations of the company. Provided however the CoC and the Resolution Applicant shall have the right to appoint any firm/ person as a nominee member of the Monitoring Agency at their own respective cost.

XIII. Eligibility under section 29A of the Code:

The Resolution Applicant is eligible to submit the Resolution Plan under Section 29A and the same is confirmed by the Resolution Applicant in its clause 11(ii) of part V of the Resolution Plan. The Applicant further submits that the Resolution Plan submitted is in compliance with Section 30(2) of the Code and Regulation 38(A) of the CIRP Regulations. The Applicant has confirmed the compliance of various provisions as contained in Form H dated 26.06.2023 as mandated under the code for seeking approval of the Resolution Plan from this Tribunal.

Observations of the Adjudicating Authority:

17. We have heard the Applicant and perused the Resolution Plan and related documents submitted along with the Application.
18. As referred to the above summary of the Resolution Plan, we are satisfied that all the requirements of Section 30(2) are fulfilled and no provision of law for the time being in force appears to have been contravened.
19. Section 30(4) of the Code reads as follows:

“(4) The committee of creditors may approve a resolution plan by a vote of not less than sixty six percent of voting share of the financial creditors, after considering its feasibility and viability, the manner of distribution proposed, which may take into account the order of priority amongst creditors as laid down in subsection (1) of Section 53, including the priority and value of the security interest of a secured creditor and such other requirement or may be specified by the Board.’

Regulation 39 (3B) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 provides that where two or more Resolution Plans are put to vote simultaneously, the Resolution Plan, which receives the highest votes but not less than requisite votes, shall be considered as approved. In this case the Resolution Plan had been put to vote and the Resolution Plan submitted by Mr. Harry Dhaul received highest votes (100%) and hence this Resolution Plan is considered as approved by the CoC.

20. Section 30(6) of the Code enjoins the Resolution Professional to submit the Resolution Plan as approved by the CoC to the Adjudicating Authority. section 31 of the Code deals with the approval of the Resolution Plan by the Authority if it is satisfied that the Resolution Plan as approved by the CoC under section 30(4) meets the requirements provided under section 30(2) of the Code. Thus, it is the duty of the Adjudicating Authority to satisfy itself that the Resolution Plan as approved by the CoC meets the above requirements.
21. On perusal of the Resolution Plan, it is observed that the Resolution Plan provides for the following:
- a. Payment of CIRP cost as specified under Section 30(2)(a) of the Code;
 - b. Payment of debts of Operational Creditors as specified under Section 30(2)(b) of the Code;
 - c. For the management of the affairs of the Corporate Debtor after approval of the Resolution Plan; and
 - d. The implementation and supervision of the Resolution Plan by the RP and the CoC as specified under Section 30(2)(d) of the Code.
22. It is to be noted that IA 2332 of 2023 was filed by the Regional Provident Fund Commissioner-II, Regional Office, Delhi (Central) seeking direction against the Resolution Professional/Respondent to consider the claim of Rs.1,33,19,135/- including the principal claim of Rs. 77,67,128/- and damages & interest amounting Rs. 55,52,007/- of the Employees Provident Fund Organization. The said claim was submitted before the approval of the Resolution Plan and the Successful Resolution applicant vide an additional affidavit dated 28.06.2024 has taken

upon himself to pay the said claim within 180 days from the handover of the management of Company to the SRA. The relevant portion of the affidavit is reproduced here under:

“3. I acknowledge and undertake to pay the principal amount Rs.77,67,128/- (Rupees Seventy-Seven Lakhs Sixty-Seven Thousand One Hundred and Twenty-Eight Only) on or before the 180th day from the handover of the company.

4. With respect to the remaining amount of Rs. 55,52,007/- being the tentative dues claimed by the EPFO under Section 14B and 7Q of the Employees' Provident Funds & Miscellaneous Provisions Act 1952, the same shall be paid in accordance with the judgment of the Hon'ble NCLAT in the case of Regional Provident Fund Commissioner, EPFO Regional Office, Jamshedpur v. Mamta Binani Company Appeal (AT) (Ins) No. 245 of 2022.

5. All payments shall be subject to the statutory right of appeal available to the Corporate Debtor to challenge the claims being made by the EPFO. In the event the appellate and revisional authorities (including the High Court & the Supreme Court of India) uphold the demand of EPFO, the Successful Resolution Applicant shall be bound to, and undertakes to, make full and complete payment of the adjudicated amount without protest or demur within 30 days of the exhaustion of legal remedies. Any further claims filed by any employee or Provident Fund

Department shall stand extinguished and I shall not be liable to pay any further amounts.”

23. In *K Sashidhar vs. Indian Overseas Bank and Ors. (Civil Appeal No. 10673/2018 decided on 05.02.2019) (2019)* the Hon'ble Apex Court held that if the CoC had approved the Resolution Plan by the 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 a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan, as approved by the CoC, meets the requirements specified in Section 30(2). The Hon'ble Apex Court further observed that the role of the NCLT is 'no more and no less'. The Hon'ble Apex further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 and is 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. The legislature, consciously, has not provided any other ground to challenge the commercial wisdom of the individual financial creditors or their collective decision before the Adjudicating Authority.
24. In CoC of *Essar Steel India Limited vs. Satish Kumar Gupta and Ors (2020) 8 SCC 531* the Hon'ble Apex Court clearly held that the Adjudicating Authority would not have the power to modify the Resolution Plan which the CoC in their commercial wisdom has approved. In para 42, the Hon'ble Court observed as under:

‘Thus, it is clear that the limited judicial review available which can in no circumstances trespass upon a business decision of the majority of the Committee of Creditors, has to be within the four corners of section 30(2) of the Code, in so far as the Adjudicating Authority is concerned and section 32 read with section 61(3) of the Code, insofar as the Appellate Tribunal is concerned, the parameters of such review having been clearly laid down in K. Sashidhar (supra).’

25. In view of the discussions and the law thus settled, we are of the considered view that the instant Resolution Plan meets the requirements of Section 30(2) of the Code and the Regulations 37, 38, 38(1A) and 39(4) of the CIRP Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. We, therefore, allow the Application in the following terms:

ORDER

26. The Application **IA No. 2475 of 2023 in CP(IB) 2520 of 2018 is allowed** and the Resolution Plan submitted by “Mr. Harry Dhaur” is hereby approved. It shall become effective from this date and shall form part of this order. It 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.
27. In terms of the judgement of the Hon’ble Supreme Court in the matter of ***Ghanshyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited (Civil Appeal No. 8129 of 2019 decided on 13.04.2021)***, on the date of approval of the Resolution Plan by the Adjudicating Authority, all

such claims which are not a part of the Resolution Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim which are not a part of the Resolution Plan. Accordingly, no person including the Central Government, any State Government or any local authority, guarantors and other stake holders, will be entitled to initiate or continue any proceedings in respect to a claim prior to CIRP which is not a part of the Resolution Plan.

28. The Monitoring committee shall supervise the implementation of the Resolution Plan and shall file status of its implementation before this Authority from time to time, preferably every quarter.
29. The approval of the Resolution Plan shall not be construed as waiver of any future statutory obligations/liabilities of the Corporate Debtor and shall be dealt by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan relating to period after the date of this order shall be subject to approval by the Authorities concerned. This Tribunal will not deter such authorities to deal with any of the issues arising after effecting the Resolution Plan.
30. The concession sought in relation to the stamp duty, taxes, registration charges, etc. for implementation of the approved Resolution Plan is not granted. However, the Resolution Applicant is at liberty to approach the competent authorities for the exemption, if permitted under the law.
31. The Resolution Applicant for renewal of various licenses and effective implementation of the Resolution Plan, shall obtain all necessary approvals under any law for the time being in force, within such period as may be prescribed. However, if any approval of the shareholder is required for extinguishment of existing shares of the Corporate Debtor, allotment of

shares to the Resolution Applicant and reduction of share capital of Corporate Debtor under the Companies Act, 2013 or any other law for the time being in force for the implementation of actions under the Resolution Plan, such shareholders' approval shall be deemed to have been given and it shall not be a contravention of that Act or law. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the concerned Registrar of Companies (RoC), for information and record.

32. With respect to the application(s) relating to preferential/fraudulent/avoidance transactions under section 43, 45, 50 and 66 of the Code pending before this Tribunal, all cost of and recovery from those proceedings shall be of the Financial Creditor.
33. As regards the other reliefs and concessions as sought for which exempts the Corporate Debtor from holding them liable for any offences committed prior to the commencement of CIRP as stipulated under Section 32A of the Code, is granted to the Resolution Applicants. However, exemptions, if any, sought in violation of any law in force, it is hereby clarified that such exemptions shall be construed as not granted.
34. The reliefs and concessions which are not specifically granted or in violation of any law in force shall be construed as not granted.
35. The moratorium declared under Section 14 of the Code shall cease to have effect from this date.
36. 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.

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT V

I.A. NO. 2475/MB/V/2023

In

C.P. (IB) No. 2520/MB/V/2018

37. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.

SD/-

MADHU SINHA
MEMBER (TECHNICAL)

/Aakansha/

SD/-

REETA KOHLI
MEMBER (JUDICIAL)