

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

IA-38/2024

Under Section 30(6) of Insolvency & Bankruptcy
Code, 2016

Mr. Amit Vijay Karia

Resolution Professional/

...Applicant

In the matter of

CP (IB) No.1190/MB/C-IV/2022

Omkara Assets Reconstruction Private Limited

...Operational Creditor

Vs.

Swapnil Promoters and Developers Private Limited

...Corporate Debtor

Order Pronounced on: 12.07.2024

Coram:

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

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances

For the Applicant/RP :

Mr. Amir Arsiwala a/w Mr. Vedit
Divya Kumat, Learned Counsel
present. Mr. Amit Karia, Resolution
Professional present through VC (Video
Conferencing).

ORDER

1. This Application has been filed on 28.05.2024 by the Resolution Professional under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 on behalf of the Committee of Creditors seeking approval of the Resolution Plan submitted by the Successful Resolution Applicant and approved by 93.08% of the voting share of the members of the Committee of Creditors (hereinafter referred to as 'CoC') of the Corporate Debtor viz. Swapnil Promoters and Developers Private Limited (hereinafter referred to as 'Corporate Debtor').
2. **The brief facts of the Application are as follows:**
 - 2.1 Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated vide an order dated 04.07.2023 of this Court in C.P.(IB)-1190(MB)/2022 on an application filed by Omkara Assets Reconstruction Private Limited (Financial Creditor) under Section 7 of the Insolvency and Bankruptcy Code 2016. Mr. Amit Vijay Karia (Reg. No.: IBBI/IPA-001/IP-P02600/2021-22/13969 was appointed as Interim Resolution Professional (IRP), who was confirmed as Resolution Professional (RP) in the First CoC meeting held on 03.08.2023. The Applicant made a public announcement in the newspapers (in Mumbai) in Form-A on 07.07.2023 inviting claims from the creditors, workers/employees of the Corporate Debtor and from government bodies. IRP constituted the Committee of Creditors (CoC) based on the claims received by him and the first meeting of the CoC held on 03.08.2023.
 - 2.2 The Applicant submits that there were 9 CoC meetings held and 2 Invitation for Expression of Interest (EoI's) were issued in Form G, i.e.,

on 10.11.2023(First EoI) and republished on 23.12.2023(Second EoI) were issued.

- 2.3 The Applicant further submits that on 5th CoC meeting held on 14.12.2023, the Applicant i.e. the Resolution Professional apprised the CoC about the Assignment of debt exposure of Omkara Assets Reconstruction in the Corporate Debtor along with all its rights, titles and interest to 'Best Power Plus Private Limited' vide Assignment Agreement dated 04.12.2023. Accordingly, a report for Reconstitution of CoC was filed with this Tribunal dated 09.12.2023 for intimating about the assignment. However, the reconstituted CoC in the 6th CoC meeting held on 22.12.2023 directed the Applicant to republish Form G and accordingly a resolution was passed thereat and Second EoI was republished on 23.12.2023 and last date of submission of EoI was on 07.01.2024. Since, the CIRP (Corporate Insolvency Resolution Process) period of 180 Days was expiring on 31.12.2023, pursuant to the resolution passed at the 5th CoC Meeting held on 14.12.2023, the Applicant filed an IA 1708/2024 on 21.12.2023 seeking extension of 90 days which was allowed by this Tribunal on 16.04.2024 and last date of CIRP was on 30.03.2024.
- 2.4 The Applicant submits that at 9th CoC meeting held on 22.03.2024, the CoC voted in favour of the Resolution Plan submitted by CIAN Agro Industries & Infrastructure Limited with 93.08% votes. Thus, an IA 19/2024 was filed under section 30(6) of the code for approval of Resolution Plan. However, vide order dated 03.05.2024, this Tribunal disposed off the IA directing the Applicant to place before the CoC for fresh consideration alongwith valuation reports.

2.5 The Resolution Plan submitted by the Resolution Applicant viz. CIAN Agro Industries & Infrastructure Limited was approved by the CoC in the 10th meeting held on 14.05.2024 and the same was put for e-voting which concluded on 16.05.2024, approving the Resolution Plan submitted by CIAN Agro Industries & Infrastructure Limited **with 93.08% voting**. The resolution is reproduced below -

“Resolved that, pursuant to sub-section (3), (4) and sub-section (6) of Section 30 of the Insolvency and Bankruptcy Code, 2016 read with regulation 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), Regulations 2016 and other applicable provisions of Insolvency and Bankruptcy Code, 2016 and rules and regulations made thereunder, the approval of the CoC be and is hereby accorded for the Resolution Plan submitted by the Resolution Applicant ‘CIAN Agro Industries & Infrastructure Limited’, after duly considering & evaluating its feasibility and viability, the manner of distribution proposed by the said Resolution Applicant in the said Resolution Plan, for the CIRP of Swapnil Promoters and Developers Private Limited.”

2.6 It is submitted that with respect to Performance Security the Successful Resolution Applicant has submitted by way of Direct Deposit in the designated Account.

2.7 Therefore, RP states that the Resolution Plan approved by the CoC is in compliance with the requirements of Section 30(2) of the Code. In compliance of Section 30(2) of IBC, 2016, the Resolution Professional has examined the Resolution plan of the Successful Resolution Applicant and confirms that this Resolution Plan:

- a. Provides for payment of Insolvency Resolution Process cost in a manner specified by the Board in the priority to the payment of other debts of the corporate debtor;
- b. Provides for management of the affairs of the Corporate Debtor after approval of Resolution Plan;
- c. The implementation and supervision of Resolution Plan;
- d. Does not prima facie contravene any of the provisions of the law for time being in force,
- e. Conforms to such other requirements as may be specified by the Board.
- f. As per the Affidavit received and the further documents submitted, the Resolution applicants are not covered under 29A.

2.8 In compliance of Regulation 38 of CIRP Regulations, the Resolution Professional confirms that the Resolution plan provides that:

- i. The amount due to the Operational Creditors under resolution plan shall be given priority in payment over Financial Creditors.
- ii. It has dealt with the interest of all Stakeholders including Financial Creditors and Operational Creditors of the CD.
- iii. A statement that neither the Resolution Applicants nor any related parties have failed to implement nor have contributed to the failure of implementation of any other Resolution Plan approved by the AA in the past.
- iv. The terms of the plan and its implementation schedule.
- v. The management and control of the business of the CD during its term.
- vi. Adequate means of Supervising its implementation.
- vii. The Resolution Plan Demonstrates that it addresses
 - a. The cause of the Default

- b. It is feasible and viable
 - c. Provision for effective implementation
 - d. Provisions for approvals required and the time lines for the same.
 - e. Capability to Implement the Resolution Plan
- 2.9 The Resolution Applicant viz. CIAN Agro Industries & Infrastructure Limited is a BSE listed Company with more than 2 decades of expertise in Agro Industry, Industrial Infrastructure activity since 2016, Mall Operations and Comapany's Real Estate division is into both residential and commercial projects having office at 4th Floor, Gupta Tower, Science College Road, Civil Lines, Nagpur, Maharashtra, India - 440001. The Resolution Applicant confirmed that it is eligible to submit Resolution Plan as per Section 29A of Insolvency and Bankruptcy Code.
- 2.10 The Resolution Applicant has confirmed that -
- i. its connected persons are not convicted for any offence during the preceding five years and no criminal proceedings are pending against any person.
 - ii. not disqualified under Companies Act, 2013 to act as a Director.
 - iii. not identified as a willful defaulter by any bank of financial institution or consortium thereof in accordance with the guidelines of the Reserve Bank of India.
 - iv. not debarred from accessing to, or trading in securities markets under any order or directions of the Securities and Exchange Board of India.
- 2.11 As per the RP the Fair Value and Liquidation Value determined by the registered Valuer are as follows:
- | | |
|------------|-------------------|
| Fair Value | Rs. 5,35,35,996/- |
|------------|-------------------|

Liquidation Value Rs. 4,55,57,996/-

3. **Resolution Plan for the Corporate Debtor (the key features of the Resolution Plan submitted by CIAN Agro Industries & Infrastructure Limited is summarized below):**

3.1 *The value of the said Resolution Plan is Rs. 1,16,79,757/- which includes the payments towards the CIRP cost, payment to Secured Financial Creditors, and the summary of payment is enumerated below:*

Sr. No	Particulars	Amount (Rs)
1.	Corporate Insolvency Resolution Process Cost	16,79,757/-
2.	Payment to Secured Financial Creditor	1,00,00,000/-
3.	Payment to Unsecured Financial Creditor	NIL
4.	Payment to the Operational Creditor (other than Workmen/employees and other Statutory dues)	NIL
	Total	1,16,79,757/-

**It is submitted that as per the Resolution Plan the payout shall be 90 Days from the Effective date.*

4. It is submitted by the Applicant in the Resolution Plan that a monitoring Committee shall be constituted to oversee the implementation of the Resolution Plan. The Monitoring Committee shall comprise of the following members:
- Resolution Professional.

- b. One representative each of Resolution Applicant; and
- c. Committee of Creditors.
5. Ld. Counsel for the Resolution Professional has annexed a certificate of the Form-H to the Application under Regulation 39(4) In Form-H 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.

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, Mr. Amit Vijay Karia, an insolvency professional enrolled with Indian Institute of Insolvency Professionals of ICAI and registered with the Board with registration number IBBI/IPA-001/IP- P02600/2021-2022/13969, am the Resolution Professional for the Corporate Insolvency Resolution Process (CIRP) of Swapnil Promoters and Developers Private Limited (CD).

2. The details of the CIRP are as under:

Sr. No.	Particulars	Description
1	Name of the CD	Swapnil Promoters and Developers Private Limited
2	Date of Initiation of CIRP	04.07.2023
3	Date of Appointment of IRP	04.07.2023
4	Date of Publication of Public Announcement	07.07.2023
5	Date of Constitution of CoC	27.07.2023
6	Date of First Meeting of CoC	03.08.2023

7	Date of Appointment of RP	17.08.2023
9	Date of Appointment of Registered Valuers <ul style="list-style-type: none"> • Mahesh Ramesh Boob [Land & Building] • Surendra Bhaurao Gordey [Land & Building] • Manisha Agrawal [Securities or Financial Assets (SFA)] • Swapnil Agrawal [Securities or Financial Assets (SFA)] 	26.09.2023 26.09.2023 26.09.2023
10	Date of Issue of Invitation for Expression of Interest (IEOI): <ul style="list-style-type: none"> • 1st Round • 2nd Round 	10.11.2023 23.12.2023
11	Date of Final List of Eligible Prospective Resolution Applicants (in IEOI dated 23.12.2023)	01.02.2024
12	Date of Invitation of Resolution Plan	06.02.2024
13	Last Date of Submission of Resolution Plan (in IEOI dated 23.12.2023)	07.03.2024
14	Date of Approval of Resolution Plan by CoC	26.03.2024
15	Date of Filing of Resolution Plan with Adjudicating Authority Date of Refiling of Resolution Plan with Adjudicating Authority	29.03.2024 27.05.2024
16	Date of Expiry of 180 days of CIRP	31.12.2023
17	Date of Order extending the period of CIRP	16.04.2024
18	Date of Expiry of CIRP	30.03.2024* *(Prayer for extension of CIRP period by 60 days from 30.03.2024 to 29.05.2024 is a part of the application seeking sanction of the resolution plan)
19	Fair Value (Average)	Rs. 5,35,35,996/- [Rs 5.35 crores]
20	Liquidation value (Average)	Rs. 4,55,57,996/- [Rs 4.55 crores]
21	Number of Meetings of CoC held	10 (Ten)

6. I have examined the Resolution Plan received from the Resolution Applicant - CIAN Agro Industries & Infrastructure Limited, and duly approved by the Committee of Creditors (CoC) of Swapnil Promoters and Developers Private Limited.

7. 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 - CIAN Agro Industries & Infrastructure Limited 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 93.08 % of voting share of the CoC, after duly considering its feasibility and viability and other requirements specified by the CIRP Regulations.

(iv) The voting of members of the CoC was conducted by electronic voting system which was kept open for at least for 24 hours as per the requirement of Regulation 26.

3. The list of financial creditors of the CD - Swapnil Promoters and Developers Private Limited being members of the CoC and

the distribution of voting share amongst them is as under:

Sr. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for / Dissented / Abstained)
1	Best Power Plus Limited	93.08%	Assented / In Favour
2	State Bank of India	6.45%	Abstained
3	Mr. Prashant Kale & Mrs. Nilima Kale	0.47%	Abstained

8. 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

Yes

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

(Amount
in Rs. in
lakhs)

Sr. No.	Category of Stakeholder	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan #	Amount Provided to the Amount Claimed (%)
1	Secured	(a) Creditors not having a right to vote under sub-section (2) of section 21	NIL	NIL	NIL	NIL
		(b) Other than (a) above:				
		(i) who did not vote in favour of the	302.40	302.40	6.47	2.14%

	Financial Creditors	resolution Plan				
		(ii) who voted in favour of the resolution plan	4369.64	4366.33	93.53	2.14%
		Total (a) + (b)	4672.05	4668.73	100.00	2.14%

2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	186.18	22.18	NIL	NIL
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	NIL	NIL	NIL	NIL
		(ii) who voted in favour of the resolution plan	NIL	NIL	NIL	NIL
		Total (a) + (b)	4859.14	4690.91	100.00	2.05%
3	Operational Creditors	(a) Related Party of Corporate Debtor	NIL	NIL	NIL	NIL
		(b) Other than (a) above:				
		(i) Government	11.61	NIL	NIL	NIL
		(ii) Operational Creditors (Non-Govt)	39.36	39.36	NIL	NIL
		(iii) Workmen & Employees	NIL	NIL	NIL	NIL
		(iv) EPFO	NIL	NIL	NIL	NIL
		Total (a) + (b)	4910.11	4730.27	100.00	2.04
4	Other debts and dues	-	110.89	NIL	NIL	
GRAND TOTAL			5021.00	4730.27	100.00	1.99%

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

4. 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
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1	Equity	15,00,000	26,50,000	100%	0
2	Preference	NA	NA	NA	NA

5. 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?	Clause 3, Clause 4 on Pg No. 09-11	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?	Clause 5 on Pg No. 12-14	Yes
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Yes	Yes
Section 30(2)	Whether the Resolution Plan:		
	(a) provides for the payment of insolvency resolution process costs?	Clause 7(a) on Pg No.16	Yes
	(b) provides for the payment to the operational creditors?	Clause 7(d) on Pg No.17	Yes
	(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	Clause 7 (e) on Pg No.20-21	Yes
	(d) provides for the management of the affairs of the corporate debtor?	Clause 7 (n) on Page No.25	Yes
	(e) provides for the implementation and supervision of the resolution plan?	Clause 7 (m) on Page No. 25	Yes
	(f) contravenes any of the provisions of the law for the time being in force?	No	Yes

Section 30(4)	Whether the Resolution Plan-		
	(a) is feasible and viable, according to the CoC?	Yes	Yes
	(b) has been approved by the CoC with 66% voting share?	Yes	Yes
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Clause 10(iv)(5) on Page No. 31	Yes
Regulation 35A	Where the resolution professional 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?	N.A	Yes
Regulation 38(1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	N.A	N.A
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Clause 10 (ii) on Page No. 29-30	Yes
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code.	No	No
	(ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?	N.A	N.A
Regulation 38(2)	(b) Whether the Resolution Plan provides-		
	(a) the term of the plan and its implementation schedule?	Clause 9 on Page No. 27-29	Yes
	(b) for the management and control of the business of the corporate debtor during its term?	Clause 10 on Page No. 29-32	Yes
	(c) adequate means for supervising its implementation?	Clause 10 on Page No. 29-32	Yes
	Whether the resolution plan demonstrates that-		

38(3)	(a) it addresses the cause of default?	Clause 10 on Page No. 29-32	Yes
	(b) it is feasible and viable?	Clause 10 (iv)6 on Page 31	Yes
	(c) it has provisions for its effective implementation?	Clause 10 on Page No. 29-32	Yes
	(d) it has provisions for approvals required and the timeline for the same?	Clause 10 on Page No. 29-32	Yes

	(e) the resolution applicant has the capability to implement the resolution plan?	Clause 10 on Page No. 29-32	Yes
39(2)	(c) Whether the RP has filed applications in respect of transactions observed, found or determined by him?	Yes	Yes
Regulation 39(4)	(d) Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.	Performance Security submitted by way of Direct Deposit in the designated account	Yes

6. 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	04.07.2023
Regulation 6(1)	Publication of Public Announcement	T+3	07.07.2023
Section 15(1)(c) / Regulation 12(1)	Submission of Claims	T+14	18.07.2023

Regulation 13(1)	Verification of Claims	T+21	18.07.2023
Section 26(6A) / Regulation 15A	Application for Appointment of Authorised Representative, if necessary	T+23	N.A
Regulation 17(1)	Filing of Report Certifying Constitution of CoC	T+23	28.07.2023
Section 22(1) and regulation 17(2)	First Meeting of the CoC	T+30	03.08.2023
Regulation 35A	Determination of fraudulent and other transactions	T+115	N.A
Regulation 27	Appointment of two Registered Valuers each for below category:	T+47	
	Mahesh Ramesh Boob (Land & Building)		26.09.2023
	Surendra Bhaurao Gordey (Land & Building)		26.09.2023
	Manisha Agrawal (Securities or Financial Assets (SFA))		26.09.2023
	Swapnil Agrawal (Securities or Financial Assets (SFA))		26.09.2023
Regulation 36 (1)	Submission of Information Memorandum to CoC	T+54	06.12.2023
Regulation 36A	Invitation of EoI	T+75	
	Publication of Form G (1st EOI)	T+75	10.11.2023
	Publication of Form G (2nd EOI)		23.12.2023
	Provisional List of Resolution Applicants (2nd EOI)	T+100	17.01.2024
	Final List of Resolution Applicants	T+115	01.02.2024
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants	T+105	06.02.2024
Section 30(6) / Regulation 39(4)	Submission of CoC approved Resolution Plan	T+165	29.03.2024 16.05.2024
Section 31(1)	Approval of Resolution Plan	T=180	Awaited

7. The time frame proposed for obtaining relevant approvals is as under:

Sr. No.	Nature of Approval	Name of applicable Law	When to be obtained
1/2	Licenses & Registrations	Statutory laws as may be applicable including local laws.	4 Months

8. The Resolution Plan is subject to the following contingencies (Elaborate the contingencies):

N.A

9. 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	-	-	-	-

10. The initial closure date for the CIRP after 180 days was 31.12.2023, which was extended by 90 days by the Hon'ble NCLT order dated 16.04.2024, making the revised CIRP closure date (270th day) as 30.03.2024. A further 60-day extension was approved by the CoC in their 8th meeting and the prayer for this extension is a part of the application seeking sanction of the resolution plan. If approved, the revised closure date after 330 days would be 29.05.2024. The resolution plan was originally filed with the Hon'ble NCLT on the 269th day of CIRP and is now being refiled on the 328th day of the CIRP.

11. Provide details of Section 66 or avoidance application filed / pending.

Sl. N	Type of Transaction	Date of Filing with	Date of Order of the Adjudicating	Brief of the Order
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o.		Adjudicating Authority	Authority	
1	Preferential transactions under Section 43 *	-	-	-
2	Undervalued transactions under Section 45	-	-	-
3	Extortionate credit transactions under Section 50	-	-	-
4	Fraudulent transactions under Section 66 *	-	-	-

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

Not Applicable

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

- a. Sale of corporate debtor as a going concern: NO
- b. Sale of business of corporate debtor as a going concern: NO

15C. The committee has fixed, in consultation with the resolution professional, the fee payable to the liquidator during the liquidation period under regulation 39D.

NO

12.I, Amit Vijay Karia, 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: Amit Vijay Karia

IP Registration No:IBBI/IPA-001/IP-P02600/2021-2022/13969

Address as registered with the Board: 405, Hind Rajasthan Building, D. S. Phalke Road, Dadar East, Mumbai - 400014

Email id as registered with the Board: ipamitkaria@gmail.com

Date: 27.05.2024

Place: Mumbai

10. In the circumstances mentioned hereinabove, the Applicant has filed Application seeking approval of this Tribunal on the Resolution Plan, submitted by the Resolution Applicant i.e. CIAN Agro Industries and Infrastructure Limited stating that the plan is in accordance with the Section 30(2) and other provisions laid down under the code.
11. On perusal of the Resolution Plan, it is observed that the Resolution Plan provides for the following:
 - a. Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.
 - b. Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.
 - c. 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.
 - d. The implementation and supervision of Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.
12. The RP has complied with the requirement of the Code in terms of Section 30(2)(a) to 30(2)(f) and Regulations 38(1), 38(1)(a), 38(2)(a), 38(2)(b), 38(2)(c) & 38(3) of the Regulations.

13. The 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 the 10th meeting held on 14.05.2024 with 93.08%.
14. There is no such pending proceedings u/s 66(1) r/w 43(1) and 44(1) of the Code
15. We make it categorically clear that approval of this Resolution Plan does not tantamount to allowance of any relief(s), concession(s) or dispensation(s) that fall within the domain of any government department(s) and/or authorities thereto. The reliefs, concessions and dispensations that pertain to other governmental authorities and/or departments shall be dealt with by the respective competent authorities/fora/offices, Government (State or Central) with regard to the respective reliefs, if any.
16. 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.

17. 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).”*

18. 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

19. The Application **IA-38/2024** in CP(IB)/1190/(MB-IV)/2024 is **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.
- 13.1. 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.
- 13.2. 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. 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 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.
- 13.3. 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.

- 13.4. The moratorium under Section 14 of the Code shall cease to have effect from this date.
 - 13.5. 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.
 - 13.6. 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.
 - 13.7. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.
20. The Interlocutory Application i.e. IA-38/2024 in CP(IB)/1190(MB)/2024 is allowed accordingly disposed of.

Sd/-

Anu Jagmohan Singh
Member (Technical)

Sd/-

Kishore Vemulapalli
Member (Judicial)