

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOCHI BENCH**

**IA(IBC)(PLAN)/01/KOB/2024**

**IN**

**CP(IBC)/48/KOB/2022**

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

***In the matter of:***

**SAIL - SCL KERALA LIMITED**

**MEMO OF PARTIES:**

**ANISH AGARWAL,**

Resolution Professional,

IP Registration No.: IBBI/IPA-001/IP-  
P01497/2018-19/12256,

Space No. Vista D-1101 Godrej United,  
Whitefield Main Road,

Hoodi Village Hobli, Mahadevapura,

Near Phoenix Market City,

Bengaluru, Karnataka - 560 048

**... Applicant**

**Order delivered on: 02.05.2024**

***Coram:***

**Hon'ble Member (Technical)**

**Shri. Shyam Babu Gautam**

**Hon'ble Member (Judicial)**

**TMT. Justice T Krishna Valli**

***Appearances:***

For the Applicant : Mr. Shaunak Mitra, Mr. Rachit Lakhmani,  
and Mr. Siddanth Makkar, Advocates.  
Mr. Anish Agarwal (RP)

**ORDER**

***Per Coram***

1. This is an application filed under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (“the Code”) for approval of a Resolution Plan in respect of ‘SAIL – SCL Kerala Limited,’ the Corporate Debtor (“CD”). The Resolution Professional filed the present application for approval of the Resolution Plan, which was approved by the Committee of Creditors (“CoC”) with a 100% voting share in its 9<sup>th</sup> meeting which was held on 30.12.2023.
2. The underlying Company Petition CP(IBC)/48/KOB/2022, filed by ‘Canara Bank’ against the Corporate Debtor under Section 7 of the Code, was admitted by this Tribunal and Corporate Insolvency Resolution Process (“CIRP”) initiated against the Corporate Debtor on 23.03.2023, and Mr. Anish Agarwal, Resolution Professional, IP Registration No.: IBBI/IPA-001/IP-P01497/2018-19/12256, was appointed as the Interim Resolution Professional (“IRP”). The Committee of Creditors (“CoC”) in its first meeting held on 20.04.2023 resolved to appoint the IRP as the Resolution Professional (“RP”).

3. The Applicant made a Public Announcement under Form-A on 26.03.2023 in terms of Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate Person) Regulations, 2016, (“CIRP Regulations”) inviting claims from the Creditors of the Corporate Debtor. The last date for the submission of claims by the creditors was 06.04.2023.
4. The applicant after collation of all claims, in terms of provisions of Section 18(1)(c) of the Code read with Regulations 13(2)(d) and Regulation 17 (1) of the CIRP Regulations constituted the Committee of Creditors (“CoC”) and filed the same with the Hon’ble NCLT on 13.04.2023.
5. The Applicant in compliance with Regulation 36A (1) of the Insolvency and Bankruptcy (Insolvency Resolution Process for Corporate Persons) Regulations 2016 published Form-G on 18.06.2023 inviting Expression of Interests (“EOI”) from Prospective Resolution Applicants (“PRAs”) and the last date for submission of Resolution Plan was 03.07.2023. Till the last date, the Applicant received two EOIs from the Prospective Resolution Applicants (PRAs), among which only one of the PRA was found eligible.
6. Later, after much deliberations in the 5<sup>th</sup> COC Meeting, the CoC members thought it fit to publish form G again and invite the public at large with eased eligibility criteria to generate more interest in the CIRP of the Corporate Debtor. Pursuant to this, in compliance with the Regulations, Form-G was published for the second time on 30.07.2023 inviting Expression of Interests (EOI) from Prospective Resolution Applicants (PRAs) and the last date for submission of EOIs was on 14.08.2023. Till the

last date, Applicant received two EOI from the Prospective Resolution Applicants (PRAs).

7. After verification, the provisional list of the Prospective Resolution Applicants was published on 24.08.2023 wherein both the applicants above were held provisionally eligible. The RFRP including Evaluation Matrix and Information Memorandum to the PRAs was issued by the applicant on 29.08.2023.
8. In the 6<sup>th</sup> CoC meeting held on 21.08.2023, a minimum of 30 days' time was given for submission of resolution plans to the PRAs from the date of issue of RFRP to them. The last date for the receipt of plans was on 29.09.2023 or after.
9. The applicant RP, in the same meeting, stated that the 180 days of the CIRP period is coming to an end on 19.09.2023 pursuant to which an application seeking for extension of time in terms with Section 12 of the IBC, 2016 was filed with NCLT and an extension of 90 days was granted by this Hon'ble Tribunal Vide its order dt. 25.09.2023.
10. It is submitted that only one Resolution Plan was received by the RP on 29.09.2023 i.e. from Chhattisgarh Outsourcing Services Pvt. Ltd (SRA). The 7<sup>th</sup> CoC meeting was called for by the RP to discuss this Resolution Plan. This meeting was held on 20.10.2023, adjourned and was further concluded on 25.10.2023. Thereafter, the CoC Members discussed the various points observed by them in the Resolution Plan with the Resolution Applicant.

11. The Resolution Applicant was intimated that he needs to improve the financial offer as the CoC suggested that the amount proposed towards them is not in line with their expectations. In accordance with the same the RA vide email dated 07.11.2023 to the RP proposed and increased its offer and, the terms of payment were also bettered. In the 8<sup>th</sup> CoC meeting held on 01.12.2023, the above-revised plan was briefed to the CoC members as well.
12. Thereafter the RP informed the CoC that the 270<sup>th</sup> day of CIRP in this matter is ending on 19.12.2023. Considering the situation, as suggested by the CoC the RP filed an application with NCLT, Kochi seeking 60 days additional time beyond 19.12.2023 and the said Application is pending adjudication before this Hon'ble Tribunal.
13. In the 9<sup>th</sup> Meeting of the CoC dated 11.12.2023, the Applicant informed the CoC members that the Final Resolution Plan dated 08.12.2023 has been received from the RA i.e., the Chhattisgarh Outsourcing Services Private Limited. In the said meeting, CoC Members took note of the financial offer and further discussed the feasibility and Viability of the Resolution Plan.
14. The Resolutions proposed as aforesaid and under the 9<sup>th</sup> CoC Meeting dated 11.12.2023, were approved by the CoC with 100% votes on 30.12.2023 and the 'Chhattisgarh Outsourcing Services Private Limited' was declared as the Successful Resolution Applicant ("SRA") in the CIRP of the Corporate Debtor.
15. The Resolution Plan dated 11.12.2023 as approved by the CoC is given on pages 170 to 143 of the application as Annexure 13(Colly). The Successful Resolution Applicant, **Chhattisgarh Outsourcing Services Pvt. Ltd.**,

proposes to acquire the corporate debtor as a going concern through the Resolution Plan entailing a total proposed outlay of **Rs. 2962.00 Lakhs** for settling the creditors and CIRP Cost. The claims admitted and considered in the Resolution Plan are as follows:

| <b>Sr. No.</b> | <b>Category of Claim</b>   | <b>Claim Amount (INR Lacs)</b> | <b>Amount admitted (INR Lacs)</b> | <b>The amount proposed to be paid as per the Resolution Plan (INR Lacs)</b> |
|----------------|--|--------------------------------|-----------------------------------|---|
| 1.             | Unpaid CIRP Costs  | -                              | -                                 | Actuals   |
| 2.             | Financial Creditors (Secured)  | 11801.23                       | 11801.23                          | 2501.00 Lakhs   |
| 3.             | Financial Creditor (Unsecured)   | -                              | -                                 | -   |
| 4.             | Operational Creditors (Workers and Employees) incl. EPFO & Gratuity Fund | 1060.55                        | 534.72                            | 446.00 Lakhs  |
| 5.             | Operational Creditors (Govt./Statutory dues)                             | 3309.87                        | 2206.36                           | 15.00 Lakhs   |
|                | <b>Total</b>   | <b>16171.65</b>                | <b>14542.31</b>                   | <b>2962.0 Lakhs</b>   |

16. The CIRP cost remaining unpaid post utilization of all available cash balances of the Corporate Debtor is to be paid at actuals from the amount proposed towards the settlement of secured financial creditors. The amount payable to the Secured Financial Creditors shall stand reduced to the extent of any Unpaid CIRP Costs being met from the Total Resolution Amount. Operational Creditors (Workers and Employees) The amount payable to the Secured Financial Creditors shall stand reduced to the extent of excess amount of payment against proposed, as mandatory payment towards under section 53 read with 36 (4) (iii) all sums due to any workman or employee from the provident fund, the pension fund and the gratuity fund being met from the Total Resolution Amount.
17. The RP issued the Letter of Intent dated 03.01.2024 to the above SRA in accordance with the Terms of the Request for Resolution Plan (“RFRP”). The SRA was to submit the performance security of Rs. 2.97 Crores (Being 10% of the total Plan Value amounting to Rs.29.62 Crores) as provided under the RFRP within 7 days of receiving this LOI. This LOI was accepted by the SRA and a performance bank guarantee of Rs. 3 Crores has been provided by the SRA.
18. The Applicant further submitted that the successful resolution applicant has submitted Annexure performance Bank Guarantee No. 240391IBGP00032 dated 06.01.2024 for Rs. 3,00,00,000/- (Rupees Three Crores only) issued by IDBI Bank Ltd. having validity till 05.02.2025 as required under sub-regulation (4A) of regulation 36B as Annexure 12.
19. The valuations on the assets of the Corporate Debtor were conducted by the valuers appointed by the Applicant wherein the average Liquidation

Value of the Corporate Debtor is approximately Rs.19,13,81,952.50/- and the average fair value is approximately Rs.72,93,14,996.50/-. A copy of the Valuation Summary is annexed as Annexure 15 on page 261 of the application. The copy of the KYC documents of the Resolution Applicant is annexed as Annexure 16 on pages 262-265 of the application. Further, the copy of the Confidentiality Undertaking of the Resolution Applicant dated 14.08.2023 is annexed as Annexure 17 on pages 266-271 of the application.

20. The Applicant has submitted the details of various compliances as envisaged by the Code and the CIRP Regulations which a Resolution Plan is required to adhere to. The Compliance Certificate of the Applicant under Form-H is marked as Annexure 14. These are stated as follows:

| <b>Section of the Code/Reg.</b> | <b>Requirement with respect to Resolution Plan</b>  | <b>Section/ Clause of Resolution Plan</b> | <b>Compliance (Yes / No)</b> |
|---------------------------------|---|---|------------------------------|
| 25(2)(h)                        | Whether the Resolution Applicant meet the criteria approved by the CoC having regard to the complexity and scale of operations of the business of the CD? | Section I                                 | Yes                          |

|       |  |   |                           |
|-------|--|---|---------------------------|
| 29A   | Whether the Resolution Applicant is eligible to submit a resolution plan as per the final list of Resolution Professional or Order, if any, of the Adjudicating Authority?   | Notarised affidavit given as 'Annexure 13(colly)' | Yes                       |
| 30(1) | Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?   | Notarised affidavit given as 'Annexure 13(colly)' | Yes                       |
| 30(2) | Whether the Resolution Plan:<br>a) Provides for the payment of insolvency resolution process costs?<br>b) Provides for the payment to the operational creditors?<br>c) Provides for the payment to the financial creditors | Section IV<br><br>Section IV<br><br>Section IV    | Yes<br><br>Yes<br><br>Yes |

|                      |   |   |                                       |
|----------------------|---|---|---------------------------------------|
|                      | <p>who did not vote in favour of the resolution plan?</p> <p>d) Provides for the management of the affairs of the corporate debtor?</p> <p>e) Provides for the implementation and supervision of the resolution plan?</p> <p>f) Contravenes any of the provisions of the law for the time being in force?</p> | <p>Section XI</p> <p>Section XI</p> <p>Section III, Section IV - 1.2. C</p> | <p>Yes</p> <p>Yes</p> <p>No</p>       |
| <p>Section 30(4)</p> | <p>Whether the Resolution Plan:</p> <p>a) is feasible and viable, according to the CoC?</p> <p>b) has been approved by the CoC with 66% voting share?</p>   | <p>Section IX</p> <p>-</p>  | <p>Yes</p> <p>Yes with 100% votes</p> |

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|-------------------|--|-------------------------|---|
| Section 31(1)     | Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?  | Section V, Section XIII | Yes, All payments/settlements shall be made within 6 months from the record date. |
| Regulation 38(1)  | Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over the financial creditors? | Section IV              | Yes   |
| Regulation 38(1A) | Whether the resolution plan include a statement as to how it has dealt with the interests of all stakeholders?                                 | Section IV              | 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                     | Section III             | No, Declaration given.  |

|                  |  |                                   |                       |
|------------------|--|-----------------------------------|-----------------------|
|                  | <p>implementation of any resolution plan approved under the Code?</p> <p>ii. If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?</p>                | -                                 | Not Applicable        |
| Regulation 38(2) | <p>Whether the Resolution Plan provides:</p> <p>a) the term of the plan and its implementation schedule?</p> <p>b) for the management and control of the business of the corporate debtor during its term?</p> | <p>Section V</p> <p>Section V</p> | <p>Yes</p> <p>Yes</p> |

|                  |  |              |  |
|------------------|--|--------------|--|
|                  | c) adequate means for supervising its implementation?                            | Section V    | Yes  |
| Regulation 38(3) | Whether the resolution plan demonstrates that:                                   |              |  |
|                  | a) it addresses the cause of default?  | Section II   | Yes  |
|                  | b) it is feasible and viable?  | Section IX   | Yes  |
|                  | c) it has provisions for its effective implementation?                           | Section XIII | Yes, all payments/ settlements shall be made within 6 months from the record date. |
|                  | d) it has provisions for approvals required and the timeline for the same?       | Section XIII | Yes  |
|                  | e) the resolution applicant has the capability to implement the resolution plan? | Section X    | Yes  |

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| Section 39(2)    | Whether the RP has filed applications in respect of transactions observed, found or determined by him?     | -   | Not Applicable   |
| Regulation 39(4) | Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B. | Performance Bank Guarantee provided as per RFRP | Yes<br>Performance Bank Guarantee No. 240391IBGP00032 dated 06.01.2024 for Rs. 3,00,00,000/- (Rupees Three Crores only) issued by IDBI Bank Ltd. having validity till 05.02.2025.<br>(Copy of PBG attached as Annexure 12) |

21. The applicant has filed a Compliance Certificate in prescribed form i.e., Form-H in compliance with regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016 as Annexure 14, along with evidence of receipt of performance bank guarantee as required under Regulation 36B(4A) is

disclosed as Annexure 12(colly) in pages 160 to 169 of the application, respectively.

22. As required by Section 30(1) r/w Regulation 39(1)(a) of the CIRP Regulations, the Applicant submitted that the Successful Resolution Applicant has attached a Certificate of Eligibility under Section 29A of the Code vide notarized affidavit dated 29.09.2023 at pages 244-246 of the application.
23. The Resolution Applicant requests, proposes and prays for the following reliefs and concessions to be granted to the Corporate Debtor and/or the Resolution Applicant, as the case may be, on the Approval Date.

| <b>Sr. No.:</b> | <b>Reliefs/Waivers/Concessions sought</b>   | <b>Status</b> |
|-----------------|---|---------------|
| 1.              | Requests that all rights & benefits and incentives under all agreements, arrangements/ incentive schemes, subsidy schemes and policies that the Corporate Debtor is entitled under, and all such benefits shall remain vested in the Corporate Debtor with effect from the NCLT Approval date, notwithstanding anything contained in any agreement or Contract or Shareholder Agreement or/and Joint venture Agreement. | Granted       |

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| 2. | Requests the dispensation from the applicability of the provisions of the Companies Act, 2013: Upon approval of the Resolution Plan by Adjudicating Authority, no further proceedings and/or formalities shall be required to be undertaken in respect of the amalgamation with SPV/Associates; Amalgamation under the Companies Act and the respective authority shall take cognizance of it on receipt of the copy of Order of Hon'ble NCLT as per Regulation 37(ba) of the CIRP Regulations and Section 5(26) of the IBC, 2016. | Granted subject to the relevant provisions of the applicable laws |
| 3. | Requests that the CBDT and or any other Governmental Authority to allow the Corporate Debtors to enjoy and avail in future any tax benefits, deductions, exemptions as per the relevant provisions of the Applicable Laws which the Corporate Debtors was entitled to as on the NCLT Approval Date for the balance period as per the relevant provisions of the Applicable Laws; and   | Granted   |
| 4. | Requests that the Corporate Debtor or the Resolution Applicant shall not, at any point of time, be held financially liable under the   | Granted as per the relevant provisions                            |

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|    | provisions in relation to the liability of the Corporate Debtor as per Section 170 of the Income Tax Act, 1961 in respect of any transaction carried out before the NCLT Approval Date or contemplated under the Resolution Plan.   | of the applicable laws  |
| 5. | Requests that the Corporate Debtor shall be entitled to carry forward and set off all the brought forward book losses and unabsorbed depreciation as shown in the books of account and considered in the returns filed under the Income Tax Act. Further, credit in respect of minimum alternate tax paid by the Corporate Debtor shall continue with the Corporate Debtor on a 'going concern' basis and shall be available for the benefit of the Resolution Applicant or the Corporate Debtor, as the case may be. | Granted subject to the relevant provisions of the applicable laws |
| 6. | Requests that the Collector of Stamps, Revenue Department, of any State Government and the Ministry of Corporate Affairs and SEBI 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   | Granted subject to the relevant provisions of the applicable laws |

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|    | and registration costs, as applicable, including on the cancellation and issue of shares by the Corporate Debtor.  |   |
| 7. | Requests that the concerned state revenue/ stamp authorities to waive penalties for non-registration and inadequate/ non-stamping/ absence of registration of the documents executed by the Corporate Debtor prior to the NCLT Approval Date.  | Granted as per the relevant provisions of the applicable laws     |
| 8. | Requests that all the dues as on insolvency commencement date related to the Lease be waived off and the corporate debtor would not be subjected to any penalty or interest or related charges for the lease renewal. The applicable charges for renewal of the lease would be borne by the resolution applicant. Furthermore, the relevant Department, upon payment of renewal fees, shall immediately renew the Lease. The Department would be further prohibited from rejecting the Corporate Debtor's application for renewal of its lease, on account of it being under CIRP and subsequently revived in pursuance to the provisions of the Code. | Granted subject to the relevant provisions of the applicable laws |
| 9. | Requests that as the bona fide acquisition of corporate debtor under IBC shall have a free   | Granted   |

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|-----|---|---|
|     | and marketable title to all properties/ assets notwithstanding the terms of the constitutional documents, agreement or arrangement of the corporate debtor, shareholders agreement, joint venture agreement or other document of a similar nature.  |   |
| 10. | Requests that recovery, if any, made pursuant to the order passed by Hon'ble NCLT under Section 43, Section 45, Section 50 and Section 66 of the Code before Hon'ble NCLT, Kochi Bench shall be the exclusive right of the Committee of Creditors of the Corporate Debtor.                                    | Not granted, since no such petitions are filed.               |
| 11. | Requests that the Reserve Bank of India and Credit Information Bureau of India Limited (CIBIL) to confirm that, on and from the NCLT Approval Date, all accounts of the Corporate Debtor shall stand regularized and their assets classification shall be "standard" for the purposes of all Applicable Laws; | Granted as per the relevant provisions of the applicable laws |
| 12. | Requests that all Governmental Authorities to grant any relief, concession or dispensation as may be required for implementation of the transactions  | Granted   |

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|-----|---|---------|
|     | contemplated under the Plan in accordance with its terms and conditions.  |         |
| 13. | Requests a direction that the Corporate Debtor and the Resolution Applicant shall not be liable for any taxes and shall be granted an exemption from all taxes, levies, duties, fees, stamp duties, transfer charges, transfer premiums, and surcharges that arise from or relate to the actions under the Resolution Plan, since payment of these amounts may make the Resolution Plan unviable. Any reference to taxes shall include any transfer premiums or charges, change of ownership/control charges payable in connection with the Resolution Plan and the consequent change in ownership and control of the Corporate Debtor. | Granted |
| 14. | In relation to the taxation of the Corporate Debtor, following concessions shall be applicable:<br>a) Any non-compliance in relation to filing of Income-Tax Return under Section 139 of Income Tax Act, 1961 including any other forms as required to be filed by Corporate Debtor under provisions of Income Tax Act, 1961,   | Granted |

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|--|--|---------|
|  | <p>prior to the approval of the resolution plan, be waived and not penalized;</p> <p>b) A direction be issued that the requirement of obtaining a no objection certificate under section 281 of the Income-Tax Act, 1961 and provisions of taking over its predecessor's Tax liability under section 170 of the Income-tax Act shall not be applicable. Further, the transaction shall not be treated as void under section 281 of the Income Tax Act, 1961 for any claims in respect of Tax or any other sum payable by the Corporate Debtor or any shareholder of the Corporate Debtor, if applicable;</p> | Granted |
|--|--|---------|

24. Regarding the reliefs/waivers pertaining to the domain of various departments/ governmental authorities, it is further clarified that this Adjudicating Authority has no power to sanction these waivers, etc. and the Successful Resolution Applicant is at liberty to approach the competent authorities/ courts/ legal forums/ office(s) Government or Semi-Government/State or Central Government for appropriate relief(s) sought in the plan.

25. It is directed that any relief sought in the resolution plan, where the contract/agreement/understanding/proceedings/actions/notice etc. is not specifically identified or is for future and contingent liability, is at this moment not acceded to.
26. The approval of the Resolution Plan does not mean any automatic waivers of any statutory obligations/ liabilities of the Corporate Debtor and shall be dealt with by the appropriate Authorities in accordance with the applicable laws. “Any waiver sought in the Resolution Plan shall be subject to approval by the Authorities concerned” as held by the Hon’ble Supreme Court in the matter of ***Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited in CIVIL APPEAL NO.8129 of 2019 dated 13.04.2021.***
27. Further, as per the above judgement, 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. As per the existing judicial precedents, no claims can be entertained after the approval of the resolution plan by the CoC.

#### **DETAILS OF RESOLUTION PLAN/PAYMENT SCHEDULE**

28. The Successful Resolution Applicant will bring in **Rs. 2962.00 Lakhs** towards the total Resolution amount which will be paid as follows:

| <b>Stakeholder Particulars</b>   | <b>Claim Admitted in Lakhs</b> | <b>Amount Provided in the Plan in Lakhs</b> | <b>Time Period</b>   |
|--|--------------------------------|---|--|
| Unpaid CIRP costs  | -                              | At Actual                                   | In Priority, Payable at actuals shall be paid out of and as a deduction from, the cash recovery of the Secured Financial Creditors |
| Secured Financial Creditors –<br>Canara Bank   | 11801                          | 2501  | 25% within 30 Days and the balance 75% within 6 Months from the Record date  |
| Unsecured financial creditors  | -                              | -   | -  |
| Operational creditors-   |                                |   |  |
| <ul style="list-style-type: none"> <li>• Govt.- EPFO</li> <li>• Gratuity Fund</li> <li>• Other Govt. Dues</li> </ul> | 92                             | 92<br>154<br>5                              | In priority  |
| <ul style="list-style-type: none"> <li>• Workmen/employees</li> </ul>  | 535                            | 200   | In priority  |
| <ul style="list-style-type: none"> <li>• Other operational creditors</li> </ul>                                      | 2114                           | 10  | In priority  |
| Other debts and dues   | -                              | -   | -  |

|                              |              |             |                                      |
|------------------------------|--------------|-------------|--------------------------------------|
| Existing shareholder         | -            | -           | Existing share capital be cancelled. |
| <b>TOTAL RESOLUTION PLAN</b> | <b>14542</b> | <b>2962</b> |                                      |

29. The resolution plan defines the “Record Date” which shall mean 45 business days from the NCLT approval date of this Resolution Plan. Under the Resolution Plan, it is provided that all the payments/settlements shall be made within 6 months from the Record Date.

30. The Resolution Applicant intend to undertake the corporate resolution of the Corporate Debtor in the following manner and order, in accordance with, and subject to, the provisions of this Resolution Plan. The key steps of the Resolution Plan are as follows:

| <b>Sr. No.</b> | <b>Corporate Resolution Steps</b>  | <b>Timelines</b>                            |
|----------------|--|---|
| 1.             | Formation of an SPV (if required by the Resolution Applicant) with the Resolution Applicant directly (or indirectly through an intermediate holding company(s))  | Prior to payment.                           |
| 2.             | <b>Fund Infusion:</b><br>The RA shall infuse <b>Rs.2962.00 Lakh</b> i.e., the total resolution amount under the resolution plan towards the payouts to be made to the creditors of the Corporate Debtor. | Within 6 months from the Record Date        |
| 3.             | <b>Capital Reduction:</b><br>The Corporate Debtor shall undertake a capital reduction, whereby all the equity shares and preference shares (if   | Within 30 days from the NCLT approval date. |

|    |  |   |
|----|--|---|
|    | any) of the Corporate Debtor held by any Person including public shareholders on a fully diluted basis shall stand cancelled and extinguished, without any pay-out, or cash consideration to the Financial Creditors, Operational Creditors, Employees and Workmen, statutory creditors, Other Creditors, other third parties, the existing shareholders and any other Person, under the provisions of the \ Companies Act, 2013. The face value of the equity shares so cancelled shall be transferred to the capital reserve of the Company. |   |
| 4. | On approval of resolution plan by NCLT, all existing directors of the Corporate Debtor shall be deemed to have resigned and vacated their office, and the board of directors of the Corporate Debtor shall be re-constituted by the SPV or the Resolution Applicant in accordance with Applicable Law (including the applicable requirements of appointing Independent Directors).   | Within 30 days from the NCLT approval date.                       |
| 5. | The Resolution Professional shall deliver to the Corporate Debtor / Resolution Applicant all the documents in relation to its assets and operations (including but not limited to tax returns; title documents relating to land parcels in which the Corporate Debtor has any right or interest or on which the Corporate Debtor's plant and machineries have been installed; books of accounts; agreements entered into by the Corporate Debtor with any third party; and approvals and licenses in relation to                               | Within 3 days on completion of implementation of Resolution plan. |

|  |  |  |
|--|--|--|
|  | the business and operations of the Corporate Debtor) once entire amount proposed under this resolution plan is paid out. |  |
|--|--|--|

### FINDINGS

31. On hearing the submissions made by the Ld. Counsel for the Resolution Professional, and perusing all the available records, we find that the Resolution Plan has been approved with a 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.
32. In ***K. Sashidhar vs. Indian Overseas Bank & Others (in Civil Appeal No. 10673/2018)*** the Hon'ble Apex Court held that "if the CoC had approved the Resolution Plan by requisite per cent 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. On receipt of such proposal, the Adjudicating Authority (NCLT) is required to satisfy itself that the resolution plan as approved by the CoC meets the requirements specified in Section 30(2). No more and no less."
33. Also, the Hon'ble Supreme Court in ***Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta & Ors***, held that "the limited judicial review available to Adjudicating Authority has to be within the four corners of section 30(2) of the Code. Such review can in no circumstance trespass upon a business decision of the majority of the CoC.

As such the Adjudicating Authority would not have the power to modify the Resolution Plan which the CoC in their commercial wisdom have approved.”

34. 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 Code and also complies with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. We also found that the Resolution Applicant is eligible to submit the Resolution Plan under Section 29A of the Code.
35. No circumstances exist that militate against the grant of approval for the Resolution Plan submitted by the Successful Resolution Applicant herein. Thus, the Application filed by the Resolution Professional is hereby **approved**.
36. 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.

### **ORDER**

37. Therefore, subject to the observations made in this Order, **the Resolution Plan in question is hereby approved by this Hon’ble Bench. The Resolution Plan shall form part of this Order.**
38. The Resolution Plan along with annexures and schedules forming part of the plan is binding on the Corporate Debtor, its employees, members, and

all its creditors including but not limited to secured, unsecured, financial and operational creditors, guarantors, government and statutory and local authorities and other stakeholders involved so that revival of the Corporate Debtor can come into force with immediate effect.

39. The Moratorium imposed under Section 14 shall cease to have effect from the date of this order.
40. The Resolution Professional (RP) shall stand discharged from his duties with effect from the date of this Order. However, he shall perform his duties in terms of the Resolution Plan as approved by this Adjudicating Authority.
41. The Resolution Applicant shall have access to all the Corporate Debtor's records, documents, assets and premises with effect from the date of this order.
42. The Resolution Professional is further directed to hand over all records, documents and properties of the Corporate Debtor to the Resolution Applicant to enable the Resolution Applicant to finalize the further line of action required for starting the operations.
43. In case of non-compliance with this order or withdrawal of the Resolution Plan, the CoC shall forfeit the performance security amount already paid by the Resolution Applicant.
44. Liberty is hereby granted for moving any Application if required in connection with the implementation of this Resolution Plan.
45. A copy of this Order is to be submitted by the Resolution Applicant in the Office of the Registrar of Companies (ROC), Kerala, inter alia for updating the status of the corporate debtor.

46. The Registry is directed to send e-mail copies of the order forthwith to all the parties, their Ld. Counsel/Authorized Representatives, ROC Kerala, the IBBI, for information and for taking necessary steps.
47. **This Interlocutory Application bearing no. IA(IBC)(Plan)/01/KOB/2024 is allowed as above and the main Company Petition bearing no. CP(IBC)/48/KOB/2022 shall stand disposed of accordingly.**
48. Let the certified copy of the order be issued on demand to the concerned parties upon compliance with requisite formalities.
49. File be consigned to records.

**SHYAM BABU GAUTAM**  
**(MEMBER TECHNICAL)**

**T. KRISHNA VALLI**  
**(MEMBER JUDICIAL)**

Signed on this the 02<sup>nd</sup> day of May, 2024

*Leona/LRA*