

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

I.A. No. 16 of 2024

IN

C.P. (IB) No. 698/MB-IV/2021

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

Amit Gupta, Resolution Professional

... Applicant

In the matter of

C.P. (IB) No. 698/MB-IV/2021

Labh Capital Services Private Limited

...Petitioner

v/s.

Shah Brothers Ispat Private Limited

...Respondent

Order Pronounced on: 29.04.2024

Coram:

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

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Applicant :

Mr. Nausher Kohli, Ld. Counsel
for the Applicant.

Space Left Blank Intentionally

ORDER

1. The instant application has been filed on 15.02.2024 by **Mr. Amit Gupta**, the Applicant Resolution Professional (“RP”) of **Shah Brothers Ispat Private Limited** (“Corporate Debtor”), under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “IBC, 2016”) on behalf of the Committee of Creditors seeking approval of the Resolution Plan submitted by **SKM Steels Limited** (the “SRA / Successful Resolution Applicant”) and approved by 100% (one-hundred percent) of the voting share of the members of the Committee of Creditors (hereinafter referred to as “CoC”) of the Corporate Debtor herein.
2. The brief facts of the Application are as follows:
 - 2.1 Pursuant to the captioned petition bearing C.P. (IB) No. 698/MB-IV/2021 filed by **Labh Capital Services Private Limited** (“Financial Creditor”) *u/s. 7* of IBC, 2016, this Tribunal was pleased to initiate Corporate Insolvency Resolution Process (“CIRP”) of the Corporate Debtor herein *vide* Order *dated* 02.06.2022. In furtherance thereof, Mr. Padmanabhan Nair (IBBI Reg. No.: IBBI/IPA-001/IP-P02289/2020-21/13495) was appointed as Interim Resolution Professional (“IRP”). The said IRP caused a public announcement to be made on 04.06.2022, informing the commencement of CIRP of the Corporate Debtor, and thereby invited claims from creditors.
 - 2.2 The First Meeting of the CoC was conducted by the IRP on 23.06.2022, and subsequently a resolution was passed with 60.95% of the voting share in the Second Meeting of CoC *dated* 08.08.2022, to appoint one Mr. Amit Gupta *viz.* the Applicant herein (IBBI Registration No.: IBBI/IPA-001/IP-P00016/2016-2017/10040) as the Resolution Professional. The said replacement was confirmed by this Bench *vide* Order *dated* 24.08.2022.

2.3 The Applicant RP submits that approval of the CoC was duly obtained for the publication of FORM-G *i.e.* Notice inviting Expression of Interest (“EOI”) for submission of Resolution Plan for the Corporate Debtor and along-with finalisation of the eligibility criterions for the Proposed Resolution Applicants (“PRA”) during the Third Meeting of CoC *dated 12.09.2022*. Accordingly, FORM-G was published in two newspapers *viz.* ‘Business Standard’ (English) and ‘Navshakti’ (Marathi) *dated 16.09.2022*, and the same was duly brought forth in the Fourth Meeting of CoC *dated 28.09.2022*.

2.4 The Applicant RP submits that discussions ensued in the intervening period from Fifth Meeting of the CoC *dated 02.11.2022*, to Tenth Meeting of the CoC *dated 23.03.2023*. In the said period, two extensions in CIRP period were duly granted by this bench, as tabulated herein-below:

S. No.	I.A. No.	Filed by	Relief Sought	Status
01	I.A. 3481/2022	RP	Extension of 90 days beyond 180 days	Allowed <i>vide</i> Order dt. 22.11.2022
02	I.A. 888/2023	RP	Extension of 60 days beyond 270 days	Allowed <i>vide</i> Order dt. 14.03.2023

2.5 The Applicant RP submits that the Resolution Plan received in consonance with the Third EOI was tabled for consideration, but was rejected thereto in Twelfth Meeting of the CoC with a vote share of 97.35%. Additionally, the resolution for Liquidation which was tabled in the Twelfth Meeting of the CoC was rejected as well with a vote share of 83.22%. At the backdrop however, on account of the statutory

period of 330 days as envisaged by the Code having expired, the Applicant RP sought to approach this Tribunal to initiate Liquidation in respect of the Corporate Debtor herein *u/s.* 33(1) of the Code. The said Application bearing I.A. No. 1953 of 2023 was duly heard by this Bench on multiple occasions, and pursuant to directions passed thereto *vide* Order dated 06.07.2023, the Applicant therein (*i.e.* the Petitioner in the captioned petition) sought to apprise this Bench of the consensus reached by the members of the CoC to the revised plan proposed by one of the PRAs which was duly put for voting, and the same was recorded by this Bench *vide* Order dated 08.08.2023. Resultantly, the said I.A. was ‘Dismissed as Withdrawn’ by this Bench *vide* Order dated 02.02.2024.

- 2.6** To enable the fruition of the Resolution Plan, this Bench was further pleased to grant an exclusion of seventy-two (72) days *vide* Order dated 02.02.2024, and a subsequent extension of two hundred and twenty (22) days, *w.e.f.* 10.07.2023 to 15.02.2024, *vide* Order dated 12.03.2024. Pursuant to the same, several meetings of CoC ensued pertaining to the revised resolution plan and revised commercial offer submitted by the said PRA. Eventually, the revised Resolution Plan dated 08.01.2024 along-with the final financial proposal offered by the said PRA was approved in-toto with a voting share of 100% in the Eighteenth Meeting of CoC convened on 11.01.2024. Resultantly, **SKM Steels Limited** was declared as the Successful Resolution Applicant (“SRA”) for the Corporate Debtor.
- 2.7** The Applicant RP hereby submits that the Resolution Plan approved by the CoC is in compliance with the legal requirements mandated under the Code. The list of compliances has been duly tabulated in the FORM-H, as mentioned at Page Nos. (12) to (16) of this Order hereto.

3. The Resolution Applicant *viz* SKM Steels Limited has confirmed that it is eligible to submit Resolution Plan as per Section 29A of Insolvency and Bankruptcy Code, 2016.
4. As per the Applicant RP, the Fair Value and Liquidation Value have been determined by three valuer(s). The averages of the said determination of the requisite Fair Value and Liquidation Value, as provided in FORM-H, are as hereunder:

Average Fair Value: INR 73.71 Crores

Liquidation Value: INR 53.87 Crores

5. The key features of the Resolution Plan for Corporate Debtor submitted by the SRA herein *viz*. SKM Steels Limited is tabulated as herein-under:

Sr No.	Particulars	Category	Amount Admitted	Proposed Distribution	Upfront Payment made (as a % of Admitted Claims)
A	CIRP Cost			On actuals	100%
B	Secured Financial Creditors		2,86,44,80,2066	1,25,29,76,359	43.74%
C	Unsecured Financial Creditors		2,37,32,233	-	-
D	Operational Creditors (Excluding Statutory Authorities and Workmen & Employees)		-	-	-
E	Operational Creditors (Provision towards	Workmen	19,29,500	19,29,500	100%

	gratuity payable)				
F	Operational Creditors – Statutory Authorities	94,141	94,141	100%	
	Total	2,88,83,06,580	1,25,50,00,000		

6. Furthermore, the Resolution Applicant has proposed to implement the Resolution Plan in full as per the timelines tabulated herein-below:

Sr. No.	Activity (Activities are in sequence)	Indicative Time
1.	Receipt of LOI from the Committee of Creditors	X (as per RFRP)
2.	Acceptance of the LOI by the Resolution Applicant and submission of the Performance Guarantee	X+2
3.	Filing of Application with Adjudicating Authority for Approval of the Resolution Plan	RP actionable
4.	Date on which the copy of the Order for Approval of Resolution Plan by the Adjudicating Authority is uploaded on the NCLT website being the “Effective Date”	A
5.	Constitution of Monitoring Committee	Within A+5
6.	Opening of Settlement Account for the Corporate Debtor	Within A+15
7.	Infusion of Fund by Resolution Applicant	A+1 year
8.	Payment of the CIRP Costs by the Corporate Debtor from the funds lying in the Designated Bank Account in priority to any of the other class of Creditors	Within A+60 days in accordance with the Code
9.	Discharge of the Admitted Liabilities towards Workmen and Employees in terms of the approved resolution plan	Within A+60 days in accordance with the Code
10.	Discharge of the Admitted Liabilities towards Operational Creditors in terms of the approved resolution plan	Within A+60 days in accordance with the Code
11.	Assignment of Debt and discharge of the liabilities of the Financial Creditor in terms of the approved resolution plan	Within A+1 year in accordance with the Code
12.	Satisfaction of Charge on the assets of the Corporate debtor by the Financial Creditors and Issuance of o Due Certificate to the Corporate Debtor/ Resolution Applicant	Within A+1 year in accordance with the Code but after payment of the

		Financial Creditor Settlement Amount
13.	Cancellation and reduction of the entire Issued share Capital of the Corporate Debtor (including Preference Shares and Equity Shares) except 10,00,000 Equity Shares issued by the Corporate Debtor to the Resolution Applicant	After A+60 days
14.	Reconstitution of the Board of Directors of the Corporate Debtor such that the nominees of Resolution Applicant shall constitute the members of the Board of the Corporate Debtor	Within A+60
15.	Amendments to Memorandum of Association & Article of Association of the Corporate Debtor	Within A+60
16.	Infusion of the Equity Subscription Amount and the loan amount into the Designated Bank Account by the Resolution Applicant and Issue of Promoter Equity Shares by Corporate Debtor to Resolution Applicant	Within A+60
17.	Change of signatories to bank accounts, issuance, and allotment of the Promoters Equity Shares to the Resolution Applicant and/ or its nominees and approval of the borrowings of the Corporate Debtor in respect of the Loan Amount	Within A+60

7. The Learned Counsel for the Applicant Resolution Professional has annexed a certificate of the Form-H to the Application, under Regulation 39(4) In Form-H of the CIRP Regulations, 2016 to certify that the Resolution Plan has approved by the CoC meets all the requirements of the IBC and its Regulations as mentioned hereinafter:

**FORM H
COMPLIANCE CERTIFICATE**

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

I, Amit Gupta, an insolvency professional enrolled with The Indian Institute of Insolvency Professional of ICAI and registered with the Board with registration number IBBI/IPA-001/IP-P00017/2016-2017/10040, am the resolution professional for the corporate insolvency resolution process (CIRP) of Shah Brothers Ispat Private Limited .

2. The details of the CIRP are as under:

Sl. No.	Particulars	Description
1	Name of the CD	Shah Brothers Ispat Private Limited.
2	Date of Initiation of CIRP	02 June 2022
3	Date of Appointment of IRP	02 June 2022
4	Date of Publication of Public Announcement	04 June 2022
5	Date of Constitution of CoC	18 June 2022
6	Date of First Meeting of CoC	23 June 2022
7	Date of Appointment of RP-	24 August 2022 (Order was received on 29 August 2022)
8	Date of Appointment of Registered Valuers	<p>Valuers for Land & Building, Plant & Machinery and Financial Assets were appointed on 11 July 2022.</p> <p>1) Land & Building</p> <ul style="list-style-type: none"> • Mr. Brijmohan Longani • Mr. Ashok Kadam <p>2) Plant & Machinery</p> <ul style="list-style-type: none"> • Mr. Bhavin Patel • Mr. Yogesh Rasal <p>3) Securities & Financial asset</p> <ul style="list-style-type: none"> • Mr. Jigar Shah • Mr. Rakesh Tulsian <p>Further third valuer, Mr. Avil Menezes was appointed on 24 November 2022 for valuation of Securities & Financial asset due to significant difference in value of Securities and Financial Assets.</p>
9	Date of Issue of Invitation for EoI	16 September 2022
10	Date of Final List of Eligible Prospective Resolution Applicants	10 November 2022
11	Date of Invitation of Resolution Plan	31 October 2022
12	Last Date of Submission of Resolution Plan	30 November 2022
13	Date of Approval of Resolution Plan by CoC	31 January 2024
14	Date of Filing of Resolution Plan with Adjudicating Authority	14 February 2024
15	Date of Expiry of 180 days of CIRP	29 November 2022

16	Date of Order extending the period of CIRP	<p>Application for extension of CIRP period by 90 days was filed with the Hon'ble NCLT. The Hon'ble NCLT vide order dated 22 November 2022 allowed the extension application extending the last date of CIRP to 27 February 2023.</p> <p>Further an application for extension of CIRP period by 60 days was filed with the Hon'ble NCLT. The Hon'ble NCLT vide order dated 14 March 2023 allowed the said extension application extending the last date of CIRP to 28 April 2023.</p> <p>Thereafter an application for exclusion of CIRP period by 72 days from the period 28 April 2023 to 09 July 2024 was filed with the Hon'ble NCLT. The Hon'ble NCLT vide order dated 02 February 2024 allowed the said application thereby extending the last date of CIRP to 09 July 2023.</p> <p>Further the Hon'ble NCLT vide order dated 02 February 2024 also permitted the RP to file an application for extension of CIRP period by 220 days and the RP has filed the extension application with the Hon'ble NCLT on 14 February 2024.</p>
17	Date of Expiry of Extended Period of CIRP	<p>14 February 2024</p> <p>The Hon'ble NCLT vide order dated 02 February 2024 permitted the RP to file an application for extension of CIRP period by 220 days. The RP has filed the extension application with the Hon'ble NCLT on 14 February 2024.</p>
18	Fair Value	<ul style="list-style-type: none"> Valuer 1 i.e. Mr. Brijmohan Longani, Mr. Bhavin Patel and Mr. Jigar Shah has provided fair value of INR 76.63 Crores for all classes of assets.

		<ul style="list-style-type: none"> • Valuer 2 i.e. Mr. Ashok Kadam, Mr. Yogesh Rasal and Mr. Rakesh Tulsian has provided fair value of INR 73.06 Crores for all classes of assets. • Valuer 3 i.e. Mr. Avil Menezes has provided fair value of INR 18.13 Crores only for Securities and Financial asset. <p>The average fair value of assets of corporate debtor is INR 73.71 Crores.</p>
19	Liquidation value	<ul style="list-style-type: none"> • Valuer 1 i.e. Mr. Brijmohan Longani, Mr. Bhavin Patel and Mr. Jigar Shah has provided liquidation value of INR 59.26 Crores for all classes of assets. • Valuer 2 i.e. Mr. Ashok Kadam, Mr. Yogesh Rasal and Mr. Rakesh Tulsian has provided liquidation value of INR 53.17 Crores for all classes of assets. • Valuer 3 i.e. Mr. Avil Menezes has provided liquidation value of INR 12.34 Crores only for Securities and Financial asset. <p>The average liquidation value of assets of corporate debtor is INR 53.87 Crores.</p>
20	Number of Meetings of CoC held	18 CoC meetings were held till 11 January 2024.

3. I have examined the Resolution Plan received from Resolution Applicant, SKM Steels Limited (“SSL”) and approved by Committee of Creditors (CoC) of Shah Brothers Ispat Private Limited.

4. I hereby certify that-

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

- ii. the Resolution Applicant viz. SKM Steels Limited has submitted an affidavit pursuant to section 30(1) of the Code confirming its eligibility under section 29A of the Code to submit resolution plan. The contents of the said affidavit are in order.
- iii. the said Resolution Plan has been approved by the CoC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Resolution Plan has been approved by 100 % of voting share of financial creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.
- iv. I sought vote of members of the CoC by electronic voting system which was kept open from 12 January, 2024 to 31 January, 2024, i.e. at least 24 hours as per the regulation 26.

5. The list of financial creditors of the Shah Brothers Ispat 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	Central Bank of India	59.01	Voted For
2	Union Bank of India	24.21	Voted For
3	Bank of Baroda	14.13	Voted For
4	State Bank of India	1.82	Voted For
5	Labh Capital Service Private Limited	0.82	Voted For
	Total	100.00	

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

6A. Minutes of the committee meeting relating to discussion and decisions about resolution plan are attached with this certificate- Minutes of the 18th CoC Meeting of the Corporate Debtor held on 11 January 2024 are attached with this certificate.

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

(Amount in Rs. Crores)

Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan	Amount Provided to the Amount Claimed (%)	Amount Provided to the Amount Admitted (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
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	-	-	-	-	-
		(ii) who voted in favour of the resolution plan	286.45	286.45	125.30	43.74%	43.74%
		Total [(a) + (b)]	286.45	286.45	125.30	43.74%	43.74%
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	-	-	-	-	-
		(ii) who voted in favour of the resolution plan	2.37	2.37	-	-	-
		Total [(a) + (b)]	2.37	2.37	-	-	-
3	Operational Creditors	(a) Related Party of Corporate Debtor	-	-	-	-	-
		(b) Other than (a) above:					
		(i) Government	8.31	0.01	0.01	0.11%	100%
		(ii) Workmen	-	-	-	-	-
		(iii) Employees	0.19	0.19	0.19	100%	100%
		(iv) For goods and services	-	-	-	-	-
		Total[(a) + (b)]	8.51	0.20	0.20	2.35%	100%
4	Other debts and dues		-	-			
Grand Total			297.33	289.02	125.50	42.21%	43.42%

Notes:

1. The total resolution plan value as per the resolution plan is INR 125.50 crores, for clarity bifurcation of same is provided below:
2. As on date unpaid CIRP cost is nil.

Particulars	Amount in Crores
Upfront Cash Component	
(a) CIRP Cost	At actuals
(b) Operational Creditors (Statutory Authority)	0.01
(c) Operational Creditors (Employees)	0.19
(d) Secured Financial Creditors	50.00
Total Upfront Cash Component (a+b+c+d)	50.20
Payment to Secured Financial Creditors within 60 days from effective date	20.00
Payment to Secured Financial Creditors within 09 months from effective date	55.30
Total Resolution Plan amount	125.50

3. Resolution applicant has proposed that all the secured financial creditors holding personal guarantee and/ or any third-party security shall release/ relinquish the charges on personal guarantee and/ or any third-party security and issue a no dues certificate.

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

Sl. No	Category of Share Holder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share (%) held before CIRP	Voting Share (%) held after CIRP
1	Equity	14,80,455	NIL	100%	Nil

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

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance)Yes / No(
25)2()h(	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	Section 2.2 of Resolution Plan @ Page No. 12 of the Resolution Plan.	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?	Section 2.2 of Resolution Plan @ Page No. 12 of the Resolution Plan and (Format IIIA of Annexures to Resolution Plan)	Yes
Section 30)1(	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Section 3.4 of Resolution Plan @ Page No. 16 of the Resolution Plan	Yes
Section 30)2(	Whether the Resolution Plan-		
	(a) provides for the payment of insolvency resolution process costs?	Section 5.2 (v) (a) (Payments under	Yes

		resolution plan) @ Page No. 18 of the Resolution Plan	
(b) provides for the payment to the operational creditors?		<p>Section 5.2 (v) (Payments under resolution plan)</p> <p>(b) Claim filed by Workmen and Employee @ Page No. 18 of the Resolution Plan</p> <p>AND</p> <p>(c) Claim filed by Operational Creditors (Excluding Statutory Authorities and workmen and employee) @ Page No. 19 of the Resolution Plan</p> <p>AND</p> <p>(d) Claim filed by Operational Creditors (Statutory Authorities) @ Page No. 19 of the Resolution Plan</p>	Yes
(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?		Section 5.2 (v) (e) (Payments under resolution plan) @ page no 21 of the Resolution Plan.	Yes
(d) provides for the management of the affairs of the corporate debtor?		Section 6.5 (Management of corporate debtor by resolution applicant) @ Page No 30 - 31 of the Resolution Plan	Yes
(e) provides for the implementation and supervision of the resolution plan?		Section 6.2 (Implementation Schedule) @ Page No. 26 of the Resolution Plan	Yes
(f) contravenes any of the provisions of the law for the time being in force?]		Section 11 (Additional Terms) @ page no 46 of the Resolution Plan.	Yes

Section 30)4(	Whether the Resolution Plan (a) is feasible and viable, according to the CoC? (b) has been approved by the CoC with 66% voting share?	Yes Yes, approved unanimously by the CoC in its 18th meeting.	Yes Yes
Section 31)1(	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Section 6.2 (Implementation Schedule) @ Page No. 26 of the Resolution Plan	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?]	Section 5.2 (v) (Payments under resolution plan) (b) Claim filed by Workmen and Employee @ Page No. 18 of the Resolution Plan AND (c) Claim filed by Operational Creditors (Excluding Statutory Authorities and workmen and employee) @ Page No. 19 of the Resolution Plan AND (d) Claim filed by Operational Creditors (Statutory Authorities) @ Page No. 19 of the Resolution Plan	Yes
Regulation 38)1A(	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Section 10.3 (Review of interest of all Stakeholders) @ Page No. 42 of the Resolution 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. (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?]	Section 3.5 [Declaration under Regulation 38(1B)] @ Page No. 16 of the Resolution Plan. NA	Yes

Regulation 38)2(	Whether the Resolution Plan provides: a) the term of the plan and its implementation schedule?	Section 6 (Manner and Implementation of Resolution Plan) @ Page No. 26 of the Resolution Plan	Yes
	b) for the management and control of the business of the corporate debtor during its term?	Section 6.5 (Management of Corporate Debtor by resolution Applicant) @ Page No. 30 of the Resolution Plan	Yes
	c) adequate means for supervising its implementation?	Section 6.4 (Monitoring Committee) @ Page No. 29 of the Resolution Plan	Yes
38)3(	Whether the resolution plan demonstrates that – a) it addresses the cause of default?	Section 2.4 (Our understanding of cause of default by the Corporate Debtor) @ Page No. 14 of the resolution plan	Yes
	b) it is feasible and viable?	Section 3 (Overview of the Resolution Applicant) @ Page No. 15 of the resolution plan READ WITH Annexure 6 (Financial Projections) of the Resolution Plan	Yes
	c) it has provisions for its effective implementation?	Section 6 (Manner and Implementation of Resolution Plan) @ Page No. 26 of the Resolution Plan AND Section 6.4 (Monitoring Committee) @ Page No. 29 of the Resolution Plan	Yes
	d) it has provisions for approvals required and the timeline for the same?	Section 6.6 (List of Approvals, from whom and the estimated timelines) @ Page No. 31 of the Resolution Plan	Yes

		AND	
		Section 9 (Reliefs Sought) @ Page No. 34 of the Resolution Plan	
	e) (the resolution applicant has the capability to implement the resolution plan?)	Section 3 (Overview of the Resolution Applicant) @ Page No. 15 of the resolution plan.	Yes
39)2(	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	The Resolution Professional upon receipt of transaction audit report determined that there are no transactions which are falling under sections 43, 45, 50 or 66 of the Code and accordingly no avoidance application was filed.	No
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]	--	Yes, Performance Security of INR 05 Crores has been provided by SSL on 13 th February 2024.

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

Section of the Code / Regulation No.	Description of Activity	Latest Timeline under regulation 40A	Actual Date
Section 16(1)	Commencement of CIRP and Appointment of IRP	02 June 2022	02 June 2022
Regulation 6(1)	Publication of Public Announcement	05 June 2022	04 June 2022
Section 15(1)(c) / Regulation 12 (1)	Submission of Claims	16 June 2022	16 June 2022
Regulation 13(1)	Verification of Claims	23 June 2022	16 June 2022
Section 26(6A) / Regulation 15A	Application for Appointment of Authorised Representative, if necessary	-	-
Regulation 17(1)	Filing of Report Certifying Constitution of CoC	25 June 2022	18 June 2022
Section 22(1) and regulation 17(2)	First Meeting of the CoC	02 July 2022	23 June 2022
Regulation 35A	Determination of fraudulent and other transactions	25 September 2022	07 February 2023

Regulation 27	Appointment of two Registered Valuers	19 July 2022	11 July 2022
Regulation 36 (1)	Submission of Information Memorandum to CoC	05 September 2022	26 July 2022
Regulation 36A	Invitation of EoI	01 August 2022	16 September 2022
	Publication of Form G	01 August 2022	16 September 2022
	Provisional List of Resolution Applicants	26 August 2022	26 October 2022
	Final List of Resolution Applicants	10 September 2022	10 November 2022
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants	15 September 2022	31 October 2022
Section 30(6) / Regulation 39(4)	Submission of CoC approved Resolution Plan	24 June 2023	14 February 2024
Section 31(1)	Approval of Resolution Plan	09 July 2023	-

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

The Successful Resolution Applicant has sought certain reliefs, concessions and dispensation as more particularly set out under **Section 6.6 (List of Approvals, from whom and the estimated timelines)** and **Section 9 (Reliefs Sought)** of the resolution plan.

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

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

Section of the Code / Regulation No.	Description of Activity	Latest Timeline under regulation 40A	Actual Date	Reason for delay
Regulation 35A	Determination of fraudulent and other transactions	25 September 2022	07 February 2023	RP received the order for appointment as RP on 29 th August 2022 and after receiving the approval from the CoC in the third meeting held on 12 th September 2022, the RP appointed the transaction auditor on 16 th September 2022. The final transaction audit report was received after various follow up and reminders on 31 st January 2023.

Regulation 36A	Invitation of EoI	01 August 2022	16 September 2022	RP received the order for appointment as RP on 29 th August 2022 and after receiving the approval from the CoC in the third meeting held on 12 th September 2022, RP published the form G on 16 th September 2022 and accordingly the timelines for issuing Provisional and final list were delayed.
	Publication of Form G	01 August 2022	16 September 2022	
	Provisional List of Resolution Applicants	26 August 2022	26 October 2022	
	Final List of Resolution Applicants	10 September 2022	10 November 2022	
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants	15 September 2022	31 October 2022	RP received the order for appointment as RP on 29 th August 2022 and after receiving the approval from the CoC in the fourth meeting held on 28 th September 2022, Request for Resolution Plan, including Evaluation Matrix and Information Memorandum were issued to Prospective Resolution Applicants on 31 October 2022.
Section 30(6) / Regulation 39(4)	Submission of CoC approved Resolution Plan	24 June 2023	31 January 2024	The NCLT Hon'ble NCLT vide order dated 02 February 2024 allowed the RP to file an application for extension of CIRP period by 220 days, if the same is allowed then the CIRP period will expire on 14 February 2024
Section 31(1)	Approval of Resolution Plan	09 July 2023	-	

14. The Resolution Plan is being filed on 14 February 2024 which is within the time period of CIRP provided in section 12 of the Code read with extension and exclusions approved.

Note: The NCLT Hon'ble NCLT vide order dated 02 February 2024 allowed the RP to file an application for extension of CIRP period by 220 days, if the same is allowed then the CIRP period will expire on 14 February 2024.

14A. Whether the resolution professional has, in accordance with regulation 35A, -

(a) applied to the Adjudicating Authority on or before the one hundred and thirty-fifth day of the insolvency commencement date:

No, the Resolution Professional upon receipt of transaction audit report determined that there are no transactions which are falling under sections 43, 45, 50 or 66 of the Code and accordingly no avoidance application was filed.

(b) filed Form CIRP 8 with the Board on or before the one hundred and fortieth day of the insolvency commencement date:

No, the Resolution Professional upon receipt of the transaction audit report filed the CIRP 8 on 02 February 2023 i.e. on 246th day of Insolvency Commencement.

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

S. No.	Type of Transaction	Date of Filing with Adjudicating Authority	Date of Order of the Adjudicating Authority	Brief of the Order
1	-	-	-	-

Note: The Resolution Professional upon receipt of transaction audit report determined that there are no transactions which are falling under sections 43, 45, 50 or 66 of the Code and accordingly no avoidance application was filed.

15A. The committee has approved a plan providing for contribution under regulation 39B as under: The members in the 12th CoC Meeting unanimously decided since corporate debtor has enough liquid assets to meet the liquidation costs so there is no need for CoC to provide for contribution in the liquidation costs.

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

- | | |
|---|-----|
| a. Sale of corporate debtor as a going concern: | Yes |
| b. Sale of business of corporate debtor as a going concern: | NA |

Note: The members in the 12th CoC Meeting unanimously decided that since corporate debtor is running as a going concern during the CIRP period, and the liquidator should first explore sale of corporate debtor as going concern, if the plan is not approved.

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

Note: The members in the 15th CoC Meeting decided that the Mr. KK Balasubramanian (IBBI/IPA-001/IP-P01544/2018-19/12401) should be appointed as the Liquidator of the Corporate Debtor if the Resolution Plan is not approved by the Committee of Creditors/Adjudicating Authority and be paid a fee as per Regulation 4 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

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

Name of the Resolution Professional: Amit Gupta
IP Registration No: IBBI/IPA-001/IP-P00017/2016-17/10040
Authorization for Assignment valid till 30th November 2024
Address as registered with the Board: 101, 1st Floor,
Kanakia Atrium 2, Cross Road A, Behind Courtyard Marriott,
Chakala, Andheri East, Mumbai - 400093
Email id as registered with the Board: caamith.gupta@gmail.com, cirp.shahbrothers@rirp.co.in
Date: 14-02-2024

8. In the circumstances mentioned hereinabove, the Applicant Resolution Professional has filed this Application seeking approval of this Tribunal of the Resolution Plan, submitted by the Resolution Applicant *viz.* SKM Steels Limited stating that the plan is in accordance with Section 30(2) of IBC, 2016, and other provisions laid down thereunder.
9. On perusal of the Resolution Plan, it is observed that the Resolution Plan provides for the following:
- i.* Payment of CIRP Cost as specified *u/s.* 30(2)(a) of the Code.
 - ii.* Repayment of Debts of Operational Creditors as specified *u/s.* 30(2)(b) of the Code.
 - iii.* For management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified *u/s.* 30(2)(c) of the Code.
 - iv.* The implementation and supervision of Resolution Plan by the RP and the CoC as specified *u/s.* 30(2)(d) of the Code.
10. The Applicant RP has complied with the requirement(s) of the Code in terms of Section(s) 30(2)(a) to 30(2)(f) of IBC, 2016, and Regulations 38(1), 38(1)(a), 38(2)(a), 38(2)(b), 38(2)(c) & 38(3) of CIRP Regulations.
11. The Applicant RP has filed Compliance Certificate in Form-H along with the plan, as afore-mentioned hereto. On perusal, the same is found to be in order. The Resolution Plan has been approved by the members of CoC in

the Eighteenth Meeting held on 11.01.2024, with a voting percentage of 100% (One hundred percent). Further, there are no such pending proceedings *u/s.* 66(1) *r/w.* 43(1) and 44(1) of the Code.

12. The Resolution Applicant has additionally sought certain waivers, (additional) reliefs and concessions per Item {9} of the Resolution Plan. We make it categorically clear that **no** reliefs, concessions or dispensations that fall within the domain of other governmental departments/ authorities are granted hereto, more specifically including the relief sought *via* sub-para (ii) of Para {9.4}. The reliefs, concessions and dispensations that pertain to other governmental authorities/departments shall be dealt with by the respective competent authorities/fora/offices, Government (State or Central) with regard to the respective reliefs, if any.

13. In the case of *K Sashidhar v. Indian Overseas Bank & Others (in Civil Appeal No.10673/2018 decided on 05.02.2019)* the Hon'ble Apex Court held that if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan as approved by CoC meets the requirements specified in Section 30(2). The Hon'ble Court observed that the role of the NCLT is 'no more and no less'. The Hon'ble Court further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 and is limited to scrutiny of the Resolution Plan "as approved" by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the Adjudicating Authority can reject the Resolution Plan is in reference to matters specified in Section 30(2) when the Resolution Plan does not conform to the stated requirements.

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

*“Thus, it is clear that the limited judicial review available, which can in no circumstance trespass upon a business decision of the majority of the Committee of Creditors, has to be within the four corners of section 30(2) of the Code, insofar as the Adjudicating Authority is concerned, and section 32 read with section 61(3) of the Code, insofar as the Appellate Tribunal is concerned, the parameters of such review having been clearly laid down in **K. Sashidhar (supra)**.”*

15. In view of the discussions and the law thus settled, the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. The same needs to be approved. Hence ordered.

ORDER

16. The present Application being I.A. No. 16 of 2024 in C.P. (IB) No. 698/MB-IV/2021 is hereby **Allowed**. The Resolution Plan annexed to the Application is hereby approved. It shall become effective from this date and shall form part of this order.

16.1. It shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.

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

16.3. Further in terms of the judgment of Hon'ble Supreme Court in the matter of *Ghanshyam Mishra And Sons Private Limited V/S Edelweiss Asset Reconstruction Company Limited*, on the date of approval of the Resolution Plan by the adjudicating authority, all such claims which are not a part of the Resolution Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim which is not a part of the Resolution Plan.

16.4. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Mumbai, Maharashtra for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.

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

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

16.7. The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this Order for information.

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

17. The captioned Interlocutory Application bearing I.A. No. 16 of 2024 in C.P. (IB) No. 698/MB-IV/2021 is accordingly **Allowed** and **Disposed-of**.

Sd/-
ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)
29.04.2024
Aditya Kalia

Sd/-
KISHORE VEMULAPALLI
MEMBER (JUDICIAL)
