

**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT-III, NEW DELHI**

**PLAN IA -10/2024
IN
IB-1482(ND)/2019**

IN THE MATTER OF: IB-1482(ND)/2019:

M/s. MEKASTER FINLASE LIMITED

..... Operational Creditor

VERSUS

M/s. SAHA BUILDESTATES PRIVATE LIMITED

..... Corporate Debtor

AND IN THE MATTER OF: IA(PLAN)-10/2024:

Under Section 30(6) r/w Section 31 of IBC, 2016 r/w Regulation 39(4) of IBBI (CIRP Regulations), 2016

MR. DEVENDRA UMRAO

Resolution Professional of the Corporate Debtor

..... Applicant/ Resolution Professional

Pronounced On: 07.06.2024

CORAM:

**SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)
SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)**

APPEARANCES:

For the RP : Mr. Mohd Nazim Khan, Adv., Mr. Devendra Umrao, RP

ORDER

PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

1. The present application has been filed by Mr. Devendra Umrao, Resolution Professional ("RP") of M/s. Saha Buildestates Private Limited ("Corporate Debtor") under the provisions of Section 30(6) read with Section 31 of the Insolvency and Bankruptcy Code, 2016 ("the Code" or "IBC") read with

Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (“CIRP Regulations”) for approval of the Resolution Plan in respect of M/s. Saha Buildstates Private Limited (“Corporate Debtor”) submitted by Successful Resolution Applicant (“SRA”) namely Mrs. Babita Jain.

2. BRIEF BACKGROUND OF THE CASE:

- 2.1 An Application under Section 7 of IBC filed by the Financial Creditor i.e. M/s. Mekastar Finlease Limited against the Corporate Debtor i.e., M/s. Saha Buildstates Private Limited was admitted by the order of this Adjudicating Authority dated 15.02.2023 and a moratorium was declared and Mr. Devendra Umrao was appointed as an Interim Resolution Professional (“IRP”).
- 2.2 The Resolution for appointment of Resolution Professional was put for E-voting in 1st Meeting of CoC dated 16.03.2023 and the Interim Resolution Professional, Mr. Devendra Umrao was confirmed as the Resolution Professional of the Corporate Debtor with 100% voting share.
- 2.3 Thereafter, the applicant in terms of section 25(2)(h) of the Insolvency & Bankruptcy Code, 2016 has published Form-G on 15.04.2023 in two Newspapers viz Financial Express (in English) and Jansatta (in Hindi) and accordingly received 4 Expression of Interests till the last date of submission i.e., 30.04.2023 out of which 1 EOI was held ineligible on account of failure to deposit refundable EMD.
- 2.4 Pursuant to Regulation 36(A)(12) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Resolution Professional was required to issue the final list of Prospective Resolution Applicants to the members of the Committee of Creditor within 10 days of the last date of receipt of objections from the Prospective Resolution Applicants ('PRAs"). Therefore, the Final list of PRAs was as under:

S. No.	Name of Applicant	Type of Applicant	Category
1.	M/s Krishna Ventures Limited	Company	Category I
2.	Mr. Sanjay Gupta	Individual	Category III
3.	Ms. Babita Jain	Individual	Category III

2.5 The CoC in the 9th Meeting dated 12.02.2024 approved the revised Resolution Plan submitted by Mrs. Babita Jain having Resolution Plan amount of Rs. 36,00,000/- (Rupees Thirty-Six Lakh only) by a voting share of 100% votes.

3. BACKGROUND OF THE CORPORATE DEBTOR:

- 3.1 The Corporate Debtor was incorporated on 06.03.2014, as a Private Company Limited by Shares having CIN: U45400DL2014PTC265955 under the Companies Act, 2013 with the Registrar of Companies, NCT of Delhi and Haryana.
- 3.2 The Registered Office Address of the Corporate Debtor is situated at F-1, 1st floor, Plot No.1, Village Kilokri, ring road, Near bus stop, New Delhi-110014.
- 3.3 The Corporate Debtor is engaged in business to develop, construct, build, operate, erect, demolish, re-erect, alter, re-model, or do any other working connection with any building etc.

4. COLLATION OF CLAIMS BY RP

- 4.1 Pursuant to the admission of aforesaid Company Application and declaration of Moratorium under Section 14 of the Code by this Adjudicating Authority, vide order dated 15.02.2023, the Applicant issued the public announcement in accordance with Section 13 and 15 of the Code on 22.02.2023 and Applicant took over the management and affairs of the Corporate Debtor.
- 4.2 The Applicant/RP in response to the said Public Announcement received the following claims:

S.No	NAME OF CREDITOR	TYPE OF CREDITOR	AMOUNT ADMITTED
1.	Mekaster Finlease Limited	Financial Creditor (Unsecured)	5,38,31,266
2.	Sunshine Capital Limited	Financial Creditor (Unsecured)	6,34,296
	TOTAL		5,44,65,562

4.3 As per the Information Memorandum of the Corporate Debtor, the Summary of Claims were as under:

S No	Name	Details of Admitted Claim (Amount: Rs.)
1.	Secured Financial Creditors, Unrelated, Having Voting Right	NIL
2.	Unsecured Financial Creditors, Unrelated, Having Voting Right	5,44,65,562/-
3.	Unsecured Financial Creditors, Related, Having No Voting Right	NIL
4.	Workmen Dues	NIL
5.	Employees	NIL
6.	Operational Creditors (Government Dues)	NIL
7.	Operational Creditors (other than Workmen and Employees and Government Dues)	NIL
8.	Other creditors, if any,(other than financial creditors and operational creditors)	NIL
Total		5,44,65,562/-

5. EVALUATION AND VOTING

5.1 The Resolution Professional submits that a total of 9 (Nine) CoC meetings were held during the CIRP period which were as follows:

S. No.	Sequence of Meeting of CoC	Date of Meeting	CoC Members Present
1.	First Meeting of CoC	16.03.2023	Yes
2.	Second Meeting of CoC	12.04.2023	Yes

3.	Third Meeting of CoC	12.05.2023	Yes
4.	Fourth Meeting of CoC	20.06.2023	Yes
5.	Fifth Meeting of CoC	19.07.2023	Yes
6.	Sixth Meeting of CoC	09.11.2023	Yes
7.	Seventh Meeting of CoC	18.12.2023	Yes
8.	Eighth Meeting of CoC	29.12.2023	Yes
9.	Ninth Meeting of CoC	12.02.2024	Yes

5.2 **1st MEETING OF THE COMMITTEE OF THE CREDITORS-**

The applicant after constitution of COC, conducted 1st meeting of COC on 16.03.2023, the applicant apprised the COC about various matters. The resolution for appointment of Resolution Professional was put for e-voting and Mr. Devendra Umrao, applicant was confirmed as the Resolution Professional of the Corporate Debtor with voting share of 100%.

5.3 **2nd MEETING OF THE COMMITTEE OF THE CREDITORS-**

The applicant conducted 2nd meeting of the COC on 12.04.2023, accordingly applicant presented the updated list of Creditors of the Corporate Debtor before the COC on the basis of claims admitted till 2nd COC Meeting. It is pertinent to mention here that in the said 2nd COC meeting various matters were discussed and the COC with 100% voting share has approved the publication of Form-G, Evaluation Matrix, Eligibility Criteria, Request of RFRP and Performance Security for the Resolution Applicant.

5.4 **PUBLICATION OF FORM G AND LIST OF PROSPECTIVE RESOLUTION APPLICANTS (PRAs)-**

The applicant in terms of section 25(2)(h) of the Insolvency & Bankruptcy Code, 2016 has published Form-G on 15.04.2023 in two Newspapers viz Financial Express (in English) and Jansatta (in Hindi) and accordingly received 4 Expression of Interests till the last date of submission i.e., 30.04.2023 out of which 1 EOI was held ineligible on account of failure to deposit refundable EMD.

Thereafter, the Applicant in terms of Regulations 36(A)(10) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations has issued a Provisional list of eligible prospective resolution applicants as on 10.05.2023. The Resolution Professional had issued the final list of prospective Resolution Applicants as on 19.05.2023.

5.5 3rd MEETING OF THE COMMITTEE OF THE CREDITORS-

The applicant apprised the members of the CoC, in the 3rd meeting of creditors held on 12.05.2023, about the issuance of final list of PRAs in view of the publication of Form-G and thereby sought approval on RFRP from the CoC, which was later duly approved by the CoC with majority of votes.

5.6 4th MEETING OF THE COMMITTEE OF THE CREDITORS- The 4th Meeting of the CoC was convened on 20.06.2023.

5.7 5th MEETING OF THE COMMITTEE OF THE CREDITORS-

- i. The Applicant apprised the members of the CoC, in the fifth meeting of creditors held on 19.07.2023, that as per Section 12(1) of the IBC, 2016, the Corporate Insolvency Resolution Process needs to be completed within a period of 180 days from the date of admission of the application for initiation of CIRP and in the present case after calculating the time period of 180 days exhausted in the current corporate insolvency resolution process, the last date of CIRP of the Corporate Debtor expired on 14.08.2023.
- ii. Further, in the said meeting resolution was put for seeking extension in timeline for submission of Resolution Plans by the PRAs due to lack of information related to Corporate Debtor which was duly approved by the members of CoC. The CoC, considering the facts and circumstances of the matter, voted in favour of the agenda and approved to extend the timeline of CIRP further by 90 days with 100% voting rights in favour. Further, the CoC thereby authorized the Resolution Professional to file an application for extension of CIRP in accordance with S.12(2) of Code.

- iii. The Applicant in view of the same, filed an application having IA No. 4436 of 2023 under Section 12 of the Code, 2016 and as resolved by the Committee of Creditors in its fifth meeting sought extension of 90 days beyond permissible 180 days in the Corporate Insolvency Resolution Process of Corporate Debtor. This Tribunal after hearing of the facts of the said application, passed an order dated 25.08.2023 allowing extension of 90 days from 14.08.2023 which was subsequently expired on 12.11.2023.

5.8 **6th MEETING OF THE COMMITTEE OF THE CREDITORS-**

- i. In the said 6th meeting of creditors, taking note of the situation and updating of Information Memorandum after receipt of further information from suspended board, applicant was informed by the COC to seek further extension of CIRP by 60 days, keeping in view the expiry of CIRP period of 270 days on 12.11.2023 so the necessary action can be taken way forward in the CIRP of Corporate Debtor. Hence the matter was put for e-voting, which was later approved with 100 percent voting by the members of COC to seek an extension of 60 days before this Tribunal.
- ii. The Applicant in view of the same, filed an application having IA No. 6270 of 2023 under Section 12 of the Code, 2016 and as resolved by the Committee of Creditors in its sixth meeting sought extension of 60 days beyond permissible 270 days in the Corporate Insolvency Resolution Process of Corporate Debtor.
- iii. This Tribunal after hearing of the facts of the said application, passed an Order dated 28.11.2023 allowing extension of 60 days from 12.11.2023 which was subsequently expired on 10.01.2024.
- iv. The applicant received only one Resolution Plan from Ms. Babita Jain in a seal envelope and electronically in a password protected PDF file.

5.9 **7th MEETING OF THE COMMITTEE OF THE CREDITORS-**

In the 7th meeting of creditors conducted on 18.12.2023, applicant opened the sealed resolution plan in front of the CoC members and sought confirmation of all the CoC members along with PRA. Thus, applicant disclosed the financial value of the plan and informed about

the said plan to be sent to an independent professional for vetting so that legally compliant resolution plan can be put forth before members of CoC.

5.10 8TH MEETING OF THE COMMITTEE OF THE CREDITORS-

- i. In the 8th meeting held on 29.12.2023, applicant informed the members of COC that there are certain queries and observations of the applicant in the proposed resolution plan. In view of the same PRA was invited to the said meeting, and accordingly Authorised Representative of the PRA attended the said meeting and all the key observations and queries were duly discussed with him. The representative of the PRA requested the applicant and COC members some time to submit revised Resolution Plan. Accordingly, time was given to submit revised resolution plan on or before 09.01.2024. Taking note of the situation and limited time available for deliberations on revised resolution plan to be put forth by the PRA, applicant was informed by the COC to seek further extension of CIRP by 45 days keeping in view the expiry of CIRP period of 330 days on 10.01.2024 so the necessary action can be taken regarding the way forward in the CIRP of corporate debtor i.e. to discuss and seek voting on the Resolution Plan.
- ii. Hence, the matter was put for e-voting, which was later approved with 100 percent voting by the members of COC to seek an extension of 45 days before this Tribunal.
- iii. The Applicant in view of the same, filed an application having IA No. 746 of 2024 under Section 12 of the Code, 2016 and as resolved by the Committee of Creditors in its eighth meeting sought extension of 45 days beyond permissible 330 days in the Corporate Insolvency Resolution Process of Corporate Debtor.
- iv. This Tribunal after hearing of the facts of the said application, passed an Order dated 20.02.2024 allowing extension of 50 days from 10.01.2024 which subsequently expired on 29.02.2024.

5.11 **9th MEETING OF THE COMMITTEE OF THE CREDITORS-**

- i. The applicant, conducted 9th meeting of the COC on 12.02.2024. In the said meeting various matters were discussed and deliberated by the COC, including but not limited to action taken by the Resolution Professional; revised resolution plan received by the office of the resolution professional; to approve the revised resolution plan submitted by the resolution applicant "Mrs Babita Jain"; to ratify and approve the CIRP expenses incurred by the Resolution Professional.
- ii. The CoC was further apprised that as per the revised Resolution Plan, the Plan value is increased from Rs.30 Lakhs to Rs. 36 Lakhs. The COC was further informed that if the members of the CoC were still of the opinion that the revised resolution plan submitted by the Resolution Applicant is not viable/feasible, they may recommend for the Liquidation process of the Corporate Debtor, since the commercial decision vests with COC members either to approve a resolution plan or to recommend the Liquidation Process.
- iii. That during the said meeting, after detailed discussion on Resolution Plan, members of COC after being satisfied, noted the feasibility and viability of the Resolution Plan submitted before them and thereafter the Resolution Plans were put for e-voting through ballot paper by the applicant.
- iv. The ballot paper voting for the approval of Resolution Plan was sent on 14.02.2024 and the same was voted on 16.02.2024 in accordance with the provisions of the IBC and regulations laid down thereunder. After receiving the voting results, the Resolution Plan submitted by "Mrs. Babita Jain" was passed by the COC with a majority of 100% votes and thereby was approved.

S. No.	Name of Financial Creditor (Unsecured)	Voting Share (%)	Voting for Resolution Plan (For/Against)
1.	M/s. Mekaster Finlease Limited	98.84%	Voted For
2.	M/s. Sunshine Capital Limited	1.16%	Voted For
	Total	100	

6. VALUATION OF THE ASSETS OF THE CORPORATE DEBTOR

As per the form H the Liquidation Value and the Fair Value of the Corporate Debtor is Nil.

7. DETAILS OF RESOLUTION PLAN/PAYMENT SCHEDULE

The total consideration under the Plan payable to various stakeholders is specifically detailed in Chapter VI of the Resolution Plan. The amounts provided for stakeholders under Resolution Plan as per Form H is as under:

S. 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 S.21(2)	0	0	0	
		(b) Other than (a) above: i.who did not vote in favour of the Plan ii.who voted in favour of the plan	0	0	0	
		Total (a) + (b)	0	0	0	
2.	Unsecured Financial Creditors	(a) Creditors not having a right to vote under S.21(2)	0	0	0	
		(b) Other than (a) above: i.who did not vote in favour of the Plan	0	0	0	
		ii.who voted in favour of the plan	5,44,65,562	5,44,65,562	30,00,000	5.5%
		Total (a) + (b)	5,44,65,562	5,44,65,562	30,00,000	5.5%

3.	Operational Creditors	(a) Related Party of Corporate Debtor	0	0	0	
		(b) Other than (a) above: i. Government ii. Workmen iii. Employees iv. Other Creditors	0	0	0	
4.	Other Debts and Dues		0	0	0	
GRAND TOTAL			5,44,65,562	5,44,65,562	30,00,000	5.5%

7.1 As per Regulation 31A (1), a regulatory fee calculated at the rate of 0.25 percent of the realizable value to creditor under the resolution plan approved under Section 31 shall also be a part of CIRP Cost.

7.2 The CIRP Cost amounting to **Rs. 6,00,000/-** (Rupees Six Lakh only) shall be paid on actual basis and on priority to the extent duly approved and ratified by the CoC. The amount shall be infused by the Resolution Applicant on receipt of the actual CIRP Cost from the Resolution Professional.

7.3 The entire consideration including CIRP cost shall be paid within 60 days from the date of approval of the Resolution Plan by this Adjudicating Authority.

7.4 No claim has been received by the IRP/ RP from any other government department as per the Information Memorandum, hence no liability is envisaged under this Resolution Plan against any Statutory Due. In case wherein any demand against the Corporate Debtor, the entire liability will be paid by the past management and promoters, who cannot absolve from

their liability and the Resolution Applicant shall not be liable for this liability and Claimant will not be entitled to proceed or take any steps for recovery of this amount against the Resolution Applicant.

8. SOURCES OF FUNDS FOR RESOLUTION PLAN

- 8.1 The Resolution Applicant will arrange the funds from its internal accruals and her associates and relatives. The total amount of INR 36,00,000/- is to be infused within 60 days from the date of approval of the resolution plan in form of equity/ debt/ preference shares or in combination of these by the Resolution Applicant. Further, the CIRP cost shall be paid on priority basis.
- 8.2 The aforesaid amount is to be utilized for the purpose of payment to the creditors as per the terms of resolution plan. Further, the RA shall infuse funds in the event of any shortfall to the extent of such shortfall in the funds committed under the Resolution Plan in order to successfully implement the Resolution Plan.
- 8.3 Once the Resolution Plan is approved and if any of the terms of the Resolution Plan cannot be enforced for any reason whatsoever, upon seeking approval from the Monitoring Agency, the Resolution Applicant shall make modification to the plan subject to •the instructions/ approval of the NCLT.
- 8.4 The Resolution Applicant is open to the structuring of the consideration under this Resolution Plan to meet banking and regulatory requirements.

9. TERM OF THE RESOLUTION PLAN AND ITS IMPLEMENTATION SCHEDULE

In accordance with Regulation 38(2)(a) of CIRP Regulations, the term of this Resolution Plan shall commence from the effective date and end on the date on which the RA shall meet all obligations on its part as per the terms envisaged under this Resolution Plan. This Resolution Plan has the provisions of implementation which are as follows:-

S. No.	Particulars	Timeline
1.	Effective date or date of approval of Resolution Plan by NCLT	X
2.	Formation of Monitoring Committee	X + 10 Days
3.	CIRP cost to be paid	X+30 Days
4.	Signing of Definitive Agreement	Within X + 60 Days
5.	Fund Infusion	Within X + 60 Days
6.	Payment of certain upfront amounts to various stakeholders as contemplated under the Plan	Within X + 60 Days

10. DETAILS ON CAPITAL RESTRUCTURING AND MANAGEMENT OF CORPORATE DEBTOR POST APPROVAL OF THE RESOLUTION PLAN

10.1 As 100 Percent Equity shares in the Corporate Debtor shall be held by the Resolution Applicant or her family members and the said shares shall be transferred to the persons whose details are mentioned in the below table without any further act, deed or things in accordance with the provisions of the Companies Act, 2013:

S. No.	Name	No. of Shares	Paid up Share Capital (In INR)	Percentage
1.	Babita Jain	9,500	95,000	95%
2.	Priti Jain	500	5,000	5%
TOTAL		10,000	1,00,000	100%

10.2 The Resolution Plan provides details of Management and Control under Regulation 38(2)(b) of CIRP Regulations and under Section 30(2)(c) of IBC, and supervision under Regulation 38(2)(c) of CIRP Regulations and under Section 30(2)(d) of IBC under the Resolution Plan. The same is set out in Chapter 5- Management and Affairs of the Company at Page No. 62-68 of the present Application.

10.3 Upon approval of the Resolution Plan, the Board of Directors of the Corporate Debtor will cease to have effect and new Directors will be appointed by the Monitoring Committee.

11. DETAILS ON FRAUDULENT AND AVOIDANCE TRANSACTION

11.1 In accordance with the provisions of Regulations 38 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, a Resolution Plan submitted by the Successful Resolution Applicant shall provide a manner in which the proceeding with respect to avoidance transaction, if any under chapter III of code or fraudulent and wrongful trading transactions, if any under chapter IV of the Code, will be pursued after the approval of resolution plan and the manner in which the proceeding shall not be disturbed.

11.2 The Resolution Plan at Page no 83 of the present Application provides that recoveries from the application filed under the provisions of Section 43, 45, 49, 50 & 66 of Insolvency and Bankruptcy Code, 2016 shall be pursued by the secured financial creditor, at their own cost, even after the approval of the Resolution Plan and amounts if any, received by the Corporate Debtor under a binding order of a competent court pursuant to exercise of powers and obligations by the Resolution Professional under Section 14, Sections 43 to 51 and Section 66 of the IBC shall be paid (net of any applicable Taxes and costs incurred by the Corporate Debtor) to the Secured Financial Creditors forming part of the CoC and may be appropriated or considered in a manner as may be decided by the Secured Financial Creditors at their discretion.

12. RELIEFS AND CONCESSIONS

12.1 The Resolution Applicant has prayed for the reliefs as enumerated under the Resolution Plan approved by the CoC. From the Resolution Plan approval date, all inquiries, investigations and proceedings, whether civil or criminal, suits, claims, disputes, interests and damages in connection with the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future in relation to any period prior to the plan approval date, or arising on account of implementation of this resolution

plan shall stand withdrawn, satisfied and discharged. From the date of approval of the Resolution Plan, the Resolution Applicant shall be legally authorized to seek appropriate orders from respective authorities /courts/tribunals for renewal of licenses/withdrawal/dismissal or abatement of the proceeding as the case may be.

12.2 The Resolution Plan also provides details of Reliefs and Concessions prayed for as set out in Paragraph 4.11 Concessions and Reliefs, Waivers/ Directions/Specific Orders from NCLT Requested/Prayed under the Resolution Plan at Page No. 51-61 of the present Application.

13. FEASIBILITY AND VIABILITY OF RESOLUTION PLAN

13.1 The Resolution Applicant categorically state that the Resolution Plan has worked out the Feasibility and Viability of Plan and the Resolution Plan proposed by Resolution Applicant is in compliance with the Code and its Regulations.

13.2 The Resolution Applicant has proposed the upfront payment to the stakeholders which has been discussed in the chapter V (financial proposal).

13.3 The resolution applicant is quite experienced and have enough business acumen and will appoint technically capable professional to handle and revive the Corporate Debtor in the best interest of all the stakeholders. The Resolution Plan also states the process of its implementation and management to make it feasible and viable.

14. ANALYSIS AND FINDINGS

14.1 This Adjudicating Authority finds that the Resolution Plan was submitted by the Successful Resolution Applicant namely Mrs. Babita Jain which was approved by the CoC. The ballot paper voting for the approval of the Resolution Plan was sent on 14.02.2024 and same the was voted on 16.02.2024 under Section 30(4) of the IBC by 100% voting share is valid and no provision of the IBC is contravened.

14.2 We find that the Resolution Plan meets the requirement of being a viable and feasible and for revival of the Corporate Debtor. By and large, there are provisions for making the Plan effective after approval by this Bench.

14.3 This Adjudicating Authority further relied on the Hon'ble Supreme Court's decision in the matter of **Vallal RCK vs. M/s. Siva Industries and Holdings Limited and Others**, Civil Appeal Nos. 1811-1812 of 2022 whereby the Hon'ble Apex Court has answered the question as to whether 'the adjudicating authority (NCLT) or the appellate authority (NCLAT) can sit in an appeal over the commercial wisdom of the Committee of Creditors ("CoC") or not'. We rely upon the following paragraphs:

"21. This Court has consistently held that the commercial wisdom of the CoC has been given paramount status without any judicial intervention for ensuring the completion of the stated processes within the timelines prescribed by the IBC. It has been held that there is an intrinsic assumption that Financial Creditors are fully informed about the viability of the Corporate Debtor and the feasibility of the proposed resolution plan. They act on the basis of thorough examination of the proposed Resolution Plan and assessment made by their team of experts."

14.4 A reference in this respect could be made to the judgments of this Court in the cases of **K. Sashidhar v. Indian Overseas Bank and Others, Committee of Creditors of Essar Steel India Limited through Authorised Signatory v. Satish Kumar Gupta and Others, Maharashtra Seamless Limited v. Padmanabhan Venkatesh and Others, Kalpraj Dharamshi and Another v. Kotak Investment Advisors Limited and Another and Jaypee Kensington Boulevard Apartments Welfare Association and Others v. NBCC (India) Limited and Others.**

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

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“95. However, we do take this opportunity to offer a note of caution for NCLT and NCLAT, functioning as the adjudicatory authority and appellate authority under the IBC respectively, from judicially interfering in the framework envisaged under the IBC. As we have noted earlier in the judgment, the IBC was introduced in order to overhaul the insolvency and bankruptcy regime in India. As such, it is a carefully considered and well thought out piece of legislation which sought to shed away the practices of the past. The Legislature has also been working hard to ensure that the efficacy of this legislation remains robust by constantly amending it based on its experience. Consequently, the need for judicial intervention or innovation from NCLT and NCLAT should be kept at its bare minimum and should not disturb the foundational principles of the IBC”

14.5 In light of the above-quoted judgements, it is clear that the “Commercial wisdom of CoC” is given paramount status. This Adjudicating Authority is not endowed with the powers of jurisdiction or authority to analyse or evaluate the commercial decision of the CoC. The Resolution Plan was submitted by the Successful Resolution Applicant namely Mrs. Babita Jain. The ballot paper voting for the approval of the Resolution Plan was sent on 14.02.2024 and same the was voted on 16.02.2024 under section 30(4) of the IBC by 100% voting share, this Adjudicating Authority cannot interfere in the same.

- 14.6 On perusal of the documents on record, we are satisfied that the Resolution Plan is in accordance with Sections 25(2)(h), 29A, 30(2), 30(4) and 31(1) of the IBC and also complies with Regulations 35A, 36B(4A), 37, 38(1), 38(1A), 38(1B), 38(2), 38(3), 39(1), 39(2) and 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Applicant/RP has filed a Compliance Certificate in the prescribed Form, i.e., **Form-H** as per the amended Resolution Plan in compliance with Regulation 39(4) of the CIRP Regulations. The Applicant/ RP submits that the Successful Resolution Applicant is not disqualified under Section 29A of the Code to submit the Resolution Plan, as required by Regulation 39(1)(a) of the CIRP Regulations. A separate undertaking has also been submitted along with the EoI by the Successful Resolution Applicant, as mandated in terms of Regulation 39(1)(c) of the CIRP Regulations.
- 14.7 The reliefs, concessions and waivers sought by the Successful Resolution Applicant will be dealt with strictly as per law.
- 14.8 As far as the question of granting time to comply with the statutory obligations/seeking sanctions from governmental authorities is concerned, the Resolution Applicant is directed to do the same within one year as prescribed under section 31(4) of the Code.
- 14.9 In case of non-compliance of this order or withdrawal of the Resolution Plan within the stipulated time, in addition to other consequences which follow under law, the CoC shall forfeit the EMD already paid by the SRA as well as the PBG.
- 14.10 In view of the above, we are of the considered view that the present application has been filed with bonafide means, in the interest of justice and to advance the objectives of the Code.

15. ORDER

- 15.1 The **IA (PLAN)-10/2024** which is for approval of the Resolution Plan is **allowed** and the Resolution Plan of **Rs. 36,00,000/- (Rupees Thirty-Six Lakhs Only)** is **approved**. The Resolution Plan shall form part of this Order. “Effective Date” means the date on which this Resolution Plan is approved by this Adjudicating Authority under Section 31 of the Code.

The main Company Petition, i.e., **IB-1482(ND)/2019** stands **disposed of** accordingly.

- 15.2 The Resolution Plan is 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, so that the revival of the Corporate Debtor Company shall come into force with immediate effect.
- 15.3 The Moratorium imposed under section 14 of the Code shall cease to have effect from the date of this order.
- 15.4 Further from the effective date and until the transfer date, a 3-member Monitoring Committee or Managing Committee is to be constituted. The Committee shall consist of one representative of the Resolution Applicant, one member from CoC and the Resolution Professional of Corporate Debtor
- 15.5 The RP shall submit the records collected during the commencement of the proceedings to the Insolvency and Bankruptcy Board of India (“IBBI”) for their record. Liberty is hereby granted for moving appropriate application(s), if required in connection with the implementation of this Resolution Plan.
- 15.6 A copy of this Order shall be filed by the Resolution Professional with the Registrar of Companies, (RoC), NCT of Delhi and Haryana. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the RoC, for information and record.
- 15.7 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.
- 15.8 The Resolution Professional shall stand discharged from his duties with effect from the date of this Order, save and except those duties that are enjoined upon him for implementation of the approved Resolution Plan. Further, the Resolution Professional shall supervise the implementation of the Resolution Plan and file the status of its implementation before this Authority from time to time, preferably every quarter.

- 15.9 Further, in terms of the Judgment 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, wherein the Hon'ble Supreme Court held that on the date of the 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 claims which are not a part of the Resolution Plan.
- 15.10 The Resolution Professional is further directed to hand over all records, premises/factories/documents available with it to the Successful Resolution Applicant to finalise the further line of action required for starting the operation. The Successful Resolution Applicant shall have access to all the records and premises through the Resolution Professional to finalise the further course of action required for starting operations of the Corporate Debtor.
- 15.11 The Registry is hereby directed to send copies of the order forthwith to the IBBI, all the parties and their Ld. Counsel for information and for taking necessary steps.
- 15.12 Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
File be consigned to the record.
No order as to costs.

-Sd-

**ATUL CHATURVEDI
MEMBER (TECHNICAL)**

-Sd-

**BACHU VENKAT BALARAM DAS
MEMBER (JUDICIAL)**