

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - I

ITEM No.303
IA/1005(AHM)2023
in
CP(IB) 407 of 2020

Proceedings under Section 30(6) r.w 31(1) IBC Reg. 39(4) of IBBI (Insolvency Resolution Process For Corporate Persons) Regulations, 2016

IN THE MATTER OF:

Kamal Kishor Gurnani RP of Maximaa Systems Ltd

.....Applicant

.....Respondent

Order delivered on 19/04/2024

Coram:

Mr. Shammi Khan, Hon'ble Member(J)

Mr. Sameer Kakar, Hon'ble Member(T)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-sd-

SHAMMI KHAN
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-I**

IA/1005(AHM)2023 in CP (IB) 407 of 2020

(An application under Section 30 (6) r/w. Section 31 (1) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39 (4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016 for submission and approval of the resolution Plan)

In the matter of ***Maximaa Systems Limited.***

MR. KAMAL KISHOR GURNANI

Resolution Professional of
Maximaa Systems Limited
101, Kanakia Atrium, Chakala MIDC,
Andheri (E), Mumbai-400093.

.....Applicant/Resolution Professional

VERSUS

Maximaa Systems Limited

B-1, Yashkamal Tithal Road,
Valsad, Gujarat-396001.

.....Respondent/Corporate Applicant

Order pronounced on 19.04.2024

CORAM:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)

SH. SAMEER KAKAR, HON'BLE MEMBER (TECHNICAL)

APPEARANCE:

For the Applicant / RP : Mr. Kuldeep Adesara, Advocate
For the SRA : Mr. Atul Sharma, Advocate a/w.
: Mr. Prasanna Sai Raghuvver
Kandula, Party in Person

For the Respondent : Mr. Jaimin Dave, Advocate a/w.
: Ms. Hirva Dave, Advocate for R-1 & 3
in (IA/256(AHM) 2023)
For Maxima Industries : Mr. Kamal Gurnani, RP

ORDER

[Per Bench]

1. The present application is filed U/s 30(6) r.w. Section 31(1) of IBC, 2016 and Regulation 39(4) of IBBI Regulations, 2016 by the Applicant / RP for approval of the resolution plan with seeking following prayers:-
 - a) *allow the present Application and approve the resolution plan submitted for the Corporate Debtor by the Successful Resolution Applicant in terms of Section 31(1) of the Code;*
 - b) *direct that the Successful Resolution Plan approved/ sanctioned by this Hon'ble Tribunal shall be binding on the Corporate Debtor, its employees, members/ shareholders, all creditors, guarantors and other stakeholders in the CIRP of the Corporate Debtor;*
 - c) *pass such other orders as this Hon'ble Tribunal deems fit in the facts and circumstances of the case.*
2. It is stated that CIRP commenced in the matter vide order dated 28.11.2022 in CP (IB) 407 of 2020 on an application filed by the Corporate Debtor under Section 10 of IBC, 2016 and one Mr. Ajit Gyanchand Jain was appointed as IRP.
3. It is stated that the IRP invited claims and published public announcement (Form A) 03.12.2022 in Financial Express, Ahmedabad Edition.

4. Post receipt of the claims, the IRP constituted the Committee of Creditors.
5. The 1st meeting of the CoC was held on 28.12.2022 where the IRP apprised CoC about the developments in the CIRP. The CoC of the Corporate Debtor comprised of one single financial creditor being Bank of India. The CoC in the 1st meeting unanimously approved the resolution proposing, Mr. Kamal Kishor Gurnani as Resolution Professional.
6. 2nd meeting of the CoC was held on 01.02.2023 where the CoC with 100% majority approved the contents of Form - G and registered valuers were appointed.
7. On an application being IA 112 of 2023 for change of the IRP, this Tribunal appointed, Mr. Kamal Kishor Gurnani as the Resolution Professional (RP) vide order dated 01.02.2023.
8. 3rd meeting of the CoC was held on 17.02.2023, where the CoC passed a resolution to appoint Mr. Raju N. Prasad Transaction Auditor and Company Secretary.
9. Form - G was published on 08.02.2023 in Loksatta Jansatta and Business Standard in Ahmedabad edition. The last date for receipt of EOI was 23.03.2023. The last date for submission of EOI was extended to 25.03.2023.
10. Post extension of the last date for submission of EOI, RP received 35 inquiries and 8 Expression of Interest. Each

expression of interest which were accompanied with with EMD of Rs. 2,00,000/-.

11. The 4th CoC meeting was held on 27.03.2023 where at CoC with requisite majority and voting approved that the request for resolution plans and evaluation matrix to be issued to prospective resolution applicant. The RP also place the updated list of creditors of the Corporate Debtor which is appended below:

Particulars	No. of claims received	Amount Claimed (Amt in INR)	Amount Admitted (Amt in INR)	Voting % In CoC
Secured Financial Creditors	1	34,30,00,597	34,30,00,597	100%
Operational Creditors	12	4,39,37,467	3,42,10,801	-
Workers/Employees	0	-	-	-
Statutory Authorities	4	15,77,34,576	15,65,99,904	-
Total Claim	17	54,46,72,640	53,38,11,302	100%

12. The Applicant prepared an Information Memorandum which was updated on 23.05.2023 and uploaded the same on the Virtual Data Room (VDR).
13. The Applicant issued the request for resolution plans dated 09.04.2023 (RFRP).
14. The 5th meeting of the CoC was held on 10.05.2023 where, the RP informed the CoC that some Resolution Applicants have requested the Resolution Professional to extend the last date for submission of Resolution Plan. After due

discussion the members of CoC passed the resolution with 100% voting to extend the last date for submission of resolution plan by 15 days i.e., from 09.05.2023 to 24.05.2023. The CoC has passed the resolution to extend the CIRP period of the Corporate Debtor by a further period of ninety days with requisite majority.

15. 6th CoC meeting was held on 31.05.2023. The RP informed the CoC that the Financial Statements of the Corporate Debtor for financial year 2020-21, 2021-22 and 2022-23 and provisional Financial Statements from 1.04.2022 to 28.11.2023 were prepared and finalized. Further, the RP informed that Resolution Plans have since been received from the following persons.

Sr. No.	Name of Resolution Applicants	Date of receipt of Resolution Plan
1	Shreyans Shah	9 May 2023
2	Pratibha Goyal	9 May 2023
3	Shubhlaxmi Investment Advisory Private Limited	24 May 2023
4	Manoj Lunia	9 May 2023
5	Raghuveer Kandula	24 May 2023

16. The Resolution Plan were opened separately in front of the members of the CoC and respective present invitees. Since Mr. Raghuveer Kandula, one of the Resolution applicant was not present, his plan was not opened.
17. The RP filed IA 631 of 2023 before this Tribunal seeking extension of the CIRP period which was allowed vide order dated 14.06.2023.

18. 7th CoC meeting was held on 16.06.2023. The RP apprised members that all plans were legally vetted and observations were shared with the respective Resolution Applicants and members of the CoC. The Resolution Plan of Mr. Raghuvveer Kandula, was opened. Brief discussions were held and after the discussions, sole CoC Member stated that they are not satisfied with proposal and requested all the Resolution Applicants to re-consider and enhance their financial offers.
19. 8th meeting of the CoC was held on 27.06.2023. The RP briefed the members of CoC on broad contours of the revised Resolution Plans submitted by all five Resolution Applicants. The Resolutions Applicants were invited one by one for discussion. Post the discussions, the Resolution applicants were requested to provide their final resolution plans by 1.07.2023.
20. 9th CoC meeting was held on 18.07.2023. RP informed the members that the final revised resolution plan has been received from all five resolution applicants. The CoC discussed on the feasibility and viability of all the resolution plans and duly allocated marks to each and every resolution plan as per evaluation matrix. The RP informed the members that all five resolution plans are legally compliant and meet the requirements of IBC, 2016. CoC thereafter, directed the RP to put all the Resolution Plants to Vote.

21. RP thereafter, put all the plans to vote and voting lines were kept upon from 28.07.2023 to 04.08.2023. The voting concluded on 04.08.2023 and the sole CoC member approved the resolution plan submitted by Mr. Raghuv eer Kandula, dated 06.07.2023 and the following resolutions were passed.

"RESOLVED THAT pursuant to Section 30(2), 30(3), 30(4) of Insolvency and Bankruptcy Code, 2016 and Regulation 37, 38, 39(1), 39(2) and 39(3) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016, approval of the members of the Committee of Creditors be and is hereby accorded to approve the Resolution Plan submitted Mr. Raghuv eer Kandula, Resolution Applicant whose plan is legally compliant as per the provisions of the Code.

FURTHER RESOLVED THAT pursuant to Section 30 (6) of the Insolvency and Bankruptcy Code, 2016, Mr. Kamal Kishor Gurnani, Resolution Professional be and is hereby authorized to submit the Resolution Plan of Mr. Raghuv eer Kandula, Resolution Applicant approved by the members of Committee of Creditors to National Company Law Tribunal, Ahmedabad Bench for its approval.

FURTHER REOLVED THAT Mr. Kamal Kishor Gurnani is hereby authorised to take all necessary steps and execute all necessary documents and to do all acts, deeds and things to give effect to the aforesaid resolution.

22. Details about the Successful Resolution Applicant (RA).

Mr. Prasanna Sai Raghuv eer Kandula bearing PAN: DEFPK9313J residing at 2-29/3, First Floor, Flat C, Hideaway Apartments, Street No. 4, Habsiguda, Hyderabad, Telangana State, India-500007 is an Individual and is the SRA.

23. Business conducted: Prasanna Sai Raghuvver Kandula, is a young serial entrepreneur. After a brief stint at academics in Physics, Nuclear Engineering & Business Studies at esteemed universities like Texas A&M University and Harvard University, he has taken a study break and ventured into business with multiple startups specialized in Business Intelligence, Artificial Intelligence, Fin Tech, etc. He had the opportunity to interact with several bigwigs from the industry, and is currently associating with some of them to scale up the business. He has a tenacious intent in the back of his passion and is focused on unswerving execution. Keen Interest and grasp of pure and applied Math and Physics enables him to design solutions to complex business problems using technology. He specializes in resource and cost optimization for effective project execution.

24. **Creditworthiness and Financial Capability of Resolution**

Applicant: The affidavit was filed vide diary No. D-2959 dated 05.04.2024 by the SRA stated that his Networth is Rs. 237,33,10,645/- as on 02.03.2024 and for which necessary CA certificate is attached issued by one N. G. Rao Associates, Chartered Accountant.

25. The successful Resolution Applicant has proposed a final payment of Rs. 395.13 Lakhs under the plan. The said payment will be made as under:

Payment to Creditors	~INR 395.13 Lakhs
Payment Schedule of payments to creditors	Within 30 days from the receipt of NCLT Order
PAYMENTS UPTO 30 DAYS:	
Operational Creditors (Statutory Dues) (excluding the amount due to related parties; payment due to Employee's State Insurance Corporation and State Tax Department, Valsad)	1% of the total outstanding admitted claims (Amounting to ~INR 12.57 Lakhs)
Operation Creditor – Employee's State Insurance Corporation	Total admitted amount of ~INR 8.86 Lakhs to be paid in full.
Operational Creditor – State Tax Department, Valsad	To be paid at par with the Secured Financial Creditors i.e., 10% of the admitted claim amounting to ~INR 27.28 Lakhs
Other Operational Creditors including Unsecured Financial Creditors, Operational creditors (other than statutory dues), other creditors, workmen and Employees other than promoters (Excluding payment to related parties)	1% of the total amount admitted amounting to INR 3.42 Lakhs.
Payment to Related Parties	NIL
Secured Financial Creditors	10% of the Total admitted claims (Amounting to ~ INR 343 Lakhs)
Towards CIRP Cost	Total Outstanding CIRP cost payable on actuals.
Gross value of the Proposal	INR ~395.13 Lakhs + CIRP cost payable on actuals as may be submitted by the RP upto the date

Payment to Creditors	~INR 395.13 Lakhs
	of approval of the Resolution Plan by the Hon'ble NCLT

26. The summary of the various claims admitted is provided as below:

Sr. No.	Name of Creditor	Amount Admitted	Amount Proposed in the Plan	% of Recovery for creditors
1	Secured Financial Creditor	34,30,00,597	3,43,00,000	10%
2	Operational Creditors (Statutory Authorities)			
	A. Employee's State Insurance Corporation	8,68,335	8,68,335	100%
	B. State Tax Department, Valsad	2,72,76,958	27,28,000	10%
	C. Other Statutory Authorities	12,84,54,611	12,57,000	1%
3	Operational Creditors (excluding statutory authorities and workmen and employees)	3,42,10,801	3,42,000	1%
	Total	53,38,11,302	3,94,95,335	

27. The brief details of proposed payments are as follows:

a. Corporate Insolvency Resolution Process (CIRP) Costs

The Resolution Plan provides for the payment of 100% of the insolvency resolution costs (which includes payment to Resolution Professional and all amount of expenses incurred by RP, to the extent duly ratified or approved by the Committee of Creditors) due as on the date of NCLT order approving resolution plan. The CIRP Costs will be paid in priority over other dues after the approval of this plan by the NCLT.

b. Settlement of claims filed by Operational Creditors (excluding statutory authorities and workmen and employees)

The Resolution Applicant has proposed INR 3,42,000/- (Indian Rupees Three Lacs and Forty-Two Thousand Only) payment to the operational creditors to be distributed in the ratio of admitted amount on pro rata basis against their admitted claim of INR. 3,42,10,801. The proposed amount will be paid within 30 days from the date of approval of resolution plan by NCLT before payment to the secured financial creditors in accordance to the provisions of the Code.

c. Settlement of claims filed by Operational Creditors (statutory authorities)

Sr. No.	Name of Statutory Authority	Amount Claimed	Amount Admitted
1	Employee's State Insurance Corporation	8,68,335	8,68,335
2	State Tax Department of Gujarat	2,72,76,958	2,72,76,958
3	Income Tax Department, Valsad	12,54,69,927	12,43,35,255
4	Division VIII (Valsad), CGST & CE	41,19,356	41,19,356
	Total	15,77,34,576	15,65,99,904

i) Employee's State Insurance Corporation –

The Resolution Applicant has proposed full payment of INR 8,68,335/- (Indian Rupees Eight Lacs Sixty-Eight Thousand Three Hundred and Thirty Five Only) against their admitted claim of INR 8,68,335/-. The proposed amount will be paid within 30 days from the date of approval of resolution plan by NCLT.

ii) State Tax Department of Gujarat –

The Resolution Applicant has proposed payment of INR 27,28,000/- (Indian Rupees Twenty-Seven Lacs Twenty-Eight Thousand Only) against their admitted claim of INR 2,72,76,958/-. The Resolution Applicant has proposed a payment of 10% of the admitted claim against the dues of State Tax Department of Gujarat (including Gujarat Value Added Tax i.e., GVAT dues of INR 66,22,928 and Central Sales Tax Dues of INR 2,06,54,030). The treatment of this claim is done at par with the Secured Financial Creditors claim and the payment will be done from the date of NCLT order approving the resolution plan.

iii) Income Tax Department. Valsad and Division VIII (Valsad),
CGST & CE-

The Resolution Applicant has proposed payment of INR 12,57,000/- (Indian Rupees Twelve Lacs Fifty Seven Thousand Only) i.e., 1% against their admitted claims of INR 12,84,54,611/-. The proposed amount will be paid within 30 days from the date of approval of resolution plan by NCLT.

d. Settlement of claims filed by Secured Financial Creditors

There is only one secured financial creditor, Bank of India in the CIRP of corporate debtor. Hence, Bank of India becoming the Sole CoC Member. The Resolution Applicant has proposed payment of INR 3,43,00,000/- (Indian Rupees Three Crores Forty-Three Lacs Only) ie, 10% against their admitted claim of INR 34,30,00,597/-. The proposed amount will be paid within 30 days from the date of approval of resolution plan by NCLT.

28. Since, Maximaa Systems Limited is a listed entity. The resolution plan submitted by successful resolution applicant mentions the following treatment regarding the Equity Shareholding Pattern of the Existing Shareholders.

Last Available Shareholding Pattern dated December 2021 is as follows:

Sr. No.	Category of Shareholders	No. of Shares Held Before CIRP	No. of Shares Held after CIRP*	Voting Shares (%) held before CIRP
1.	Promotor and Promotor Group	1,80,74,125	0	31.68
2.	Public Shareholders	3,99,27,130	19,96,357	68.84
TOTAL		5,80,01,225	19,96,357	100

Note: The Number of shares held before/after CIRP as mentioned in the table is tentative figure and shall be e subject to change as on the record date.

Brief Details of Proposed change in the equity Structure as mentioned in the resolution plan of Mr. Raghuvveer Kandula:

- (a) The shareholding of the existing promoters as on the record date shall be reduced to NIL without any payout.
- (b) The Shareholding of existing public shall be reduced by 95% as on the record date. Fractional Shares arising from the said reduction shall be cancelled and reduced to NIL
- (c) The entire money brought/introduced by the RA during the CIRP process shall be converted into equity shares of INR 10/- each
- (d) Allotment of 25,00,00,000 Equity Shares of the Corporate Debtor at face value to the shareholders of Jan Shakti Oil Products Private Limited as a consideration towards the

merger of Jan Shakti Oil Products Private Limited into the Corporate Debtor.

- (e) The RA shall allot 1,50,00,000 equity shares to identified investors on a preferential basis upon approval of the Resolution Plan. The said approval shall be deemed approval of Shareholders and Statutory & Regulatory Authorities including SEBI and Stock Exchange for such allotment. The said shares shall be locked in for a period of 6 months pursuant to Regulation 167(2) of the SEBI (ICDR) Regulations, 2018

(Record Date - The record date for the purpose of consideration of the shareholder eligible for the same shall be the date of NCLT Order approving the resolution plan)

29. Merger of Jan Shakti Oil Products Private Limited into Maximaa Systems Limited

The Successful Resolution Applicant contemplate Corporate Restructuring through merger of Jan Shakti Oil Products Private Limited ("Transferor Company") with and into Maximaa Systems Limited ("Transferee/Resulting Company") and allotment of shares of Corporate Debtor to the shareholders of the Transferor Company in such manner as may be decided in the Fair Valuation Report, as part of this Insolvency Resolution Process of the Corporate Debtor as per the terms and conditions as envisaged in the

Resolution Plan; and the Scheme of Arrangement forming part of this plan.

30. This Scheme of Arrangement ("Scheme") which is part of Resolution Plan, provides for the merger of Jan Shakti Oil Products Private Limited ("Transferor Company) into Maximaa Systems Limited ("Transferee/Resulting Company")

31. The Resolution Applicant mentioned in his resolution plan that the approval of this application and resolution plan by this Hon'ble NCLT shall constitute adequate approval including pre and post approval (under Section 230 to 232 and other relevant provisions of the Companies Act, 2013 and all other applicable provisions of Applicable Laws for the time being in force, including but not limited SEBI Regulations and any other prior or post facto approval required from the Statutory Authorities, Regulatory authorities and Stock Exchange) for the merger of the Transferor Company into Transferee Company, as of Implementation Date, in accordance with all provisions of Applicable Law including SEBI Regulations and any other approval required from the Statutory Authorities, Regulatory authorities and Stock Exchange. This Scheme will result in the consolidation of the business of each of the Transferor Company and Transferee Company as existing as on the Appointed Date.

Rationale behind the merger:

32. The Scheme of Amalgamation of Jan Shakti Oil Products Private Limited into Maximaa Systems Limited (Corporate Debtor) ensures continuity of business of Corporate Debtor which preserves going concern valuation of the Corporate Debtor and also to develop market and generate adequate cash flow as compared to an asset under liquidation. Other benefits for both Companies are as under.

(a) Help to facilitate revival of the Maximaa Systems Limited as a going concern.

(b) Result in enhancing the scale of operations and reduction in overheads administrative, managerial and other expenditure, operational rationalisation sharing of organisational efficiency and optimal utilisation of resources,

(c) Merger would enhance shareholder's value for both the companies by way improved financial position and cash flows, increased asset base and stronger consolidated revenue and profitability,

(d) Combined entity will help to undertake larger expansion strategies and to tap bigger opportunities in the industry;

(e) The software and other digital technology developed by the Transferor Company shall become proprietary rights

of the Corporate Debtor which shall increase the scope of the CD.

33. Receivables from Avoidance Application (Clause 15 of Chapter V of the Resolution Plan) -

The Resolution Plan states that if the Adjudicating Authority reverses or sets aside any avoidable transactions under Sections 43, 45, 47, 49, 50 or 66 of the Code, then such assets or proceeds from transaction shall be a pass-through to Secured Financial Creditors of the Corporate Debtor as per the provision of IBC. Such proceeds, if any, shall be over and above the total amount proposed in this resolution plan by the Resolution Applicant. The Avoidance Application, if any filed by the Resolution Professional in the corporate insolvency resolution process of the corporate debtor shall be pursued by the secured financial creditors post approval of this resolution plan by the Adjudicating Authority.

34. The Summary of repayment terms in the Resolution Plan received on 6 July 2023 provides for the repayment terms of the amount proposed in the Resolution Plan as follows:

Particulars	Amount proposed
Cash consideration to be infused and distributed within 30 days from the receipt of NCLT order	INR 395.13 Lakhs + CIRP Cost at actuals

35. **SOURCES OF FUNDS (Clause 8 of Chapter IV of the Resolution Plan]**

Sources of funds provided in the Successful Resolution Plan is as presented below -

- i. The Resolution Applicant shall raise such amount as required for implementation of the proposed resolution plan from his personal sources and also have sufficient liquidity to meet the amount proposed in the resolution plan.
- ii. In addition the RA shall, if required, liquidate some of his personal immovable assets creating sufficient fund base for successfully implement the resolution plan and scale up the operations of the Company.
- iii. The Resolution Applicant retains the right to arrange this funding from various sources including but not limited to other investors, banks and financial institutions, etc. or to alter the funding mix and capital structure. Resolution Applicant will infuse the required funds on stages basis whenever required. The Resolution Applicant confirms that required funds available even from the other entity of the Group also. The RA reserves the right to infuse required funds by itself or holding company or subsidiary company or individual promoters or even by the third parties either by way of issue of Equity Shares/Preference

shares/NCDs/CCDs/Loans including ECB's(Rupee & Foreign Currency) from promoters or shareholders or from any Investors or banks/ FIs, etc.,

36. The Applicant hereby submits that the Resolution Plan submitted by Mr. Raghuvir Kandula and approved by Sole CoC Member having 100% voting share has been examined and the said Resolution Plan:

- i) Provides for payment of Insolvency Resolution Process Costs in a manner specified by the board in priority to the payment of other Debts of Corporate Debtor.
- ii) Provides for management of the affairs of the Corporate Debtor after the approval of the Resolution Plan.
- iii) Does not contravene any of the provisions of the law for the time being in force.

37. It is submitted that the Resolution Applicant has provided an Affidavit as mandated under Section 29A of the IBC 2016 in terms of its eligibility to submit a Resolution Plan. The Copy of Affidavit of the Resolution Applicant stating that it is eligible under Section 29A of the IBC 2016 is hereto annexed and marked as Exhibit 21.

38. The Applicant submits that the Final revised Resolution Plan received on 6 July 2023 submitted by Mr. Raghuvir Kandula is approved by Sole CoC member holding 100% of the voting share and hence the Applicant has filed this

instant application seeking approval of the Resolution Plan along with compliance certificate as issued in FORM H as per Regulation 39(4) of the CIRP Regulations. Further, the Applicant submits that the last date for completion of CIRP of the Corporate Debtor is 25th August 2023.

39. The Applicant submits that as per the RFRP dated 9th April 2023, the Successful Resolution Applicant shall, within a period of 2 (Two) Business Days from the acceptance of issuance of the Lol provide an irrevocable and unconditional Performance Bank Guarantee or direct deposit of an amount aggregating to INR 10,00,000 (Rupees Ten lakhs Only) in the favour of Resolution Professional. The Applicant has issued Letter of Intent dated 5 August 2023 to the Resolution Applicant. The letter of intent dated 5 August 2023 issued by the Applicant is hereto annexed and marked as Exhibit 22. The Successful Resolution Applicant has deposited INR 10,00,000 as Performance Bank Guarantee on 8 August 2023 by depositing the funds in the bank account held in the name of "Maximaa Systems Limited in CIRP".
40. That the Applicant states that there were no fixed assets of the Corporate Debtor as on the date of initiation of CIRP. Registered valuers were appointed to conduct valuation of the class of Securities and financial assets of the corporate debtor. Liquidation value and fair value as per the valuation reports submitted by the valuers is as under:

Class of Assets	Fair Value Amt in INR		Liquidation Value Amt in INR		Average Amt in INR	
	Valuer 1	Valuer 2	Valuer 1	Valuer 2	Fair Value	Liquidation Value
Securities and Financial Assets	22,862	22,862	22,863	22,863	22,863	22,863

Thus, the aggregate of the average of Fair Value of all the assets is Rs. 22,863/- (Rupees Twenty Two Thousand Eight Hundred and Sixty Three Only) and that of the Liquidation Value of all the assets is Rs. 22,863/- (Rupees Twenty Two Thousand Eight Hundred and Sixty Three Only). Copy of Valuation Reports submitted by registered valuers are attached herewith and marked as "Exhibit 24" Colly.

41. Compliance of the plan is seen by going through the Form-H.

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?	CHAPTER III (Page 13)	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?	CHAPTER III (3) (Page 13)	Yes
Section 30 (1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	CHAPTER III (3) (Page 13) Attached as Annexure to Resolution Plan	Yes
Section 30 (2)	Whether the Resolution Plan- (a) provides for the payment of insolvency resolution process costs. (b) provides for the payment to the operational creditors. (c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	CHAPTER IV Clause G (1) Page No. 20 CHAPTER IV Clause G (2) Page No. 20 CHAPTER IV Clause G (4) Page No. 23	Yes Yes NA

	(d) provides for the management of the affairs of the corporate debtor.	CHAPTER VI (I)(4)(B) Page No. 23	Yes
	(e) provides for the implementation and supervision of the resolution plan.	CHAPTER VI (I)(4)(B) Page No. 23	Yes
	(f) contravenes any of the provisions of the law for the time being in force?	CHAPTER XI Page No. 62	No
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	
Section 31 (1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Chapter VI (I)(4)(c) (Page 43)	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?	Chapter VI (Page 41)	Yes
Regulation 38 (1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Chapter VI (I)(2) (Page 41 of the Plan)	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.	Chapter VI (I)(3) (Page 42 of plan)	No
	(ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?	NA	NA
Regulation 38 (2)	Whether the Resolution Plan provides		
	a the term of the plan and its implementation schedule?	Chapter VI (I)(4)(a) (Page 42)	Yes
	b for the management and control of the business of the corporate debtor during its term?	Chapter VI (I)(4)(b) (Page 42)	Yes
	c adequate means for supervising its implementation?	Chapter VI (I)(4)(c) (Page 43)	Yes



Regulation 38 (3)	Whether the resolution plan demonstrates that		
	a it addresses the cause of default?	Chapter VI (I)(4)(c) (Page 43 and 44)	Yes
	b it is feasible and viable?		Yes
	c it has provisions for its effective implementation?		Yes
	d it has provisions for approvals required and the timeline for the same?		Yes
	e the resolution applicant has the capability to implement the resolution plan?		Yes
Regulation 39 (2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	Yes	
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.	The Resolution Applicant has deposited INR 10,00,000 as Performance Bank Guarantee on 8 August 2023 by depositing the funds in the bank account held in the name of "Maximaa Systems Limited in CIRP".	



42. RA has proposed that the Board of the Corporate Debtor be reconstituted with the following directors:

S. No.	Name	Din
1	Prasanna Sai Raghuv Kandula	07063368
2	Mekala Venkata Nagendra	08263209
3	Anantha Ramaiah Srinivasula	07524967

43. In respect of the relief and concessions sought by the applicant, we rely upon the judgment of the Hon'ble Supreme Court in the case of Ghanshyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited (Civil Appeal No. 8129 of 2019).

44. At page 395 onwards are relief and Concessions which continue upto page 398.

Relief and Concession

Sr. No.	Particulars	Concessions / Reliefs / Directions sought	Orders thereon
1	Exemption of taxes under Income Tax, CGST, GST, Customs Act and etc.	The Central Board of Direct Taxes ("CBDT") or any other relevant governmental authority to exempt the Resolution Applicant and the Corporate Debtor from the applicability of and payment of all Taxes under the Income Tax Act, 1961 (including Section 115JB) or Central Goods and Services Tax Act, 2017, including any liability under the Minimum Alternate Tax which may arise on account of the transactions envisaged under the Resolution Plan either on the	RA to approach the concerned authority who may consider the same keeping in view the object of IBC, 2016.

		<p>Resolution Applicant or the Corporate Debtor. Additionally, the Resolution Applicant shall be allowed to carry forward business losses and capital losses for further period of 8 years and the unabsorbed depreciation, after taking over the Corporate Debtor under Income Tax Act, 1961 and the jurisdictional Principal Commissioner or Commissioner shall provide necessary relief. The Resolution Applicant shall be allowed to utilise MAT credit available under Income Tax Act, input credit available in the books of the Corporate Debtor under the relevant GST Act and relevant authority shall provide relief as to said effect. Any relevant governmental authority shall exempt the Resolution Applicant and the Corporate Debtor from the payment of all Taxes, interest and penalties under the Income Tax Act, 1961, Central Excise Act, 1944, Customs Act, 1962, Central Sales Tax Act, 1956, Central Goods and Services Tax Act, 2017, State GST Laws, incentive scheme of Government of Telangana or any other act including the various states' value added tax acts and any other indirect Tax laws on account of past non-compliances prior to Effective Date.</p> <p>The CBDT shall grant the following exemptions / waivers: (a) from applicability of Section 281 of the Income-tax Act, 1961 including obtaining no-objection certificate from income tax authorities in respect of all the pending proceedings and dues (including interest and penalty) of the Corporate Debtor arising for periods up to the Effective Date (including such proceedings and dues for periods prior to the Effective Date that may crystallize subsequent to the Effective Date). Further, CBDT shall restrict/ restrain from treating</p>	
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		any transactions contemplated in this Resolution Plan as being void or non-compliant with any provisions of the Income-tax Act, 1961; (b) from all tax liabilities (including interest and penalty) and tax proceedings arising in respect of periods up to the Effective Date, including such liabilities/ proceedings for periods up to the Effective Date that may crystallize subsequent to the Effective Date in respect of on-going or potential income tax litigations at all levels (c) from applicability of section 170 of the Income-tax Act, 1961, in the hands of Resolution Applicant, which deals with successor liability of Resolution Applicant in respect of outstanding tax liabilities of the Corporate Debtor, in respect of transactions arising as a result of giving effect to the Resolution Plan.	
2	Extinguishment of the existing shareholding of the Corporate Debtor and Exemption from compliances of SEBI/BSE / NSDL / CDSL / ROC / MCA and other regulatory and statutory authorities.	The Resolution Applicant intends to undertake a capital reduction and consequent extinguishment of the existing shareholding of the Corporate Debtor, as specified in the Resolution Plan, without triggering takeover Regulations pursuant to the approval of Resolution Plan by the Adjudicating Authority. All the necessary approvals shall be deemed to be granted by the SEBI / BSE / NSDL / CDSL / ROC / MCA and other regulatory and statutory authorities. Additionally, any obligation arising out of past non-compliance or transfer or extinguishment of shares shall be waived off and no consequent actions shall be taken against the Corporate Debtor as well as the Resolution Applicant. Additionally, the Resolution Applicant reserves its rights to go for a further issue / preferential allotment / private placement to comply with minimum public shareholding requirement as per the SEBI Regulations.	Granted

3	Exemption of past non-compliance.	The Resolution Applicant intends to retain the listed status of the Corporate Debtor. Any obligation arising out of past non-compliance of any nature shall be waived off and no consequent actions shall be taken against the Corporate Debtor as well as the Resolution Applicant and the Resolution Applicant shall be allowed to retain the listing status of the Corporate Debtor and be liable for respective fee arising only post Completion Date.	Granted
4	Exemption from compliance to shift the registered office of the Corporate Debtor to a suitable premise within the jurisdiction of existing Registrar of Companies	The Resolution Applicant intends to shift the registered office of the Corporate Debtor to a suitable premise within the jurisdiction of existing Registrar of Companies. The same shall be allowed by the RoC without any specific performance or approval from the Resolution Applicant on the basis of filing of E-form along with Resolution Plan Approval Order of Hon'ble NCLT.	Granted
5	Extension and renewal of expired /to be expired licenses and government approvals.	All licenses and government approvals held by the Corporate Debtor, which expired on or prior to the Effective Date or within period of 1 year thereafter, if any, shall be renewed / extended by the relevant governmental authorities, and the Corporate Debtor shall be permitted to continue to operate its business and assets in the manner operated prior to submission of this Resolution Plan until renewal / extension of such licenses and approvals. The relevant governmental authorities shall provide a reasonable period of time after the Effective Date in order for the Resolution Applicant to assess the status of the licenses and governmental approvals required by the Corporate Debtor and to procure that the Corporate Debtor applies for the same.	RA to approach the concerned authority who may consider the same keeping in view the object of IBC, 2016.

6	Exemption from Stamp Revenue Department.	The Collector of Stamps, Revenue Department, of any state government and the Ministry of Corporate Affairs to exempt the Resolution Applicant and the Corporate Debtor, from the levy of stamp duty and fees applicable in relation to this Resolution Plan and its implementation, including any stamp duty applicable on the acquisition/transfer of shares by the Resolution Applicant.	RA to approach the concerned authority who may consider the same keeping in view the object of IBC, 2016.
7	To waive all outstanding demands unclaimed.	The NCLT shall waive off all the outstanding demands unclaimed under CIRP, proceedings, judicial actions initiated/pending against the Corporate Debtor on the Insolvency Commencement Date and provide necessary relief and measures required for implementation of the resolution plan. Further, the Government of Telangana shall provide necessary approval/grant in relation to new power connection upon request of Resolution Applicant.	Granted in terms of Ghanshyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited (Civil Appeal No. 8129 of 2019)
8	Exemption from unpaid dividends lying in the books as on commencement date and waiver of unpaid dividend shall be deemed to be Co. Act. And SEBI Regulation.	The Resolution Applicant or the Corporate Debtor shall have no obligation against unpaid dividends lying in the books as on the insolvency commencement date and waiver of such unpaid dividend shall be deemed to be compliance of requirements of Companies Act, 2013 and SEBI Regulations.	Granted.
9	All approvals to be allotted for acquisition of Jan Shakti Oil Products Private Limited by the Corporate Debtor.	All the approvals required from the shareholders/ Governmental / Regulatory / Statutory authorities shall be deemed to be allotted for acquisition of Jan Shakti Oil Products Private Limited by the Corporate Debtor.	Granted
10	Exemption from lock-in as per the provisions of the SEBI Regulations	The shares allotted to the Shareholders (Public Shareholders) shall be free from lock-in as per the provisions of the SEBI Regulations	Granted

Relief and Concessions under Companies Act, 2013			
11	Dispensation of Shareholder's approval	<p>Dispensation of Shareholder's approval for the alteration of the name and object clause in the Memorandum of Association and Article of Association.</p> <p>The Resolution Applicant contemplates the following Corporate Actions under this Resolution, for which the Shareholders /constitutional document is deemed to have been given</p> <p>Reduction of Capital under Section 66 of Companies Act 2013</p> <p>Increase in Authorized Capital</p> <p>Scheme of Arrangement</p> <p>Dispensation of Creditors meeting of Transferor Company</p> <p>Preferential Allotment</p> <p>Amendment to Object Clause and Name Clause in the MOA & AOA</p>	Granted.
12	Extinguishment of past dues of listing fees or any kind of fees and/or penalties to be paid for any period prior to the Effective Date for non-compliances of corporate actions/disclosures/corporate governance	The Annual Listing fees pending to BSE by the Corporate Debtor referred as 'Operational Creditor' under the Code, and as per the this Resolution plan, the Operational Creditors have been paid only 1% of their dues, since the liquidation value of the corporate debtor is not sufficient to cover the dues of the secured financial creditor. Upon approval of the Resolution Plan by the Adjudicating Authority, liability in respect of past dues of listing fees or any kind of fees and/or penalties to be paid for any period prior to the Effective Date for non-compliances of corporate actions/disclosures/corporate governance shall be waived/extinguished without any limitation and continuation of the trading activity of the Company is allowed	Granted in terms of Ghanshyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited (Civil Appeal No. 8129 of 2019)
13	To waive all past	All Governmental / Regulatory /	Granted in terms

	Non-Compliance of the Corporate Debtor	Statutory authorities to waive all past non-compliances of the Corporate Debtor under applicable laws, and the Corporate Debtor and the Resolution Applicant shall not be liable for any non-compliances under applicable laws for the period prior to the Effective Date. The relevant Government Authorities shall not initiate any investigations, enquiries, actions or proceedings in relation to any non-compliance with or breach of Applicable Law by the Corporate Debtor during the period prior to the Effective Date. Neither shall the Resolution Applicants, nor the Corporate Debtor, nor their respective directors, officers and employees appointed on and as of the Effective Date be liable for any violations, liabilities, penalties or fines with respect to or pursuant to the Corporate Debtor not having in place the requisite licenses and approvals required to undertake its business as per Applicable Law, or any non-compliances of Applicable Law by the Corporate Debtor.	of Ghanshyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited (Civil Appeal No. 8129 of 2019)
14	All governmental authorities to provide at least 6 months after the Effective to assess the status of these government approvals and to ensure that the Corporate Debtor is compliant with them without initiating any investigations, actions or proceedings in relation to such non-compliances	To the extent that any government approvals obtained or required to be obtained by the Corporate Debtor may have lapsed, expired, suspended, cancelled, revoked or terminated or the Corporate Debtor has certain non-compliances in relation thereto, all governmental authorities to provide at least 6 months after the Effective Date in order for the Resolution Applicant to assess the status of these government approvals and to ensure that the Corporate Debtor is compliant with them without initiating any investigations, actions or proceedings in relation to such non-compliances.	Granted
15	To waive all past dues under various act as well as any	Without prejudice to the above-mentioned provisions, the relevant Governmental Authorities to waive	Granted

	outstanding charges and dues by the Corporate Debtor (including stamp duty, registration fee and property Taxes etc.)	all past non-compliances of the Corporate Debtor, prior to the Effective Date, under any applicable law, including but not limited to provisions of the Companies Act 2013/1956, Foreign Exchange and Management Act, 1999, Industrial Disputes Act, 1947, the Factories Act, 1948, Payment of Wages Act, 1936, Payment of Bonus Act, 1965, Employees Provident Funds and Miscellaneous Provisions Act, 1952, Employee State Insurance Act, 1948, Indian Contract Act, 1872, Carriers Act, 1865, Arbitration and Conciliation Act, 1996, Customs Act, 1962, and the relevant Shops and Establishment Acts, other Applicable legal enactments and any rules, circulars and regulations framed thereunder, State Professional Tax Acts, and Non-Compliances in relation to non-payment of any outstanding charges and dues by the Corporate Debtor (including stamp duty, registration fee and property Taxes).	
16	Exemption from SEBI Regulation and Companies Act, 2013.	The Adjudicating Authority to approve (i) increase in authorised share capital of the Corporate Debtor as required by the Resolution Applicant; (ii) cancellation of the paid up share capital of the earlier promoters and reduction of the share capital of the Public Shareholders without following up the provisions under Companies Act, 2013 and SEBI Regulations (iii) issue of fully paid up equity shares (iv) removal of members of the existing Board of the Corporate Debtor and appointment of directors identified by the Resolution Applicant on the Board, (v) satisfaction of existing charge as per resolution plan, as part of order approving the Resolution Plan, without requiring compliance with the applicable provisions of the	Granted

		Companies Act, 2013 and any other applicable law and without requiring consent of any person, other than as specified in this Resolution Plan.	
17	All Governmental Authorities to grant any relief, concession or dispensation as may be required	All Governmental Authorities to grant any relief, concession or dispensation as may be required for implementation of the transactions contemplated under the Resolution Plan in accordance with its terms and conditions.	RA to approach the concerned authority who may consider the same keeping in view the object of IBC, 2016.
18	To waive all past non-compliance in respect to requirement under the Companies Act, 2013 as well as Stamp Revenue Department.	The Ministry of Corporate Affairs of the Government of India, the Registrar of Companies, Telangana and the Collector of Stamps, Revenue Department, Government of Telangana to waive all the past non-compliances of the Corporate Debtor in respect of the requirements under the Companies Act, 2013 and the rules and regulations thereunder and to waive off all the stamp duty payable upon implementation of this Resolution Plan.	Granted in terms of Ghanshyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited (Civil Appeal No. 8129 of 2019)
19	The relevant governmental authorities to waive all past non-compliances of the Corporate Debtor in relation to any delayed filing or non-filing of relevant mandatory forms .	The relevant governmental authorities to waive all past non-compliances of the Corporate Debtor in relation to any delayed filing or non-filing of relevant mandatory forms or returns or any other documents, including any undertakings or acknowledgements to be filed in relation thereto, under Companies Act, 2013, Foreign Exchange Management Act, 1999, Income Tax Act, 1961 and any other Applicable Law. Nothing shall act in prejudice of the Resolution Applicant on account of delayed filings by the Corporate Debtor prior to resolution and the subsequent compliances by the Resolution Applicant shall be deemed to be performed within statutory timelines.	Granted in terms of Ghanshyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited (Civil Appeal No. 8129 of 2019)
20	Exemption from	All relevant Governmental	Granted

	initiating or continuing criminal proceedings against the Corporate Debtor and its assets and properties under the Prevention of Money Laundering Act, 2002, Prevention of Corruption Act, 1988, the Companies Act, 2013, the Indian Penal Code or any other similar applicable laws	Authorities (including, for the avoidance of doubt, the Enforcement Directorate and the Serious Fraud Investigation Office) to not attach, take any other action including initiating or continuing criminal proceedings against or in respect of the Corporate Debtor and its assets and properties under the Prevention of Money Laundering Act, 2002, Prevention of Corruption Act, 1988, the Companies Act, 2013, the Indian Penal Code or any other similar Applicable Law dealing with fraud, money laundering or any other economic offences in relation to non-compliances committed prior to the Effective Date.	
21	RA shall have the right to renegotiate the terms of all agreements or terminate all agreements executed by CD and third parties will not have the right to terminate their agreements with the Corporate Debtor.	The Resolution Applicant shall have the right to renegotiate the terms of all agreements or terminate all agreements executed by the Corporate Debtor with any third parties, in its sole discretion, without any additional liabilities, penalties or other onerous obligations accruing to the Corporate Debtor or the Resolution Applicant. It is clarified that such third parties will not have the right to terminate their agreements with the Corporate Debtor.	Granted in terms of Ghanshyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited (Civil Appeal No. 8129 of 2019)
22	Renewal of contracts	Other than as set out herein, all the contracts executed by the Corporate Debtor which were valid and subsisting as on each of the insolvency commencement date in respect of the Corporate Debtor shall be renewed / extended.	Granted
23	All accounts of the CD be regularised	On and from the Effective Date, all accounts of the Corporate Debtor shall stand regularised and their asset classification shall be "standard" to the extent permitted under all Applicable Laws.	Granted
24	All agreements and	All agreements and arrangements	Granted

	arrangements between the Corporate Debtor and any Promoter Related Parties shall stand terminated without any additional liabilities, penalties	between the Corporate Debtor and any Promoter Related Parties shall stand terminated without any additional liabilities, penalties or other onerous obligations accruing to the Corporate Debtor or the Resolution Applicant. It is clarified that such third parties will not have the right to terminate their agreements with the Corporate Debtor.	
25	All incentives and benefits granted to the Corporate Debtor by any Governmental Authority to continue to remain valid	All incentives and benefits granted to the Corporate Debtor by any Governmental Authority to continue to remain valid and implementing this Resolution Plan will not entitle the relevant Governmental Authorities to withdraw such benefits and incentives.	Granted
26	Direction to RBI and Bankers for changing the status of the CD and consider it as Performing Asset.	Direct the RBI and the Bankers of the Corporate Debtor to consider the Corporate Debtor as a performing asset and change its status from “NPA/ Stressed Asset” to Normal Category.	Granted
27	Extinguishment of Income Tax Liability and demand for the tax for a period prior to effective date.	The Resolution Applicant specifically prays to the Adjudicating Authority to pass an order extinguishing, completely any Income Tax Liability and/or demand for the tax for a period prior to the effective date and the Corporate Debtor and the Resolution Applicant shall not be liable for any Income Tax Liability and/or demand for the tax, pursuant to the resolution plan approved by the NCLT.	Granted

45. The Implementation and Monitoring Committee shall supervise the implementation of the Resolution Plan with the help of the newly constituted board till the implementation of the proposed transaction under the Resolution Plan i.e., payment of the committed amount to

the Secured Financial Creditors/Operational Creditors. The Committee shall include a total of 3 members comprising one representative from resolution applicant and CoC with resolution professional as one of the member who will be the supervising officer during the course of implementation of the Resolution Plan (until the total consideration committed by the RA as per this Resolution Plan is paid.

46. **ANALYSIS AND FINDINGS OF THIS TRIBUNAL**

- 1) It is seen from Form – H that the Liquidation Value of the Corporate Debtor is arrived at Rs.22,862/- and the corresponding Fair Value is arrived at Rs.22,862/-. The Resolution Plan is for INR ~ 395.13 Lakhs + CIRP cost payable on actuals as may be submitted by the RP upto the date of approval of the Resolution Plan by the Hon'ble NCLT.
- 2) Further, it is seen from Form – H that presently application under Sections 66 of IBC, 2016 is pending on the file of this Tribunal.
- 3) In so far as the approval of the Resolution Plan is concerned, this Authority is convinced on the decision of the Committee of Creditors, following the Judgment of Hon'ble Supreme Court in the matter of **K. Sashidhar -Vs- Indian Overseas Bank** (2019) 12 SCC 150, wherein in para 19 and 62 it is held as follows;

“19..... In the present case, however, our focus must be on the dispensation governing the process of approval or rejection of resolution plan by the CoC. The CoC is called upon to consider the resolution plan under Section 30(4) of the I&B Code after it is verified and vetted by the resolution professional as being compliant with all the statutory requirements specified in Section 30(2).

62.In the present case, however, we are concerned with the provisions of I&B Code dealing with the resolution process. The dispensation provided in the I&B Code is entirely different. In terms of Section 30 of the I&B Code, the decision is taken collectively after due negotiations between the financial creditors who are constituents of the CoC and they express their opinion on the proposed resolution plan in the form of votes, as per their voting share. In the meeting of the CoC, the proposed resolution plan is placed for discussion and after full interaction in the presence of all concerned and the Resolution Professional, the constituents of the CoC finally proceed to exercise their option (business/commercial decision) to approve or not to approve the proposed resolution plan. In such a case, non-recording of reasons would not per-se vitiate the collective decision of the financial creditors. The legislature has not envisaged challenge to the “commercial/business decision” of the financial creditors taken collectively or for that matter their individual opinion, as the case may be, on this count.”

- 4) Further, the Supreme Court in the matter of **K. Sashidhar v. Indian Overseas Bank and Ors.** (2019) 12 SCC 150 has lucidly delineated the scope and interference of the Adjudicating Authority in the process of approval of the Resolution Plan and held as follows;

“55. Whereas, the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 limited to scrutiny of the resolution plan “as approved” by the requisite per cent 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. Reverting to Section 30(2), the enquiry to be done is in respect of whether the resolution plan provides: (i) the payment of insolvency resolution process costs in a specified manner in priority to the repayment of other debts of the corporate debtor, (ii) the repayment of the debts of operational creditors in prescribed manner, (iii) the management of the affairs of the corporate debtor, (iv) the

implementation and supervision of the resolution plan, (v) does not contravene any of the provisions of the law for the time being in force, (vi) conforms to such other requirements as may be specified by the Board. The Board referred to is established under Section 188 of the I&B Code. The powers and functions of the Board have been delineated in Section 196 of the I&B Code. None of the specified functions of the Board, directly or indirectly, pertain to regulating the manner in which the financial creditors ought to or ought not to exercise their commercial wisdom during the voting on the resolution plan under Section 30(4) of the I&B Code. The subjective satisfaction of the financial creditors at the time of voting is bound to be a mixed baggage of variety of factors. To wit, the feasibility and viability of the proposed resolution plan and including their perceptions about the general capability of the resolution applicant to translate the projected plan into a reality. The resolution applicant may have given projections backed by normative data but still in the opinion of the dissenting financial creditors, it would not be free from being speculative. These aspects are completely within the domain of the financial creditors who are called upon to vote on the resolution plan under Section 30(4) of the I&B Code.

58. Indubitably, the inquiry in such an appeal would be limited to the power exercisable by the resolution professional under Section 30(2) of the I&B Code or, at best, by the adjudicating authority (NCLT) under Section 31(2) read with Section 31(1) of the I&B Code. No other inquiry would be permissible. Further, the jurisdiction bestowed upon the appellate authority (NCLAT) is also expressly circumscribed. It can examine the challenge only in relation to the grounds specified in Section 61(3) of the I&B Code, which is limited to matters “other than” enquiry into the autonomy or commercial wisdom of the dissenting financial creditors. Thus, the prescribed authorities (NCLT/NCLAT) have been endowed with limited jurisdiction as specified in the I&B Code and not to act as a court of equity or exercise plenary powers.”

(emphasis supplied)

- 5) The Supreme Court in its decision in **Jaypee Kensington Boulevard Apartments Welfare Association & Ors. v. NBCC (India) Ltd. & Ors.**, in *Civil Appeal no. 3395 of 2020* dated 24.03.2021 has held as follows:-

“..76. The expositions aforesaid make it clear that the decision as to whether corporate debtor should continue as a going concern or should be liquidated is essentially a business decision; and in the scheme of IBC, this decision has been left to the Committee of Creditors, comprising of the financial creditors. Differently put, in regard to the insolvency resolution, the decision as to whether a particular resolution

plan is to be accepted or not is ultimately in the hands of the Committee of Creditors; and even in such a decision making process, a resolution plan cannot be taken as approved if the same is not approved by votes of at least 66% of the voting share of financial creditors. Thus, broadly put, a resolution plan is approved only when the collective commercial wisdom of the financial creditors, having at least 2/3rd majority of voting share in the Committee of Creditors, stands in its favour.

77. In the scheme of IBC, where approval of resolution plan is exclusively in the domain of the commercial wisdom of CoC, the scope of judicial review is correspondingly circumscribed by the provisions contained in Section 31 as regards approval of the Adjudicating Authority and in Section 32 read with Section 61 as regards the scope of appeal against the order of approval.

77.1. Such limitations on judicial review have been duly underscored by this Court in the decisions above-referred, where it has been laid down in explicit terms that the powers of the Adjudicating Authority dealing with the resolution plan do not extend to examine the correctness or otherwise of the commercial wisdom exercised by the CoC. The limited judicial review available to Adjudicating Authority lies within the four corners of Section 30(2) of the Code, which would essentially be to examine that the resolution plan does not contravene any of the provisions of law for the time being in force, it conforms to such other requirements as may be specified by the Board, and it provides for: (a) payment of insolvency resolution process costs in priority; (b) payment of debts of operational creditors; (c) payment of debts of dissenting financial creditors; (d) for management of affairs of corporate debtor after approval of the resolution plan; and (e) implementation and supervision of the resolution plan.

77.2. The limitations on the scope of judicial review are reinforced by the limited ground provided for an appeal against an order approving a resolution plan, namely, if the plan is in contravention of the provisions of any law for the time being in force; or there has been material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period; or the debts owed to the operational creditors have not been provided for; or the insolvency resolution process costs have not been provided for repayment in priority; or the resolution plan does not comply with any other criteria specified by the Board

77.6.1. The assessment about maximisation of the value of assets, in the scheme of the Code, would always be subjective in nature and the question, as to whether a particular resolution plan and its propositions

are leading to maximisation of value of assets or not, would be the matter of enquiry and assessment of the Committee of Creditors alone. When the Committee of Creditors takes the decision in its commercial wisdom and by the requisite majority; and there is no valid reason in law to question the decision so taken by the Committee of Creditors, the adjudicatory process, whether by the Adjudicating Authority or the Appellate Authority, cannot enter into any quantitative analysis to adjudge as to whether the prescription of the resolution plan results in maximisation of the value of assets or not. The generalised submissions and objections made in relation to this aspect of value maximisation do not, by themselves, make out a case of interference in the decision taken by the Committee of Creditors in its commercial wisdom

78. To put in a nutshell, the Adjudicating Authority has limited jurisdiction in the matter of approval of a resolution plan, which is well defined and circumscribed by Sections 30(2) and 31 of the Code read with the parameters delineated by this Court in the decisions above referred. The jurisdiction of the Appellate Authority is also circumscribed by the limited grounds of appeal provided in Section 61 of the Code. In the adjudicatory process concerning a resolution plan under IBC, there is no scope for interference with the commercial aspects of the decision of the CoC; and there is no scope for substituting any commercial term of the resolution plan approved by the CoC. Within its limited jurisdiction, if the Adjudicating Authority or the Appellate Authority, as the case may be, would find any shortcoming in the resolution plan vis-à-vis the specified parameters, it would only send the resolution plan back to the Committee of Creditors, for re-submission after satisfying the parameters delineated by Code and expounded by this Court.

- 6) Thus, from the catena of judgments rendered by the Supreme Court on the scope of approval of the Resolution Plan, it is amply made clear that only limited judicial review is available for the Adjudicating Authority under Section 30(2) and Section 31 of IBC, 2016 and this Adjudicating Authority cannot venture into the commercial aspects of the decisions taken by the Committee of Creditors.

- 7) On hearing the submissions made by the Ld. Counsel for the Resolution Professional, and perusing the record, we

find that the Resolution Plan has been approved with 100% voting share. As per the CoC, the plan meets the requirement of being viable and feasible for the revival of the Corporate Debtor. By and large, all the compliances have been done by the RP and the Resolution Applicant for making the plan effective after approval by this Bench. On perusal of the documents on record, we are also 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.

- 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.
- 9) The Resolution Plan in question is hereby **approved** by this Adjudicating Authority, subject to the observations made in this order. The Resolution Plan shall form part of this Order. The Resolution Plan is binding on the Corporate Debtor and other stakeholders.
- 10) The Resolution Applicant is directed to make payment of the entire Resolution Plan amount within the time period stipulated under the Resolution Plan, failing which the entire amount paid by the Resolution Applicant (*including*

the Performance Bank Guarantee) as on the said date would stand automatically forfeited, without any recourse to this Tribunal.

- 11) Certified copy of this Order be issued on demand to the concerned parties, upon due compliance.
- 12) Liberty is hereby granted for moving any application if required in connection with the implementation of this Resolution Plan.
- 13) A copy of this Order is to be submitted to the concerned Office of the Registrar of Companies.
- 14) Accordingly, **IA/1005(AHM)2023** stands allowed and **disposed off**.
- 15) The Monitoring Committee is directed to file a status report after 180 days from the approval of the Resolution Plan.
- 16) The **Registry** is directed to send e-mail copies of the order forthwith to all the parties and their Learned Counsel for information and for taking necessary steps. Files be consigned to the record.

-sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

Mehul Desai / Steno

-sd-

SHAMMI KHAN
MEMBER (JUDICIAL)