

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV**

I.A. No. 24 of 2024  
IN  
C.P. (IB) No. 4238/MB/2018

Under Section **30(6)** of the Insolvency  
and Bankruptcy Code, 2016.

Shri. Rajesh S. Shah, Resolution  
Professional

... **Applicant**

***In the matter of***

M/s. Steelman Engineering and  
Forgings

...**Petitioner**

*v/s.*

M/s. AG Conveying Systems Private  
Limited

...**Respondent**

**Order Pronounced on: 16.05.2024**

***Coram:***

Ms. Anu Jagmohan Singh  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

***Appearances:***

For the Applicant

:

Mr. Avinash R Khanolkar *a/w.*  
Ms. Surekha Yadav, Ld. Counsel  
for the Applicant.

**ORDER**

1. The instant application has been filed on 09.04.2024 by **Shri. Rajesh S. Shah**, the Applicant Resolution Professional (“RP”) of **M/s. AG Conveying Systems Private Limited** (“Corporate Debtor”) *u/s.* 30(6) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “IBC, 2016”) on behalf of the Committee of Creditors seeking approval of the Resolution Plan submitted by **Shri. Shripad Apte** (the “SRA / Successful Resolution Applicant”) and approved by 100% (one-hundred percent) of the voting share of the Committee of Creditors (hereinafter referred to as “CoC”) of the Corporate Debtor herein.
  
2. The brief facts of the Application are as follows:
  - 2.1 Pursuant to the captioned petition bearing C.P. (IB) No. 4238/MB/2018 filed by **M/s. Steelman Engineering and Forgings** (“Financial Creditor”) *u/s.* 9 of IBC, 2016, this Tribunal was pleased to initiate Corporate Insolvency Resolution Process (“CIRP”) of the Corporate Debtor herein *vide* Order *dated* 03.12.2019. In continuation thereof, Shri. Rajesh S. Shah (IBBI Reg. No.: IBBI/IPA-001/IP-P02289/2020-21/13495) was appointed as Interim Resolution Professional (“IRP”) by this Bench *vide* Order *dated* 10.12.2019. The said IRP caused a public announcement to be made in two daily-newspapers on 12.12.2019, informing the commencement of CIRP of the Corporate Debtor, and thereby invited claims from creditors. Pursuant to the same, the Committee of Creditors was duly constituted with a sole financial creditor *viz.* Bank of Maharashtra forming part of the same.
  
  - 2.2. The First Meeting of the CoC was conducted by the IRP on 08.01.2020, which was subsequently rescheduled to 09.01.2020. During the said

meeting, a resolution was passed whereby the said IRP was confirmed as the Resolution Professional (“RP”) thereto. The Applicant RP submits that during the intervening period, approval of the CoC was duly obtained for the publication of FORM-G *i.e.* Notice inviting Expression of Interest (“EOI”) for submission of Resolution Plan for the Corporate Debtor along-with finalisation of the eligibility criterions for the Prospective Resolution Applicants on 12.02.2020.

**2.3.** In response to the publication of the said Form-G, two EOIs were received. Pursuant to the same, a provisional list of Prospective Resolution Applicant(s) (“PRA”) was prepared and upon its finalisation, duly circulated amongst the sole-member of CoC on 23.03.2020. Subsequently, the Request for Resolution Plan (“RFRP”) along-with the Information Memorandum (“IM”) was circulated amongst the PRAs, for submission of their Final Resolution Plan for the Corporate Debtor by 22.04.2020.

**2.4.** The Applicant RP submits that in the interregnum period, a pan-India lockdown was implemented by the Government of India on account of the COVID-19 pandemic, following which the scheduled timelines of the ongoing CIRP underwent revision. Upon the easement of lockdown restrictions, the Applicant RP convened the Fourth Meeting of the CoC whereby the CIRP timelines were extended to enable submission of the Resolution Plan(s) by the said PRAs. Based thereupon, two Resolution Plans were received from both the PRAs and were caused to be placed before the CoC for its consideration in its Fifth meeting *dated* 17.07.2020. After a due deliberation on the feasibility of the said Resolution Plans, the CoC sought to grant an extension to one of the two PRAs *viz.* Shri. Shripad Apte so as to enable the submission of the revised Resolution Plan.

2.5. The Applicant RP submits that the revised Resolution Plan submitted by the said PRA was put for approval in the Sixth Meeting of the CoC dated 22.07.2020 qua the internal-team of the sole-CoC member and was thereafter, placed for consideration in the Seventh Meeting of the CoC dated 04.09.2020. The said Resolution Plan (“**First Resolution Plan**”) was approved thereto with a voting share of 100% and resultantly, **Shri. Sharad Apte** was declared as the Successful Resolution Applicant (“SRA”) for the Corporate Debtor.

2.6. Pursuant to the approval of the First Resolution Plan, the Applicant RP filed the requisite Application bearing I.A. No. 1763/2020 on 07.10.2020 for approval of the Resolution Plan.

2.6.1. During the pendency of the said I.A., Employees’ State Insurance Corporation (Ministry of Labor & Employment, Government of India) viz. one of the Operational Creditors to the Corporate Debtor herein, filed an Application bearing I.A. No. 146/2022 seeking condonation of delay in submission of its claim(s). The said I.A. was heard by this Bench on 20.07.2022, and in light of the categorical observations of the Principal Bench thereto and the merit(s) thereunder, this Bench was pleased to condone the delay in the interest of equity of employee(s). The Applicant RP was thereby directed “..to consider the claim as per law” vide Order dated 20.07.2022. The said I.A. No. 146/2022 was resultantly ‘disposed-of’.

2.6.2. Subsequent to the same, an Application bearing I.A. No. 608/2021 was filed by Regional Provident Fund Commissioner, Regional Office, Pune seeking admission if its PF claim(s) u/s. 7A, 7Q and 14B of the EPF & MP Act, 1952.

This Bench was however, not inclined towards passing any direction(s) to the effect of admission of claim(s) thereto, in light of the ratio laid down by the Hon'ble NCLAT in *Mukul Kumar v. M/s. RPS Infrastructure Ltd.* [Company Appeal (AT)(Ins.) No. 1050 of 2020], and the same was rejected *vide* Order dated 05.07.2023.

- 2.6.3.** The Applicant RP sought to apprise the CoC and SRA of the afore-mentioned Order dated 20.07.2022, and the modified Resolution Plan was put-forth to the CoC for its consideration during its Ninth Meeting dated 14.10.2022. After series of deliberations and upon getting the requisite internal approval(s), the modified Resolution Plan was approved by the CoC in its Eleventh Meeting dated 20.03.2023 (“**Second Resolution Plan**”). Accordingly, the Applicant RP filed the requisite Application bearing I.A. No. 5387/2023 on 27.04.2023 for approval of the (Second) Resolution Plan.
- 2.6.4.** Both the Resolution Plan Applications *viz.* I.A. No. 1763/2020 and I.A. No. 5387/2023 were taken up for hearing by this Bench on 15.12.2023. During the course of the said hearing, this Bench posed certain queries to the Applicant RP regarding the viability of the Resolution Plan, which could not be dealt with to the satisfaction of the Bench. In light of the same, both the said Applications were ‘*Dismissed as Withdrawn*’ and liberty was thereby granted to the Applicant RP to file the Resolution Plan afresh.
- 2.6.5.** The Applicant RP sought to apprise the CoC of the same, and an opportunity was granted to the SRA for carrying out the

requisite modification(s). At the backdrop of the afore-stated, on account of the statutory period of 330 days as envisaged by the Code having expired, the Applicant RP sought to approach this Tribunal for an extension of 90 days to the statutory period of CIRP *w.e.f.* 16.12.2023. This Bench was pleased to grant the same in I.A. No. 458/2024 *vide* Order dated 21.02.2024. Pursuant thereto, the modified Resolution Plan was tabled and thereafter approved by the CoC with a voting share of 100% in its Sixteenth Meeting dated 15.03.2024 (“**Third Resolution Plan**”). The captioned application has thus been filed, seeking approval of the said Resolution Plan.

**2.7.** The Applicant RP submits that the Resolution Plan approved by the CoC is in compliance with the legal requirements mandated under IBC, 2016 as extracted hereinafter:

- a. Compliance with S. 30 (2) (a): The SRA has provided that payment of CIRP Cost will be paid at Actuals as on effective date within 30 days from the Effective date in two tranches. And therefore, the proposed Resolution Plan is in compliance of the said provision (Clause 8.2. of the Proposed Plan).*
- b. Compliance with S. 30 (2) (b): The SRA has provided that towards the claims of the Operational Creditors in following manner:*
  - i. Operational Creditors: The SRA has proposed a payment of 0.91% of the Admitted claim amount towards payment of the Government Dues in 4 Tranches within 12 Months from the Effective date (Clause 3.6 of the Proposed Plan)*
  - ii. Other Operational Creditors: The SRA does not proposed any payment to the Operational Creditors against their Admitted Claims.*

*(Clause 3.4. of the Proposed Plan). In this regard it is stated and submitted that as per the provisions of the S. 30(2)(b)(i) and (ii) the Operational Creditor shall not be paid less than the Liquidation Value. And in this process the Liquidation Value attributable to the Operational Creditors is NIL. And therefore, the Applicant state and submit that the Resolution Plan is in compliance with this provision.*

**iii. Dissenting Financial Creditor:** *In this process since there is only one Financial Creditor the question of payment to the dissenting Financial Creditor will not arise. And hence; the SRA did not propose any payment to the dissenting Financial Creditor. (Clause 3.1. (c) of the Resolution Plan). In accordance herein-above it is stated and submitted that the proposed Resolution Plan is in compliance with the provisions of S. 30(2)(b).*

**iv.** *Further, the SRA has proposed a payment of 48.21% of the admitted claim amount towards Secured Financial Creditors of the Corporate Debtor. It is stated and submitted that per the Valuation Reports of the Corporate Debtor in the event of Liquidation the Secured Financial Creditor would have got ₹ 2,16,15,303/- against their admitted claim amount of ₹ 4,97,77,749/-. Whereas under the proposed Plan the Secured Financial Creditors are offered a payment of ₹ 2,40,00,000/-. Therefore, the proposed Resolution Plan is in compliance with the provisions of S., 30(2)(b) which provides the higher payment than that of the Liquidation value.*

**c. Compliance with S. 30 (2) (c):** *It is stated and submitted that the proposed Resolution Plan in clause 5 and 6 respectively provides for the management and shareholding of the Corporate Debtor and therefore the proposed Resolution Plan is in compliance with the said provision.*

**d. Compliance with S. 30 (2) (d):** *It is stated and submitted that the proposed Resolution Plan in clause 12 provides for formation of 'Monitoring*

*Committee' consisting of the Applicant, one member from the CoC and one nominee from the SRA to supervise the implementation of the Resolution Plan. Accordingly, it is stated and submitted that the proposed Resolution Plan is in conformity of the said provision.*

- e. **Compliances with S. 30 (2) (e) & (f):** It is stated and submitted that the SRA has not provided anything and/or sought approval to anything which is against/ contrary to any Law for time being in force. The SRA has asked certain reliefs and concessions from this Hon'ble Bench which would completely be at discretion of this Hon'ble Bench and therefore the proposed Resolution Plan is not contrary to any Law for time being in force.*
- f. Further, the SRA has proposed to infuse fund for implementation of the Plan through its Personal Sources and Credit Facilities which will be availed by the SRA through its Friends and Families. In this regard the comfort letter issued by such persons and other supporting documents have been provided by the SRA along-with the Resolution Plan. It is to be noted that the CoC its 16<sup>th</sup> meeting has duly considered this situation and the said facts have been duly recorded in the minutes of the said meeting. And only after being satisfied with the same the CoC has approved the Resolution Plan. Therefore, in opinion of the Applicant as well as the CoC the proposed Plan is viable and feasible as per the provisions of Reg. 38(3)(c) and (d) of the CIRP Regulations.*
- g. Further, the proposed Resolution Plan in clauses 5, 6 and 7 provides mechanism for the effective implementation and timelines for approvals required. Therefore, in opinion of the Applicant as well as the CoC the proposed Plan is viable and feasible as per the provisions of Reg. 38 (3) (c) and (d) of the CIRP Regulations.*



3. The Resolution Applicant *viz.* Shri. Shripad (Gopal) Apte is admittedly the Promoter / Director of the Corporate Debtor herein *viz.* M/s. AG Conveying Systems Private Limited. The Corporate Debtor, being an MSME entity, has duly adduced its Udyam Registration Certificate (Udyam Registration No. UDYAM-MH-26-0559830). The Resolution Applicant has further confirmed that it is eligible to submit Resolution Plan as per Section 29A of Insolvency and Bankruptcy Code, 2016.
4. As per the Applicant RP, the Fair Value and Liquidation Value have been determined by two valuer(s). The averages of the said determination of the requisite Fair Value and Liquidation Value, as provided in FORM-H, are as hereunder:

Average Fair Value:

INR 2,16,15,303/-

(Indian Rupees Two crores, sixteen lakhs, fifteen thousand, three hundred and three only)

Average Liquidation Value:

INR 1,59,76,787/-

(Indian Rupees One crores, fifty-nine lakhs, seventy-six thousand, seven hundred and eighty-seven only)

5. The key features of the Resolution Plan for Corporate Debtor submitted by the Resolution Applicant *viz.* Shri. Shripad Apte is summarized below:

Sr. No.	Particulars	Amount admitted (in ₹)	Amount Offered (₹)	As a % of amount admitted
1	CIRP Costs	₹ 24,75,000/-	₹ 24,75,000/-	100%
2	Secured Financial Creditors	₹ 4,97,77,749/-	₹ 2,40,00,000/-	48.21%

3	Unsecured Financial Creditors	NIL	NIL	NA
4	Workmen	₹ 31,50,451/-	₹ 15,75,226/-	50.00%
5	Employees	NIL	NIL	NA
6	Statutory Dues	₹ 2,19,40,237/-	₹ 2,00,360.50/-	0.91%
7	Operational Creditors	₹ 4,02,08,822/-	NIL	NA
		<b>₹ 11,75,52,259/-</b>	<b>₹ 2,82,50,587/-</b>	<b>22.39%</b>

6. Furthermore, the Resolution Applicant has proposed to implement the Resolution Plan in full as per clause (7) of the Plan, as extracted herein-after:

*“The Resolution Applicant proposes the term of this Resolution Plan as 18 Months starting from the day ‘T’. The Resolution Applicant proposes to consider day ‘T’ as the date on which the Certified True Copy of the Order of the Hon’ble NCLT, Mumbai approving this Plan is received by the Resolution Applicant either through the Resolution Professional or by any other mode.”*

7. The Applicant RP submits that albeit the RFRP does not provide for payment of specific amount towards the Earnest Money Deposit (“EMD”) for the Resolution Plan and does neither specify any amount of performance security to be provided along-with the Resolution Plan; The SRA has paid a cumulative amount of INR 9,00,000/- as against the EMD and Advance Payment to the Financial Creditor.

8. The Learned Counsel for the Applicant Resolution Professional has annexed a certificate of the Form-H to the Application, under Regulation 39(4) of the CIRP Regulations, 2016 to certify that the Resolution Plan has approved by

the CoC meets all the requirements of the IBC and its Regulations, as extracted hereto:

**FORM H**  
**COMPLIANCE CERTIFICATE**

)Under Regulation 39)4( of the Insolvency and Bankruptcy Board of India )Insolvency Resolution Process for Corporate Persons( Regulations, 2016

I, Rajesh Shevantilal Shah, an insolvency professional enrolled with ICSI Institute of Insolvency Professionals and registered with the Board with registration number IBBI/IPA-002/IP-N00592/2018-19/11881, am the resolution professional for the corporate insolvency resolution process )CIRP( of AG Conveying Systems Private Limited (CD).

2. The details of the CIRP are as under:

Sl. No.	Particulars	Description
1	Name of the CD	<b>AG Conveying Systems Private Limited</b>
2	Date of Initiation of CIRP	<b>3 December 2019</b>
3	Date of Appointment of IRP	<b>10 December 2019</b>
4	Date of Publication of Public Announcement	<b>12 December 2019</b>
5	Date of Constitution of CoC	<b>1 January 2020</b>
6	Date of First Meeting of CoC	<b>9 January 2020</b>
7	Date of Appointment of RP	<b>9 January 2020</b>
8	Date of Appointment of Registered Valuers	<b>21 January 2020</b>
9	Date of Issue of Invitation for EoI	<b>12 February 2020</b>
10	Date of Final List of Eligible Prospective Resolution Applicants	<b>23 March 2020</b>

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11	Date of Invitation of Resolution Plan	<b>12 February 2020</b>
12	Last Date of Submission of Resolution Plan	<b>22 April 2020 (Revised to 8 July 2020 due to Covid - 19)</b>
13	Date of Approval of Resolution Plan by CoC	<b>First Approval on 4 September 2020</b>  <b>Second Approval to the Revised Plan on 20 March 2023 pursuant to Order dated 20.07.2022 passed by the Hon'ble NCLT in Application of ESIC</b>  <b>Third Approval on 15 March 2024</b>
14	Date of Filing of Resolution Plan with Adjudicating Authority	<b>-1<sup>st</sup> on 7 October 2020</b>  <b>2<sup>nd</sup> on 27 April 2023</b>  <b>3<sup>rd</sup> when we file 10 April 2024</b>
15	Date of Expiry of 180 days of CIRP	<b>31 May 2020</b>
16	Date of Order extending the period of CIRP	<b>21 February 2024</b>
17	Date of Expiry of Extended Period of CIRP	<b>15 March 2024</b>
18	Fair Value	<b>Valuer 1 - 2,21,21,668</b> <b>Valuer 2 - 2,11,08,937</b> <b>Average - 2,16,15,303</b>
19	Liquidation value	<b>Valuer 1 – 1,66,96,987</b> <b>Valuer 2 – 1,52,56,587</b> <b>Average - 1,59,76,787</b>

20	Number of Meetings of CoC held	<b>16 (Till 15 March 2024)</b>
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3. I have examined the Resolution Plan received from Resolution Applicant Mr. Shripad Apte and approved by Committee of Creditors )CoC( of AG Conveying Systems Private Limited.

4. I hereby certify that-

i) ( the said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016 )Code(, the Insolvency and Bankruptcy Board of India )Insolvency Resolution Process for Corporate Persons( Regulations, 2016 )CIRP Regulations( and does not contravene any of the provisions of the law for the time being in force.

ii) ( the Resolution Applicant Mr. Shripad Apte has submitted an affidavit pursuant to section 30(1) of the Code confirming its eligibility under section 29A of the Code to submit resolution plan. The contents of the said affidavit are in order.

iii) ( the said Resolution Plan has been approved by the CoC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Resolution Plan has been approved by 100% of voting share of financial creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.

iv) ( The voting was held in the meeting of the CoC on 4 September 2020 where the members of the CoC were present.

~~or~~

~~I sought vote of members of the CoC by electronic voting system which was kept open at least for 24 hours as per the regulation 26.~~

~~strike off the part that is not relevant~~

5. The list of financial creditors of the CD AG Conveying Systems Private Limited being members of the CoC and distribution of voting share among them is as under:

Sl. No.	Name of Creditor	Voting Share )%(	Voting for Resolution Plan )Voted for / Dissented / Abstained(
1.	Bank of Maharashtra	100%	Voted in Favour

6. The Resolution Plan includes a statement under regulation 38(1A) of the CIRP Regulations as to how it has dealt with the interests of all stakeholders in compliance with the Code and regulations made thereunder.

7. The amounts provided for the stakeholders under the Resolution Plan is as under:

(Amount in Rs. lakh)

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	0	0	0	0
		(b) Other than (a) above:	0	0	0	0
		(i) who did not vote in favour of the resolution Plan	498	498	240	48.19%
		(ii) who voted in favour of the resolution plan				
		Total[(a) + (b)]	498	498	240	48.19%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	0	0	0	0
		(b) Other than (a) above:	0	0	0	0
		(i) who did not vote in favour of the resolution Plan	0	0	0	0
		(ii) who voted in favour of the resolution plan				

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		(ii) who voted in favour of the resolution plan				
		Total[(a) + (b)]	0	0	0	0
3	Operational Creditors	(a) Related Party of Corporate Debtor	0	0	0	0
		(b) Other than (a) above:				
		(i) Government	215	215	0	0%
		(ii) Workmen (ESIC)	4	4	2	50%
		(iii) Employees	0	0	15.75	
	(iv) Others	420	402	0	0	
		Total[(a) + (b)]	639	621	17.75	2.78%
4	Other debts and dues		0	0	0	0
Grand Total			1137	1119	257.75	22.67%

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

# Amount provided over time under the Resolution Plan and includes estimated value of non-cash components. It is not NPV.]

8. The interests of existing shareholders have been altered by the Resolution plan as under:

Sl. No	Category of Share Holder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share )%( held before CIRP	Voting Share )%( held after CIRP
1	Equity:				
	Shripad	994998	995011	99.4998%	99.5011%
	Apte	4989	4989	0.4989%	0.4989%
	Shruti Apte	13	0	.0013	0%
	Others*				

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	Total	10,00,000	10,00,000	100%	100%
2	Preference	0	0	0	0

\*Shripad Apte - Resolution Applicant proposes to buy the equity shares from the 13 equity shareholders holding 1 equity share each at face value of Rs. 10/- each. Please refer to clause 3.7 of the Resolution Plan.

9. The compliance of the Resolution Plan is as under:

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance) Yes / No(
25)2(h)	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?	u/s 240A of the IBC, CD being an MSME unit Promoter is eligible u/s 29A	YES
Section 29A	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?	u/s 240A of the IBC, CD being an MSME unit Promoter is eligible u/s 29A	YES
Section 30)1(	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Exhibit H of main petition	YES
Section 30)2(	Whether the Resolution Plan-  (a) provides for the payment of insolvency resolution process costs?  (b) provides for the payment to the operational creditors?	Please refer to Note *1 below.  Only Employees Kindly	YES  YES



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	<p>(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?</p> <p>(d) provides for the management of the affairs of the corporate debtor?</p> <p>(e) provides for the implementation and supervision of the resolution plan?</p> <p>(f) contravenes any of the provisions of the law for the time being in force?]</p>	<p>refer to addendum dated 31Jan 23 Page 2.</p> <p>NA</p> <p>YES</p> <p>Clause 3.8 of the Resolution Plan on Page 150,151</p> <p>NIL</p>	<p>NA</p> <p>YES</p> <p>YES</p>
Section 30)4(	<p>Whether the Resolution Plan )a( is feasible and viable, according to the CoC? )b( has been approved by the CoC with 66% voting share?</p>	<p>YES Approved by 100% in favour</p>	<p>YES YES</p>
Section 31)1(	<p>Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?</p>	<p>YES</p>	<p>YES</p>
Regulation 38)1(	<p>Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?]</p>	<p>YES. Please refer Note 2 below*.</p>	<p>YES</p>
Regulation 38)1A(	<p>Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?</p>	<p>Please refer to chapter 3 of the Resolution Plan</p>	<p>YES</p>
Regulation 38(1B)	<p>(i) Whether the Resolution Applicant or any of its related parties has failed to implement or</p>	<p>NO</p>	<p>YES</p>

	<p>contributed to the failure of implementation of any resolution plan approved under the Code.</p> <p>(ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?]</p>	NA	YES
Regulation 38)2(	<p>Whether the Resolution Plan provides:</p> <p>(a) the term of the plan and its implementation schedule?</p> <p>)b( for the management and control of the business of the corporate debtor during its term?</p> <p>)c( adequate means for supervising its implementation?</p>	<p>Please refer to clause 3.8 of the Resolution Plan</p> <p>Please refer to clause 3.8 of the Resolution Plan</p> <p>Please refer to clause 3.8 of the Resolution Plan</p>	<p>YES</p> <p>YES</p> <p>YES</p>
38)3(	Whether the resolution plan demonstrates that –	<p>Please refer to Chapter 1 of the Resolution Plan</p> <p>Please</p>	<p>YES</p> <p>YES</p>

	<p>)a( it addresses the cause of default?</p> <p>)b( it is feasible and viable?</p> <p>)c( it has provisions for its effective implementation?</p> <p>)d( it has provisions for approvals required and the timeline for the same?</p> <p>)e( the resolution applicant has the capability to implement the resolution plan?</p>	<p>refer to Page 22 - 25 of the Resolution Plan</p> <p>YES</p> <p>Please refer to clause 3.8 of the Resolution Plan</p> <p>YES</p> <p>Please refer to Page 22 - 25 of the Resolution Plan</p> <p>YES</p> <p>Please refer to Page 22 - 25 of the Resolution Plan</p> <p>YES</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>
39)2(	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	NO	YES
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]	Resolution Applicant has deposited: Rs. 4,00,000 on 27 July 2020 Rs. 4,00,000 on 10 August 2020 EMD of	YES

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		Rs. 1,00,000 which is also deposited with Financial Creditor in 2022.	
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Note: 1. CIRP expenses: Resolution Applicant has agreed to pay below CIRP cost from point a to c below and balance will be borne by Financial Creditor i.e. Bank of Maharashtra:

- a. Rs. 6,00,000/- Yes, its correct
- b. Rs. 50,000/- pm to Resolution Professional from 10 March 2020 till the completion of CIRP process
- c. Payment of the additional fees to be paid to IBBI as per the circular for resolution plans approved on or after 1 October 2022 as the realizable value is more than liquidation value and other cost to be paid to professionals.

Note: 2. There was no claim received from employees, but RA has provided for 50% initially and the same was submitted for final approval of Honourable NCLT (Adjudicating Authority/AA). Later ESIC filled a claim of Rs. 400721/- and the delay was condoned by AA condoned. RA has agreed to pay 50% of the claimed amount and is provided in revised plan dated 31 January 2023. RA has also agreed to pay in proportion to payment made to Financial Creditor with a separate mail.

10. The CIRP has been conducted as per the timeline indicated as under:

Section of the Code / Regulation No.	Description of Activity	Latest Timeline under regulation 40A	Actual Date
Section 16)1(	Commencement of CIRP and Appointment of IRP	T	3 December 2019 (CIRP initiated)

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			10 December 2019 (IRP appointed)
Regulation 6)1(	Publication of Public Announcement	T+3	12 December 2019
Section 15)1(c) / Regulation 12)1(	Submission of Claims	T+14	24 December 2019
Regulation 13)1(	Verification of Claims	T+21	31 December 2019
Section 26)6A( / Regulation 15A	Application for Appointment of Authorised Representative, if necessary	T+23	Not Applicable
Regulation 17)1(	Filing of Report Certifying Constitution of CoC	T+23	1 January 2020
Section 22)1( and regulation 17)2(	First Meeting of the CoC	T+30	9 January 2020
Regulation 35A	Determination of fraudulent and other transactions	T+115	27 March 2020 (Nothing unusual found during limited transaction audit done by Resolution Professional)
Regulation 27	Appointment of two Registered Valuers	T+47	21 January 2020 (Due date 19 January 2020)
Regulation 36)1(	Submission of Information Memorandum to CoC	T+54]	20 January 2020
Regulation 36A	Invitation of EoI	T+75	12 February 2020
	Publication of Form G	T+75	12 February 2020
	Provisional List of Resolution Applicants	T+100	8 March 2020
	Final List of Resolution Applicants	T+115	23 March 2020
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants	T+105	13 March 2020
Section 30)6( / Regulation 39)4(	Submission of CoC approved Resolution Plan*3	T+165	7 October 2020

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Section 31)1(	Approval of Resolution Plan	T=180	Still to be approved  (Due date 31 May 2020)
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Note\* 3 – Following petitions were filed after the submission of Resolution Plan for final approval of Honorable NCLT on 7 October 2020:

- a. EPF for amount of Rs. 22,95,294
- b. ESIC for amount of Rs. 400721 the delay was condoned and accordingly revised plan was worked upon.

11. The time frame proposed for obtaining relevant approvals is as under: Resolution Applicant in its Resolution Plan has requested for certain concessions and reliefs, waivers/directions/specific orders from Honourable NCLT mentioned in Chapter 3 dealing with Resolution Plan. Resolution Applicant has agreed to pay amount only as mentioned in the Resolution Plan submitted by him and will not pay any other dues to either financial creditor/(s) or operational creditor/(s).

12. The Resolution Plan is not subject to any contingency.

13. Following are the deviations / non-compliances of the provisions of the Insolvency and Bankruptcy Code, 2016, regulations made or circulars issued thereunder )If any deviation/ non-compliances were observed, please state the details and reasons for the same(:

Sl. No.	Deviation/Non-compliance observed	Section of the Code / Regulation No. / Circular No.	Reasons	Whether rectified or not
1	NIL	NIL	NA	NA

14. The Resolution Plan is being filed **31** days before the expiry of the period of CIRP provided in section 12 of the Code.

- 14A. Whether the resolution professional has, in accordance with regulation 35A,- NA.
- (a) applied to the Adjudicating Authority on or before the one hundred and thirty-fifth day of the insolvency commencement date: ~~Yes~~ / No
  - (b) filed Form CIRP 8 with the Board on or before the one hundred and fortieth day of the insolvency commencement date: ~~Yes~~ / No]

15. Provide details of section 66 or avoidance application filed / pending.

Sl. No.	Type of Transaction	Date of Filing with Adjudicating Authority	Date of Order of the Adjudicating Authority	Brief of the Order
1	Preferential transactions under section 43	NA	NA	NA
2	Undervalued transactions under section 45	NA	NA	NA
3	Extortionate credit transactions under section 50	NA	NA	NA
4	Fraudulent transactions under section 66	NA	NA	NA

15A. The committee has approved a plan providing for contribution under regulation 39B as under:

- a. Estimated liquidation cost: ₹ 5,00,000/-.
- b. Estimated liquid assets available: ₹ Nil.
- c. Contributions required to be made: ₹ 5,00,000/-.
- d. Financial creditor wise contribution is as under:

Sl. No.	Name of financial creditor	Amount to be contributed (Rs.)
1	Bank of Maharashtra	5,00,000

15B. The committee has recommended under regulation 39C as under:

- a. Sale of corporate debtor as a going concern: Yes / No
- b. ~~Sale of business of corporate debtor as a going concern: — Yes / No~~

The details of recommendation are available with the resolution professional. This is not a going concern as of now and there was a lock down since 1 September 2018. If this plan gets through it will be revival of a closed MSME unit.

15C. The committee has fixed, in consultation with the resolution professional, the fee payable to the liquidator during the liquidation period under regulation 39D as mentioned in 15A(a) above.]

16. I Rajesh Shevantilal Shah hereby certify that the contents of this certificate are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.

Name of the Resolution Professional: Rajesh Shah  
IP Registration No: IBBI/IPA-002/IP-N00592/2018-19/11881  
Address as registered with the Board: 635/84, Siddharth, Vijayanagar  
Colony, Next to MSEDCL Building,  
Opp to Neelayam Theatre,  
Pune 411 030  
Email id as registered with the Board: rsshah27@hotmail.com  
Date: 8 April 2024  
Place: Pune

9. In the circumstances mentioned hereinabove, the Applicant Resolution Professional has filed this Application seeking approval of this Tribunal on the Resolution Plan, submitted by the Resolution Applicant *viz.* Shri. Shripad Apte stating that the plan is in accordance with Section 30(2) of IBC, 2016, and other provisions laid thereunder.
10. On perusal of the Resolution Plan, it is observed that the Resolution Plan provides for the following:
- i.* Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.
  - ii.* Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.
  - iii.* For management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified U/s 30(2)(c) of the Code.
  - iv.* The implementation and supervision of Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.
11. The Applicant RP has complied with the requirements of the Code in terms of Section 30(2)(a) to 30(2)(f) of IBC, 2016, and Regulations 38(1), 38(1)(a), 38(2)(a), 38(2)(b), 38(2)(c) & 38(3) of CIRP Regulations.



12. The Applicant RP has filed Compliance Certificate in Form-H along with the plan. On perusal the same is found to be in order. The Resolution Plan has been approved by the CoC in its Sixteenth Meeting *dated 15.03.2024*, with a voting percentage of 100% (One hundred percent). Further, there are no such pending proceedings *u/s. 66(1) r/w. 43(1) and 44(1)* of the Code.
13. The Resolution Applicant has additionally sought certain waivers, reliefs and concessions per Item {17} of the Resolution Plan. We make it expressly clear that **no** reliefs, concessions and dispensations that fall within the domain of other government department/ any other authorities are granted hereto, and the same shall be dealt with by the respective competent authorities/fora/offices, Government (State or Central) with regard to the respective reliefs, if any. Be that as it may, the Learned Counsel for the Applicant RP has categorically affirmed that the implementation of the Resolution Plan is not conditional or contingent upon grant of any or all of such reliefs, concessions and dispensations by this Adjudicating Authority.
14. In the case of *K Sashidhar v. Indian Overseas Bank & Others (in Civil Appeal No.10673/2018 decided on 05.02.2019)* the Hon'ble Apex Court 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 (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan as approved by CoC meets the requirements specified in Section 30(2). The Hon'ble Court observed that the role of the NCLT is 'no more and no less'. The Hon'ble Court 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.

15. In *CoC of Essar Steel (Civil Appeal No. 8766-67 of 2019 decided on 15.11.2019)* the Hon'ble Apex Court clearly laid down that the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved. In para 42 Hon'ble Court observed as under:

*“Thus, it is clear that the limited judicial review available, which can in no circumstance 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, insofar 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).”*

16. In view of the discussions and the law thus settled, the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the 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. The same needs to be approved. Hence ordered.

### **ORDER**

17. The present Application being I.A. No. 24 of 2024 in C.P. (IB) No. 4238/MB/2018 is hereby **Allowed**. The Resolution Plan annexed to the Application is hereby approved. It shall become effective from this date and shall form part of this order.

17.1. 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.

**17.2.** The approval of the resolution plan shall not be construed as waiver of any statutory obligations of the Corporate Debtor and shall be dealt by the appropriate authorities in accordance with law.

**17.3.** Further in terms of the judgment of Hon'ble Supreme Court in the matter of *Ghanshyam Mishra And Sons Private Limited V/S Edelweiss Asset Reconstruction Company Limited*, 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 is not a part of the Resolution Plan.

**17.4.** The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Mumbai, Maharashtra 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.

**17.5.** The moratorium under Section 14 of the Code shall cease to have effect from this date.

**17.6.** The Applicant shall supervise the implementation of the Resolution Plan and file status of its implementation before this Authority from time to time, preferably every quarter.

**17.7.** 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.

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

**18.** The captioned Interlocutory Application bearing I.A. No. 24 of 2024 in C.P. (IB) No. 4238/MB/2018 is accordingly **Allowed** and **Disposed-of**.

**Sd/-**

**ANU JAGMOHAN SINGH**  
**MEMBER (TECHNICAL)**

**16.05.2024**

*Aditya Kalia*

**Sd/-**

**KISHORE VEMULAPALLI**  
**MEMBER (JUDICIAL)**

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