

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

**Item No.01**

IA-3540/2023

In

(IB)-741(ND)/2021

**IN THE MATTER OF:**

**M/s. HIVELOOP CAPITAL PRIVATE LIMITED       ..... Financial Creditor**

**VERSUS**

**M/s. RADIANT CASTINGS PRIVATE LIMITED       ..... Corporate Debtor**

**AND IN THE MATTER OF IA-3540/2023:**

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

**Mr. VASUDEO AGARWAL**

Resolution Professional of M/s. Radiant Castings Private Limited

**..... Applicant/Resolution Professional**

**Pronounced On: 30.08.2023**

**CORAM:**

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

**SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

For the Applicant/RP       :  
For the SRA               :  
For Respondent           :  
For Yes Bank             :

**ORDER**

Order pronounced in open court vide separate sheets. **The IA-3540/2023** which is for approval of the Resolution Plan **is allowed.**

**-SD-**

**(ATUL CHATURVEDI)  
MEMBER (TECHNICAL)**

**-SD-**

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

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

**SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

For the Applicant/RP : Mr. Adarsh Tripathi, Mr. Ajitesh Garg, Advs.  
a/w Mr. Vasudeo Agarwal, RP  
For the SRA : Mr. Gopal Jain, Sr. Adv., Mr. Vikram S. Baid,  
Mr. Rijul Uppal, Advs.  
For Respondent : Mr. P. Nagesh, Sr. Adv. with Mr. Akshay  
Sharma, Mr. Gaurav Mitra, Mr. Utsav  
Mukherjee, Mr. Vikalp Wange, Mr. Samar  
Bansal, Mr. Saurav Gupta, Mr. Supratik  
Sarkar, Advs.  
For Yes Bank : Mr. Anand Shankar Jha, Ms. Meenakshi S.  
Devgan, Advs.

**ORDER**

**PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)**

**M/s. Hiveloop Capital Pvt. Ltd. vs. M/s. Radiant Castings Pvt. Ltd.**

**IA-3540/2023 In (IB) – 741(ND)/2021**

**Date of Order: 30.08.2023**

## **1. Brief Facts of the Case**

- 1.1. The present application has been filed by Mr. Vasudeo Agarwal, Resolution Professional ("RP") of M/s. Radiant Castings Private Limited ("Corporate Debtor") on 22.06.2023 under the provisions of Sections 30(6) read with Section 31 of the Insolvency & Bankruptcy Code, 2016 ("the Code" or "IBC") read with Regulation 39(4) of the Insolvency 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. Radiant Castings Private Limited ("Corporate Debtor") submitted by Respondent/Successful Resolution Applicant ("SRA") namely M/s. Scope Dealtrade Private Limited.
- 1.2. This Adjudicating Authority vide order dated 24.08.2022 was pleased to admit the Company Petition (IB)-741(ND)/2021 filed by M/s. Hiveloop Capital Pvt. Ltd. ("Financial Creditor"), for initiating the CIRP under Section 7 of the Code against the Corporate Debtor and declared the moratorium and appointed Mr. Gaurav Katiyar as an Interim Resolution Professional.

## **2. Collation of claims by RP**

- 2.1. In terms of Section 13 and Section 15 of the Code, the Applicant/RP has submitted that the public announcement was published in five newspapers i.e. Financial Express (English Edition), Jansatta (Hindi Edition) Delhi NCR Edition, Divya Himachal (Hindi Edition), The Tribune (English Edition) and Himanchal Times (Hindi & English Edition) - Himachal Pradesh Edition on 26.08.2022 to invite the stakeholders for submission of their claims.
- 2.2. In response to the public announcement (publication of Form-A) made, the Applicant constituted the Committee of Creditors ("CoC") on 09.09.2022 under Section 21(1) of the Code read with Regulation 13 & 17 of CIRP Regulations.
- 2.3. The 1<sup>st</sup> CoC Meeting was convened on 15.09.2022 wherein the IRP

withdrew his consent from acting as the Resolution Professional. Thereafter, the CoC in its 1<sup>st</sup> CoC meeting appointed Mr. Pankaj Mahajan as the Resolution Professional ("RP"). Thereafter, an application under Section 22(3)(b) of the Code was filed by the CoC seeking appointment of Mr. Pankaj Mahajan as the RP which was allowed by this Adjudicating Authority vide Order dated 06.10.2022.

### **3. Evaluation and voting**

- 3.1. The New RP thereafter convened the 2<sup>nd</sup> CoC Meeting on 22.10.2022 wherein the CoC approved the issuance of the Invitation for Expression of Interest ("EoI") in Form-G along with the Eligibility Criteria for inviting Prospective Resolution Applicants ("PRAs"). The RP published the Form-G in terms of Regulation 36A(1) of the CIRP Regulations in two newspapers i.e. Financial Express - All India Edition (English Edition) and Jansatta - Delhi, Lucknow, Chandigarh and Kolkata Edition (Hindi Edition) on 27.11.2022.
- 3.2. The 3<sup>rd</sup> CoC Meeting was convened on 10.11.2022 wherein due to certain health problems, the RP, Mr. Pankaj Mahajan informed that he would not be able to continue as the Resolution Professional of the Corporate Debtor. The RP also appointed a Transaction Auditor (M. C. Bhandari & Co., Chartered Accountants) after approval of the CoC. The CoC in the same Meeting resolved to appoint Mr. Vasudeo Agarwal as the RP. Thereafter, an application was filed by the CoC seeking replacement of Mr. Pankaj Mahajan and appointment of Mr. Vasudeo Agarwal as RP before this Adjudicating Authority under Section 27 of the Code which was allowed by this Adjudicating Authority vide its Order dated 21.11.2022. Thereafter, the New RP published the List of PRAs on 27.11.2022. The RP also finalized the Information Memorandum and appointed the Registered Values for conducting the valuation of the Corporate Debtor.
- 3.3. The 4<sup>th</sup> CoC Meeting was convened on 30.11.2022. The 5<sup>th</sup> CoC Meeting was convened on 02.12.2022, wherein the Evaluation Matrix

and Request for Resolution Plan (“RFRP”) were approved by the CoC. The last date of submission of Resolution Plans was fixed as 16.01.2023. The Applicant vide email dated 02.12.2022 invited Resolution Plans from the PRA’s.

- 3.4. The 6<sup>th</sup> CoC Meeting was convened on 15.12.2022 wherein the RP placed an agenda for extension of the last date of submission of EoI in view of receipt of few requests from interested parties who intended to submit their EoIs. The CoC however rejected the said agenda item. The two interested parties who had submitted their interests for submission of their resolution plans belatedly filed applications before this Adjudicating Authority seeking permission of this Adjudicating Authority to allow them to submit their EoI and Resolution Plans. This Adjudicating Authority vide Order dated 04.01.2023 allowed the two interested parties, i.e., M/s. Amba Shakti Ispat Limited and M/s. HM Steels Limited to submit their respective EoIs and Resolution Plans within four days of such Order. This Adjudicating Authority however entrusted complete authority to the CoC as to whether to accept their EoIs or not. Only M/s. HM Steels Limited submitted their EoI and Resolution Plan within the timelines stipulated by this Adjudicating Authority i.e., within 08.01.2023. M/s. Amba Shakti Ispat Limited although submitted their EoI on time however failed to submit their Resolution Plan on time.
- 3.5. The 7<sup>th</sup> CoC Meeting was convened on 10.01.2023 wherein, the Order of this Adjudicating Authority dated 04.01.2023 was placed along with the developments before the CoC. The CoC, in its 7<sup>th</sup> Meeting, noting the directions of this Adjudicating Authority, accepted the EoI of M/s. HM Steels Limited and discussed considering its Resolution Plan along with other PRAs. As for M/s. Amba Shakti Ispat Limited, the CoC noted that since it had failed to submit its Resolution Plan as per the timelines, the same will not be considered. Further, the CoC resolved to extend the CIRP by a further period of 90 days. Accordingly, the resolution was proposed which was approved with

81.84% voting share by way of e-voting (e-voting concluded on 12.01.2023). Thereafter, the RP filed the Application for seeking extension for a period of 90 days of the CIRP from 21.02.2023. This Adjudicating Authority on 09.02.2023 allowed the extension application.

- 3.6. The RP thereafter received resolution plans from PRAs by the last date of submission of resolution plans, i.e., by 16.01.2023. The RP received the Resolution Plan from M/s. H M Steels Limited via email on 07.01.2023 and physical copy on 10.01.2023. The Resolution Plan of M/s. Shree Siddi Vinayak Forgings Private Limited was received via email on 15.01.2023 and physical copy on 16.01.2023. The Resolution Plan from M/s. Scope Dealtrade Private Limited was received through physical copy on 16.01.2023.
- 3.7. The 8<sup>th</sup> CoC Meeting was convened on 18.01.2023 wherein the RP opened the sealed copies of the Resolution Plans received from the following parties before the CoC:
- a. M/s. Shree Siddi Vinayak Forgings Private Limited
  - b. M/s. Scope Dealtrade Private Limited
  - c. M/s. H M Steels Limited
- 3.8. The 9<sup>th</sup> CoC Meeting was convened on 31.01.2023 wherein it was informed that there is no change in the list of claims received by the RP as presented by him in the previous meeting. The 10<sup>th</sup> CoC Meeting was convened on 24.02.2023 wherein it was informed to the members that the RP circulated and distributed the two valuation report summary submitted by M/s. Adroit Appraisers and Research Private Limited and M/s. Fidem Corporate Advisors LLP. The 11<sup>th</sup> CoC Meeting was convened on 06.03.2023 to discuss on all three resolution plans received and to evaluate each plan as per evaluation matrix, to deliberate on the feasibility and viability and the manner of distribution proposed in each plan and other matters regarding payments etc. were also discussed. The 12<sup>th</sup> CoC Meeting was convened on 21.03.2023. The 13<sup>th</sup> CoC Meeting was convened on

03.04.2023.

3.9. The 14<sup>th</sup> CoC Meeting was convened on 21.04.2023 wherein it was decided and discussed to conduct the challenge mechanism and give opportunity to revise the Resolution Plan given by the PRA's. Revised bids were received from PRA's. After successful completion of the Challenge Mechanism, the revised bids stood as follows:

i) M/s. Scope Deal trade Private Limited- Rs. 21 crores (Rs. 20.52 crores after NPV discounting).

ii) M/s. H.M. Steels – Rs. 16 crores (Rs. 14.96 crores after NPV discounting).

iii) M/s. Siddhi Vinayak – Rs. 20.5 crores (Rs. 19.80 after NPV discounting).

The RP informed that after the Second Challenge Mechanism process is over, the PRAs shall be required to revise the financial figures in the Resolution Plan submitted by them according to their final bids in the challenge mechanism process held in this meeting. It is also pertinent to mention here that the M/s. H M Steels Limited did not participate in the same even after being given ample opportunity. Therefore, it was decided that the last bid of M/s. H M Steels Limited in the first round of challenge mechanism shall be considered as the final bid in the second round.

3.10. The 15<sup>th</sup> CoC Meeting was convened on 28.04.2023 wherein the second round of challenge mechanism was conducted. The revised bids stood as follows:

i) M/s. Scope Deal trade Private Limited- Rs. 30 crores (Rs. 28.88 crores after NPV discounting).

ii) M/s. H.M. Steels – Rs. 16 crores (Rs. 14.96 crores NPV discounting).

iii) M/s. Siddhi Vinayak – Rs. 27 crores (Rs. 25.70 crores after NPV discounting).

On 29.04.2023, the RP requested the Resolution Applicants for the submission of the revised Resolution Plan within 7 days. The RP received the Revised Resolution Plan from M/s. Shree Siddhi Vinayak

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Forgings Private Limited and M/s. Scope Dealtrade Private Limited on 05.05.2023. Further, the CoC resolved to extend the CIRP by a further period of 60 days beyond 270 days from 21.05.2023. Accordingly, the resolution was proposed which was approved with 82.31% voting share by way of e-voting (e-voting concluded on 02.05.2023). In the due course, the RP filed the Application for seeking extension for a period of 60 days of the CIRP from 21.05.2023. This Adjudicating Authority on 24.05.2023 allowed the extension application.

3.11. The 16<sup>th</sup> CoC Meeting was convened on 30.05.2023. The RP discussed the issues of evaluation of resolution plans received under sub-regulation (2) of Regulations 39 as per evaluation matrix. The RP further extended the timeline for voting upto 14th June 2023 after Yes Bank requested the RP to keep the same open till 14.06.2023. The RP opened the voting from 02.06.2023-12:30 PM to 14.06.2023-6:30 PM. The voting was concluded on 14.06.2023 after which the RP vide email dated 15.06.2023 informed all the CoC members that M/s Scope Dealtrade Private Limited has been declared as the “Successful Resolution Applicant” (“SRA”). Accordingly, the RP also issued the Letter of Intent dated 16.06.2023 to M/s Scope Dealtrade Private Limited. In order to seek approval of the Resolution Plan, the Applicant has also provided the Form-H Compliance Certificate along with the present Application, as mandated under Regulation 39(4) of the CIRP Regulations.

4. The RP submits that a total of 16 (Sixteen) CoC meetings have been held during the CIRP period which are as follows:

<b>S. No.</b>	<b>Sequence of Meeting of CoC</b>	<b>Date of Meeting</b>	<b>CoC Members Present</b>
<b>1.</b>	First Meeting of CoC	15.09.2022	Yes
<b>2.</b>	Second Meeting of CoC	22.10.2022	Yes
<b>3.</b>	Third Meeting of CoC	10.11.2022	Yes
<b>4.</b>	Fourth Meeting of CoC	30.11.2022	Yes



5.	Fifth Meeting of CoC	02.12.2022	Yes
6.	Sixth Meeting of CoC	15.12.2022	Yes
7.	Seventh Meeting of CoC	10.01.2023	Yes
8.	Eighth Meeting of CoC	18.01.2023	Yes
9.	Ninth Meeting of CoC	31.01.2023	Yes
10.	Tenth Meeting of CoC	24.02.2023	Yes
11.	Eleventh Meeting of CoC	06.03.2023	Yes
12.	Twelfth Meeting of CoC	21.03.2023	Yes
13.	Thirteen Meeting of CoC	03.04.2023	Yes
14.	Fourteen Meeting of CoC	21.04.2023	Yes
15.	Fifteen Meeting of CoC	28.04.2023	Yes
16.	Sixteen Meeting of CoC	30.05.2023	Yes

5. The list of financial creditors of the CD Radiant Castings 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	Yes Bank Limited	17.69%	Dissented
2	Scorpion Nirman Private Limited	35.13%	Assented
3	Vedanth.com Worldwide Limited	30.64%	Assented
4	Rosedale Developers Pvt Ltd (in CIRP)	12.29%	Dissented
5	Shriram City Union Finance Limited	0.47%	Assented
6	Unnati Vinimoy Private Limited	3.78%	Assented

## 5. Valuation of the Corporate Debtor

In terms of Regulation 27 of CIRP Regulations, the Applicant appointed two registered valuers entities to determine the fair and liquidation value of the assets of the Corporate Debtor, who are as follows:

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1. M/s. Adroit Appraisers and Research Private Limited and
2. M/s. Fidem Corporate Advisors LLP

The Summary of the valuation report as per the Form-H are as follows:

The Fair Value of the Corporate Debtor is Rs. 64,05,11,646/- and the Liquidation Value of the Corporate Debtor is Rs. 42,13,68,412/-.

## **6. Details of Resolution Plan/Payment Schedule**

The Resolution Applicant has to the extent possible, taken into account the interests of all stakeholders of the Corporate Debtor in the following manner:

### **6.1 Payment of CIRP Cost**

The CIRP Costs as remaining unpaid till the effective date shall be paid in priority to any other debt of the Corporate Debtor in the manner and from the source of funds as set forth in this Plan. As per RP the CIRP Costs till 15th December, 2022 is Rs.11.75 Lacs. It is estimated that the same may increase till the time of approval of the Resolution Plan by the Adjudicating Authority. However, there is no unpaid CIRP Costs. Unpaid CIRP Costs till the effective date if, any would be paid by RA in full in priority to any other Creditors out of an estimated amount of Rs. 25.00 Lacs. In case unpaid CIRP Costs exceeds the estimated figure as envisaged in the plan of Rs 25 Lacs i.e. Rs. 0.25 Crores excess shall be taken out of the amount offered for each class of Stakeholders/Creditors in the same proportion which bears to the amount offered to such class of Creditors to total Resolution Plan amount.

### **6.2 Payment to Operational Creditors**

The Resolution Applicant confirms that the payment to Operational Creditors under this Resolution Plan shall only be made after payment of dues of CIRP cost & in priority over Financial Creditors. In case there is any liquidation value available the same shall be paid to them in priority to the Secured Financial Creditors which

shall be adjusted on pro rata basis from the amount offered to Secured Financial Creditors, i.e. Rs. 8.64 Crores & Unsecured Financial Creditors i.e. Rs.20.89 Crores.

### **6.3 Payment to Financial Creditors who have voted against the Plan**

The Resolution Applicant confirms that the Financial Creditors who have a right to vote under subsection (2) of Section 21 of the IBBI Regulations, and did not vote in favour of the Resolution Plan, shall be paid an amount which shall not be less than the amount to be paid to such creditor in accordance with sub-section (1) of Section 53 of the Act in the event of Liquidation of the Corporate Debtor and such Creditor shall be paid in priority to Creditors who have voted in favour of the Plan but in any case shall not exceed the plan amount proposed under this category i.e. Rs. 8.64 Crores.

### **6.4 Statement as to how the Resolution Applicant has dealt with the interest of all stakeholders, including Financial Creditors and Operational Creditors, of the Corporate Debtor**

Distribution of Financial Outlay dealing with interest of all stakeholders, including Financial Creditors and Operational Creditors of Corporate Debtor has been set forth in Clause 5 & 6 of Section-II of Part B (Financial Proposal) of this Resolution Plan.

### **6.5 Terms of the Plan and its Implementation Schedule**

The validity of this plan for the purpose of consideration and approval shall be 20th Day of August, 2023, unless an extension is agreed upon by the RA. Upon approval of Resolution Plan by NCLT, the term of the Plan shall commence on the date on which the NCLT approves the Plan in accordance with section 31 of the Code and shall continue until the closing Date. Notwithstanding anything contained in this Plan, no part of this Plan shall become effective or enforceable until either (i) the Plan is approved by the NCLT in the manner proposed by the RA and approved by the CoC; or (ii) if approved by the NCLT with any variance, then in the form and substance reasonably

acceptable to the CoC and the RA. Upon approval of the Plan by the NCLT, this Plan shall ipso facto form part of the NCLT order.

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 sub-section (2) of section 21	-	-	-	-
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	8,64,11,860	8,64,11,860	8,64,11,860	100%
		(ii) who voted in favour of the resolution plan	Nil	Nil	Nil	Nil
		<b>Total[(a) + (b)]</b>	<b>8,64,11,860</b>	<b>8,64,11,860</b>	<b>8,64,11,860</b>	<b>100%</b>
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	-	-	-	-
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	6,00,33,205	6,00,33,205	5,00,09,013	
		(ii) who voted in favour of the resolution plan	34,21,56,944	34,20,96,464	16,13,70,442	
		<b>Total[(a) + (b)]</b>	<b>40,21,90,149</b>	<b>40,21,29,669</b>	<b>21,13,79,455</b>	
3	Operational Creditors	(a) Related Party of Corporate Debtor	-	-	-	-
		(b) Other than				

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	(a) above:				
	(i) Government (Other than EPFO & ESI)	38,71,49,334	33,53,21,116	6,45,373	
	(ii) Workmen	0	0	0	
	(iii) Employees	0	0	0	
	(iv) EPFO	11,25,656	11,25,656	11,25,656	
	(v) ESIC	83,029	83,029	83,029	
	(vi) Operational Creditor other than above	20,44,50,033	18,42,55,860	3,54,627	
	<b>Total[(a) + (b)]</b>	<b>59,28,08,052</b>	<b>52,07,85,662</b>	<b>22,08,685</b>	
Grand Total		<b>108,14,10,061</b>	<b>100,93,27,191</b>	<b>30,00,00,000</b>	

## **7 Waivers, Reliefs, Concessions and Exemptions**

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 authorised to seek appropriate orders from respective authorities/courts/tribunals for renewal of licences/withdrawal/dismissal or abatement of the proceeding as the case may be.

The Resolution Plan also provides details of Reliefs and Concessions as already set out in Section-VIII of Part B (Financial Proposal).

## **8 Compliance of the successful Resolution Plan with various provisions:**

8.1 The compliance of the Resolution Plan is as under:

<b>Section of the Code/ Regulation No</b>	<b>Requirement with respect to Resolution Plan</b>	<b>Clause of Resolution Plan</b>	<b>Compliance (Yes/ No)</b>
<b>Section 25(2)(h)</b>	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the Corporate Debtor?		Yes
<b>Section 29A</b>	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?	Part-B, Page No. 26	Yes
<b>Section 30(1)</b>	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Attached separately along with the Resolution Plan	Yes
<b>Section 30(2)</b>	Whether the Resolution Plan- a.) Provides for the payment of insolvency resolution process costs?	Part-B, Para-3, Page No. 27	Yes
	b.) Provides for the payment to the Operational Creditors?	Part-B, Para-4, Page No. 27-28	Yes
	c.) Provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	Part-B, Para-5, Page No. 28	Yes
	d.) Provides for the management of the affairs of	Section V of Part-B, Page No. 53-55	Yes

	the corporate debtor?		
	e.) Provides for the implementation and supervision of the resolution plan?	Section V of Part-B, Page No. 56	Yes
	f.) Contravenes any of the provisions of the law for the time being in force?	Section VIII of Part-B, Page No. 83	Yes
<b>Section 30(4)</b>	Whether the Resolution Plan a.) Is feasible and viable, according to the CoC?	Part-IV of Page No. 25	Yes
	b.) has been approved by the CoC with 66% voting share?	Part-IV of Page No. 25	Yes
<b>Section 31(1)</b>	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Section V of Part-B, Page No. 56	Yes
<b>Regulation 35A</b>	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 of the Board?	NA	NA
<b>Regulation 38(1)</b>	Whether the amount due to the Operational Creditors under the resolution plan has been given priority in payment over	Part-B, Para-4, Page No. 27	Yes

	Financial Creditors?		
<b>Regulation 38(1A)</b>	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Part-B, Para-6, Page No. 28	Yes
<b>Regulation 38(1B)</b>	(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.	NA	NA
	(ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?	NA	NA
<b>Regulation 38(2)</b>	Whether the Resolution Plan provides: a.) The term of the plan and its implementation schedule?	Page No. 52	Yes
	b.) For the management and control of the business of the corporate debtor during its term?	Page No. 53	Yes
	c.) Adequate means for supervising its implementation?	Page No. 56	Yes
<b>Regulation 38(3)</b>	Whether the resolution plan demonstrates that – a.) It addresses the cause of default?	Page No. 21	Yes



	b.) It is feasible and viable?	Page No. 25	Yes
	c.) It has provisions for its effective implementation?	Page No. 56	Yes
	d.) It has provisions for approvals required and the timeline for the same?	Page No. 51 & 52	Yes
	e.) The resolution applicant has the capability to implement the resolution plan?	Page No. 14-17	Yes
<b>Regulation 39(2)</b>	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	Addendum	Yes
<b>Regulation 39(4)</b>	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.	EMD dated 16/11/2022 of Rs. 40,00,000/- Bid Bond dated 11/01/2023 of Rs. 1,10,00,000/- PBG dated 19/06/2023 of Rs. 1,50,00,000/-	Yes

8.2 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. 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.

## 9 Details of proceedings by/against the Company/RP

### v. Details of pending litigations

There may be several other pending proceedings by Statutory / Government Authorities in various forums which has not been listed in the IM. Whereas, as per IM following material litigation and ongoing investigations or proceeding are initiated by Government and statutory authorities-

Name of Statue	Nature of Dues	Amount (Rs.)	Period to which amount relates	Forum where dispute is pending
Income Tax Act, 1961	Income tax and interest	8232.46	A.Y. 2017-18	Income Tax department
Additional goods & taxes	Taxes, Interest and penalty	57348.81	A.y. 2018-19	Commissioners state taxes and excise cum assessing authority
		97495.51	A.Y. 2019-20	
		78730.51	A.Y. 2020-21	
		42247.53	A.Y. 2021-22 (F.Y. 01.04.2020 TO 31.03.2021)	
Himachal Pradesh value Adds tax Act, 2005	VAT	393256.75	A.Y. 2012-13	Assessing Authority of Himachal Pradesh VAT
		541122.15	A.Y. 2013-14	
		222437.21	A.Y. 2014-15	
		352004.63	A.Y. 2015-16	
		514923.17	A.Y. 2016-17	
		801908.97	A.Y. 2017-18	
872.31	A.Y. 2018-19			

Apart from above there is/are no other criminal/civil proceedings disclosed against the Company under IM.

## 10 Details on Management and Implementation as per the Resolution Plan

The Resolution Plan also provides details of management and control, implementation and supervision of the Resolution Plan. The same is already set out in Section IV of Part B (Financial Proposal) and Section V of Part B (Financial Proposal).

## 11 Details on Fraudulent and Avoidance transaction

**11.1** The Applicant/RP on the basis of the Transaction Audit Report submitted by the Transaction Auditor (by M. C. Bhandari & Co., Chartered Accountants) on 14.02.2023. The RP filed Applications bearing No. IA/1951/2023 and IA/1952/2023 under Sections 45 and 66 of the Code pertaining to PUFET Transactions before the NCLT, Delhi Bench on 31.03.2023 and 01.04.2023. The said applications are pending adjudication before this Adjudicating Authority.

**11.2** The Successful Resolution Applicant has stated in its Resolution Plan that proceedings in respect of avoidance transactions, if any, under Chapter III or fraudulent or wrongful trading under Chapter VI of Part II of the Code, will be pursued after the approval of the resolution plan and the manner in which the proceeds, if any, from such proceedings shall be distributed and will be to the account of the Monitoring Committee and the related proceedings will be pursued by the Monitoring Committee after the approval of the Resolution Plan by this Adjudicating Authority.

## **12 Analysis & Findings**

**12.1** On hearing the submissions made by the Ld. Counsel for the Resolution Professional and perusing the record, we find that the Resolution Plan of M/s. Scope Dealtrade Private Limited has been approved by the CoC in its 16<sup>th</sup> meeting dated 30.05.2023 with 70.02% voting share. As per the CoC, the 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.

**12.2** At this juncture, we rely upon the Judgement passed by the Hon'ble Supreme Court in the matter of **"Vallal RCK versus 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.”***

*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. PadmanabhanVenkatesh 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**<sup>1</sup>:*

.....

***“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***

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<sup>1</sup>Civil Appeal No. 9664 of 2019, Dated 15.03.2021

***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”***

- 12.3** 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 of M/s. Scope Dealtrade Private Limited (“SRA”) has been upvoted by the CoC unanimously in its 16<sup>th</sup> meeting dated 30.05.2023 with 70.02% voting share, this Adjudicating Authority cannot interfere in the same.
- 12.4** On perusal of the documents on record, we are satisfied that the Resolution Plan is in accordance with Sections 30 and 31 of the IBC and also complies with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- 12.5** The reliefs, concessions and waivers sought by the Successful Resolution Applicant will be dealt with strictly as per law.
- 12.6** 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.
- 12.7** 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.

**12.8** The present application has been filed with bonafide means, in the interest of justice and to advance the objectives of the Code.

### **13 Orders**

**13.1** The **IA-3540/2023** which is for approval of the Resolution Plan is **allowed** and the Resolution Plan of Rs. 30,00,00,000/- (Rupees Thirty Crore Only) is hereby **approved**. **“Effective Date”** means the date on which this Resolution Plan is approved by this Adjudicating Authority under Section 31 of the Code. **The Resolution Plan shall form part of this Order.** Accordingly, **IA-3540/2023** stands disposed of as becomes infructuous. The main Company Petition, i.e., **IB-741(ND)/2021** stands **disposed of** accordingly.

**13.2** The Resolution Plan is binding on the Corporate Debtor and other stakeholders involved so that the revival of the Corporate Debtor Company shall come into force with immediate effect.

**13.3** The Moratorium imposed under section 14 of the Code shall cease to have effect from the date of this order.

**13.4** 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.

**13.5** Liberty is hereby granted for moving appropriate application(s) if required in connection with the implementation of this Resolution Plan.

**13.6** A copy of this Order shall be filed by the Resolution Professional with the Registrar of Companies, NCT of Delhi & Haryana.

**13.7** 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.

**13.8** 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.

**13.9** 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.

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)**