

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-II, CHENNAI**

IA(IBC)/60(CHE)/2021

In

CP/938/IB/2018

*(filed under Section 31(1) of IBC, 2016 r/w Regulation 39(4) of the IBBI
(Insolvency Resolution Process of Corporate Debtor) Regulation 2016)*

Mr.Anil Kumar Khicha,

Resolution Professional of

M/s.Ambojini Property Developers Private Limited,

Having Address at

6 FF, Golden Enclave 184,

Poonamalee High Road,

Kilpauk, Chennai - 600 010.

... Applicant

And

IA(IBC)/1802(CHE)/2023

In

IA(IBC)/60(CHE)/2021

In

CP/938/IB/2018

(filed under Section 60(5) of IBC, 2016 r/w Rule 11 of NCLT Rules 2016)

M/s. ICICI Bank Limited,

Represented by its Senior Manager,

Mr. Rajha Aravamudhan,

Having its office at ICICI Towers,

No.24, Arihant Insight,

DSMG-Home Loans (Second Floor),

Ambattur Industrial Estate,

Chennai-600 058.

... Applicant

Vs.

1. Mr.Anil Kumar Khicha,

Resolution Professional (RP),

For M/s.Ambojini Property Developers Private Limited,

Having Address at 6 FF,

Golden Enclave 184,

Poonamalee High Road,

Kilpauk, Chennai - 600 010.

2. M/s Casagrand Regale Private Limited,

Having office at 5th Floor,
NPL Devi No. 111, LB Road,
Thiruvanmiyur, Chennai-600 041.

... Respondents

Order Pronounced on **16th April 2024**

CORAM

SHRI JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)
SHRI RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

Present:

For Resolution Professional : Mr.E.Omprakash, Sr. Advocate
Priyanka Verma, Advocate,
Mr.Anil Kumar Kicha,(RP in person)

For Applicants : Mr.Somayaji, Sr.Advocate in
(IA/1802/2023)

For SRA : Mr.OLV Ganesan, Advocate

ORDER

(Physical Hearing)

IA(IBC)/60(CHE)/2021

This Application has been filed under Section 31(1) of IBC, 2016 r/w Regulation 39(4) of the IBBI (Insolvency Resolution Process of Corporate Debtor) Regulation 2016 by the Resolution Professional of the Corporate Debtor viz. Ambojini Property Developers Private Limited seeking to approve the Resolution Plan approved by the CoC.

2. It is stated that the Corporate Debtor was admitted to CIRP vide order dated 10.09.2019. Dr.L.Natrajan was appointed as the Interim Resolution Professional (IRP). The Applicant herein was appointed as the Resolution Professional vide order dated 22.10.2019 in MA/1092/2019.

3. CIR PROCESS:

DATE	CIR Process Events
13.19.2019	As per section 15 of the Insolvency and Bankruptcy, 2016 IRP made a public announcement in the Business Standard and Malai Malar, subsequently a public announcement was also made on 04.10.2020.
03.10.2019	IRP had conducted 1 st meeting of the CoC wherein the Applicant was proposed as the RP
10.01.2020	RP had received 162 claims from the homebuyers, 1 claim from ASK Investment Managers Ltd (FC), 1 claim from ICICI Bank Limited (FC) and 3 claims from Operational Creditors.
31.01.2020	Form -G published
14.02.2020	RP filed an application seeking extension of CIRP for 90 days.
17.02.2020	4 th CoC meeting was conducted. The appointment of transaction auditor, investment banker and the status of appointment of Authorized Representative were discussed.
22.02.2020	Form-G inviting EoI was published for 2 nd time.
08.03.2020	180 th day of CIRP was expired
16.03.2020	The 5 th CoC meeting was conducted. Some 4 prospective/potential resolution applicants had submitted their EoI as on the date of the 5 th CoC meeting. The condition of mandating the provision of a refundable process participation deposit of Rs 10,00,000/- was waived by the CoC members and the eligibility criteria was accordingly modified.
25.05.2020	Form-G inviting EoI published for the 3 rd time
11.06.2020	7 th CoC meeting was conducted. About 8 potential/Prospective Resolution Applicants (PRA) had submitted their EoI's to the Applicant/RP and one other PRA had submitted its EoI beyond the last date mentioned in the last published Form-G. The CoC members opined that the Form-G could be

	published afresh to accommodate the said eminent PRA, however the eligibility criteria as sought to be re-modified to bring in the mandatory provision of the refundable process participation deposit of Rs. 10,00,000/-
16.06.2020	Form-G inviting EoI published for the 4 th time.
19.06.2020	The last date for receipt of EoI. A total of 10 EoI were received as on this date.
03.07.2020	The last date for issue of provisional list of prospective resolution Applicant. However, due to extension of lockdown, the last date was extended till 12.07.2020.
17.07.2020	8 th CoC meeting was conducted, wherein out of the 10 PRA's who had submitted their EoI's, the EOI submitted by the promoter Mr. VS Suresh was rejected by the RP and 5 Prospective Resolution Applicants were shortlisted namely Sobha Limited, Emerald Haven Realty Limited, Radiance Realty Developers India Ltd, Ceebros Property Development (HUF) and Casagrاند Regale Private Limited (subject to submission of requisite documents within the stipulated period).
21.08.2020	9 th CoC meeting was conducted; resolution passed by 100% majority of seeking exclusion of time before the NCLT from 25/03/2020 until 31/08/2020, i.e., the time lost due to the COVID-19 lockdowns and pandemic situation.
12.09.2020	10 th CoC meeting was conducted; it was mutually agreed and decided by the CoC members to propose a resolution of filing of an extension application for further 60 days extension of the CIRP period. It was also agreed that the last date for submission for submission of Resolution Plan was extended till 25.09.2020.
26.09.2020	The Resolution Plan has been received from 2 eligible PRA's viz. Shoba Limited, Emerald Heaven Realty Limited and Casagrاند Regale Private Limited.
07.10.2020	The representatives of the 3 PRA's who had submitted resolution plans were called upon to present their respective plans to the CoC members. The CoC members negotiated with the PRA's and asked them to increase their proposed financial offer, so that maximization of the value could be done.

06.11.2020	The 13 th CoC meeting was conducted. The RP apprised the CoC about the litigations that were pending before various judicial forums and also discussed about the finalization of the Resolution Plans.
24.11.2020	The 14 th CoC meeting was conducted. The changes in the resolution plans submitted by Sobha Limited and Casagrاند Regale Private Limited including but not limited to the increase in the net infusion amounts by the resolution applicants were discussed by the CoC members.
10.12.2020	The NCLT, Chennai Bench vide its Order dt. 10.12.2020 in IA/278/2020 in CP/938/IB/2018 granted an extension of CIRP for a period of 90 days. The last date of expiry of CIRP was fixed on 13.01.2021.
03.12.2020	The 15 th CoC meeting was conducted. The resolution plans submitted by Sobha Limited and Casagrاند Regale Private Limited were put up for voting and the time period for the same was extended until 12.12.2020.
12.12.2020	The results of voting on the online portal of Right 2 Vote application on the resolution plans clearly showed that the resolution plan submitted by and Casagrاند Regale Private Limited was voted upon by the majority of the CoC members and had garnered 95% of the votes in comparison to the 24% obtained by the resolution plan of Sobha Limited.
23.12.2020	The 16 th CoC meeting was conducted. The members of the COC opined that the Resolution Plan of M/s Casagrاند Regale Private Limited was examined by Resolution Professional, his team and the team of EY Restructuring LLP who was appointed as Bid Process Advisors in this case. The members of the COC expressed their confidence that the instant Resolution Plan is compliant with the provisions of IBC 2016 and Regulations made there under, and thus have minimal expectations of rejection of the Resolution Plan from the Adjudicating Authority. However, in case of such eventuality, the members of the CoC had also contemplated and agreed that the liquidator would constitute the Stakeholders Consultation Committee (SCC) and accordingly the decisions would be taken, as per the tenets of the law.

4. EVENTS AFTER APPROVAL OF RESOLUTION PLAN:

4.1. During the CIRP a group of Homebuyers filed an application to declare the major Financial Creditor viz. as related party ASK Investments Managers Pvt. Ltd. (brevity 'ASK') which was dismissed by this Tribunal. After the Resolution Plan was approved by the CoC in an appeal preferred by the Homebuyers against above order of this Tribunal declaring ASK as 'not a related party', the Hon'ble Appellate Authority vide order dated 20.09.2021 declared ASK as a related party.

4.2. Against which the ASK preferred an application before Hon'ble Supreme Court. Wherein the ASK and Homebuyers came to a settlement by agreeing that ASK would give Rs.11 crore more to the homebuyers in addition to their allotment in the Resolution Plan. Hon'ble Supreme Court vide order dated 27.07.2023 settled this issue and further clarified that the additional Rs.11 Cr shall be payable to all homebuyers filing a claim up to 60 days from effective date shall be decided based on orders of Adjudicating Authority.

4.3. Thereafter, in the CoC meeting held on 20.09.2023 the Resolution Professional discussed the re-constitution of the CoC based on Hon'ble Supreme Court's order dated 27.07.2023. Further, the Resolution Professional discussed the revised distribution before the CoC and finalized the final distribution to all the stakeholders.

5. OBJECTION TO THE RESOLUTION PLAN:

IA(IBC)/1802(CHE)/2023

5.1. This Application has been filed under Section 60(5) of Insolvency and Bankruptcy Code, 2016 by ICICI Bank Limited against the Resolution Professional and Successful Resolution Applicant of the Corporate Debtor viz. Ambojini Property Developers Private Limited seeking the following reliefs:

i. That this Hon'ble Adjudicating Authority may be pleased to declare that the 2nd Respondent's approved Resolution Plan is non-compliant with Section 30 (2) of the IBC Code and related regulations and thus, ineligible to have been approved by the CoC under the mandate of the IBC; and/or,

ii. That this Hon'ble Adjudicating Authority may be pleased direct the RP for payment of liquidation value as per Section 30(2)(b) read with Section 53(1) of IBC, amounting to Rs.12.08 Crores, as a Dissenting Financial Creditor and in priority over assenting Financial Creditors.

5.2. It is stated that the Applicant herein is the sole financial creditor of the Corporate Debtor having 4.72% of voting share in the CoC. It is stated that the Corporate Debtor has availed Rs.35 Crore loan from the Applicant Bank. The Corporate Debtor has created a first charge on the real estate project viz. Sai Peace and Prosperity Apartments in favour this Applicant Bank.

5.3. It is stated that the Applicant had exclusive charge on the said project. Pursuant to the arbitration proceedings between the ASK Investments Managers Pvt. Ltd. (ASK) and the Corporate Debtor, based on the award passed in the proceedings a second

charge was created over the Project without consent of the Applicant.

5.4. It is stated that the Resolution Professional had admitted the claim of the Applicant to the tune of Rs.120.8 million. He also admitted the claim of the ASK based on the Arbitral Award then the composition of the CoC become as under,

Particulars	Amount Rs. in mn	% Claim	% Voting rights
ICICI Bank Claim	120.8	4.80%	4.80%
Home Buyers Claim	569.3	22.63%	22.63%
Ask Investment Managers ltd	1825.2	72.56%	72.56%
Total Claim Admitted by Resolution professional*	2,515.3	100.00%	100.00%

5.5. It is stated that the Resolution Professional had confirmed that the Applicant would be entitled to an amount equivalent to their security interest created in respect of the Corporate Debtor. Further, in the 15th CoC meeting held on 03.12.2020 the Resolution Professional has confirmed that the Applicant will be entitled to whole amount from the consideration in case they decide to dissent. ASK also stated that the resolution plan contain the relevant clause for the dissenting Financial Creditors which was also confirmed by the Resolution Professional.

5.6. At the CoC meeting held on 23.12.2020 the Resolution Professional Informed that the Plan proposed by CASA Grand Regale Pvt. Ltd. were put up for voting and it was approved by the CoC with 95% voting. The Applicant herein had voted against the

Resolution Plan. Then the Plan was filed before this Adjudicating Authority for approval.

5.7. It is stated that after approval of the Plan, the ASK 'related party' issue was settled in Hon'ble Supreme Court where homebuyers and the ASK arrived settlement and withdrawn all proceedings before all forums. Thereafter, in the CoC meeting held on 20.09.2023 the Resolution Professional discussed the re-constitution of the CoC based on Hon'ble Supreme Court's order dated 27.07.2023 and the distribution proposed in the Resolution Plan was revised.

5.8. It is contended by the Applicant that under the Resolution Plan the Applicant was proposed to be paid an amount of Rs.7.44 core. Being a dissenting Financial Creditor the Applicant is entitled to liquidation value commensurate with its security interest as per Section 53 and Section 30(2)(b) of IBC, 2016. If that being so the Applicant would be entitled for a payment of its entire admitted claim of Rs.12.08 crore against the pay out of Rs.7.44 crore proposed in the Plan.

5.9. It is argued by the Applicant that the Resolution Professional ought to have considered the distribution of proceeds of the Resolution Plan in accordance with the value of the security interest of the Applicant not as per the value of the voting share. Further, contended that the Resolution Plan does not provide for

distribution to the Applicant as per Section 30(2) (b) and the plan is not compliant to that section.

5.10. In reply the Ld. Sr. Counsel representing ASK submitted that contentions raised by the Applicant are covered by the many judgements of Hon'ble Supreme Court viz. ***Essar Steel India Vs. Sathish Kumar Gupta [(2020) 8 SCC 531]***, ***Jaypee Kensington Boulevard Apartments Welfare Assn Vs. NBCC India Ltd. (2021 SCC OnLine SC 253)*** etc. He further submitted that the contentions in the present case are identical to the background in the case of ***India Resurgence ARC Private Limited Vs. Amit Metaliks limited and others (2021 SCC OnLine SC 409)***.

5.11. In addition he submitted that ICICI Bank Limited had raised the similar contention in an identical scenario in another CIRP which was dismissed by Hon'ble NCLAT in the case ***of ICICI Bank Limited Vs. BKM Industries Private Limited (Comp. Appl. (Ins) No.405 of 2023)*** wherein it was held that,

"The issue raised in the Appeal is fully covered by the judgment of the Hon'ble Supreme Court. The Hon'ble Supreme Court in India Resurgence ARC Private Ltd. (supra) also referred to its earlier judgment in Jaypee Kensington Boulevard Apartments Welfare Association v. NBCC (India) Ltd. while coming to the conclusion."

5.12. Despite being fully aware of the above judgment in its own case the Applicant has sought to re-agitate the same issues in the present CIRP.

5.13. Heard submissions of Ld. Sr. Counsels of all the parties and perused the records.

5.14. Now the point for consideration is whether the dissenting Financial Creditor is entitled to the liquidation value equal to the security interest that it has charge over or as per the value of its voting share.

5.15. At the outset it is seen that the issue in hand is covered in light of the judgment of Hon'ble Supreme Court *in the **India Resurgence ARC Private Limited Vs.Amit Metaliks limited and others (2021 SCC OnLine SC 409)*** wherein it was held as under,

"19. This Court in Jaypee Kensington a further made it clear that in case a valid security interest is held by a dissenting financial creditor, the entitlement of such dissenting financial creditor to receive the amount could be satisfied by allowing him to enforce the security interest, to the extent of the value receivable by him and in the order of priority available to him. This Court clarified that by enforcing such a security interest, a dissenting financial creditor would receive payment to the extent of his entitlement and that would satisfy the requirement Of Section 30(2)(b) Of the Code. This Court, inter alia, observed and held as under: (Jaypee Kensington case, SCC p. 606, para 164)

"164. ... 164.1. Therefore, when, for the purpose of discharge of obligation mentioned in the second part of clause (b) of Section 30 (2) of the Code, the dissenting

financial creditors are to be "paid" an "amount" quantified in terms of the "proceeds" of assets receivable under Section 53 Of the Code; and the "amount payable" is to be "paid" in priority over their assenting counterparts, the statute is referring only to the sum Of money and not anything else. In the frame and purport of the provision and also the scheme of the Code, the expression "payment" is clearly descriptive of the action of discharge of obligation and at the same time, is also prescriptive of the mode of undertaking such an action. And, that action could only be of handing over the quantum of money, or allowing the recovery of such money by enforcement of security interest, as per the entitlement Of the dissenting financial creditor.

164.2. We would hasten to observe that in case a dissenting financial creditor is a secured creditor and a valid security interest is created in his favour and is existing, the entitlement of such a dissenting financial creditor to receive the "amount payable" could also be satisfied by allowing him to enforce the security interest, to the extent of the value receivable by him and in the order of priority available to him. Obviously, by enforcing such a security interest, a dissenting financial creditor would receive "payment" to the extent of his entitlement and that would satisfy the requirement Of Section 30 of the Code-if."

(emphasis supplied)

20. In Jaypee Kensington, this Court repeatedly made it clear that a dissenting financial creditor would be receiving the payment of the amount as per his entitlement; and that entitlement could also be interest or to receive the entire value of the security available with him. It is but obvious that his dealing with the security interest, if occasion so arise, would be conditioned by the extent of value receivable by him.

21. The extent of value receivable by the appellant is distinctly given out in the resolution plan i.e. a sum of INR 2.026 crores which is in the same proportion and percentage as provided to the other secured financial creditors with reference to their respective admitted claims. Repeated reference on behalf of the appellant to the value of security

at about INR 12 crores is wholly inapt and is rather ill-conceived.

22. The limitation on the extent Of the amount receivable by a dissenting financial creditor is innate in Section 30(2)(b) of the Code and has been further exposted in the decisions aforesaid. It has not been the intent of the legislature that a security interest available to a dissenting financial creditor over the assets of the corporate debtor gives him some right over and above the other financial creditors so as to enforce the entire of the security interest and thereby bring about an inequitable scenario, by receiving excess amount, beyond the receivable liquidation value proposed for the same class Of creditors.

23. It needs hardly any emphasis that if the propositions suggested on behalf of the appellant were to be accepted, the result would be that rather than insolvency resolution and maximisation of the value of assets of the corporate debtor, the processes would lead to more liquidations, with every secured financial creditor opting to stand on dissent. Such a result would be defeating the very purpose envisaged by the Code; and cannot be countenanced. We may profitably refer to the relevant observations in this regard by this Court in Essar Steel as follows : (SCC pp. 602-603, para 85)

"85. Indeed, if an "equality for all" approach recognising the rights of different classes of creditors as part of an insolvency resolution process is adopted, secured financial creditors will, in many cases, be incentivised to vote for liquidation rather than resolution, as they would have better rights if the corporate debtor was to be liquidated rather than a resolution plan being approved. This would defeat the entire objective of the Code which is to first ensure that resolution of distressed assets takes place and only if the same is not possible should liquidation follow."

24. Viewed from any angle, the submissions made on behalf of the appellant do not merit acceptance and are required to be rejected."

5.16. It is thus clear that the Applicant dissenting Financial Creditor is not entitled to the whole of the securities which it has

charge over. Entertaining above plea of the Applicant would derail the entire resolution process.

5.17. We have gone through the claim and relief made by the Applicant from all corners and after careful consideration, we of the view that the submissions made by the Applicant / dissenting Financial Creditor is devoid of merits and therefore liable to be rejected.

5.18. On the above discussions this application IA(IBC)/1802(CHE)/2024 is **dismissed**.

6. SALIENT FEATURES OF THE RESOLUTION PLAN:

6.1. DETAILS OF THE CORPORATE DEBTOR:

6.1.1. The Corporate Debtor viz. Ambojini Property Developers Private Limited is a private limited company incorporated on 17.03.2011 in the RoC, Chennai. The Corporate Debtor is engaged in the business of builders, colonizers, land owners, designers, or constructors of new or existing houses, bungalows, flats and or to undertake the job of redesigning, rebuilding, improving etc.

6.1.2. The reason for stressed situation in the Corporate Debtor is enumerated in the Resolution Plan as inability of the Corporate Debtor to start the construction work in full swing on the site; unsustainable debt taken by the Corporate Debtor; No proper financial and professional management etc.

6.2. DETAILS OF THE RESOLUTION APPLICANT:

6.2.1. It is stated that the Successful Resolution Applicant (SRA) viz. Casagrand Regale Private Limited is a part of the Casagrand Group, which is a leading brand in the Chennai real-estate market. SRA is a private limited company, incorporated on 24.10.2019 as a Special Purpose Vehicle of Casagrand Builder Pvt Ltd, having its registered office at 5th Floor, NPL Devi No.111, L B Road, Thiruvanmiyur, Chennai TN 600041.

6.2.2. It is stated that the Resolution Applicant have a combined net-worth of more than INR 200 crores as on 31.03.2020. The total revenue from operations for the Financial Year 2019 is INR 1285.10 crore.

6.2.3. The Resolution Applicant for the purpose of acquiring the Corporate Debtor would be infusing certain amount from its own sources and would raise money in the form of debt as well as equity. The key financials of the holding company of the SRA is extracted hereunder,

Particulars	FY-20 (Provisional)	FY-19	FY-18	FY-17
Total Sales	1320.00	1285.10	966.90	809.44
EBITDA	189.77	174.68	96.44	70.78
Profit Margin	385.25	363.21	290.00	270.27
Net Worth	170.67	147.64	78.49	61.67

6.2.4. Eligibility of a Resolution Applicant:

In the S.No.9 of the Form-H submitted by the Resolution Professional it is recorded that the Resolution Applicant had submitted Eligibility Affidavit as per Section 29A of IBC.

6.3. RATIONALE OF THE RESOLUTION PLAN:

6.3.1. Both companies i.e. the Corporate Debtor and the Resolution Applicant, are operating and carrying on business in the same field of residential segments like luxury villas and apartments. Therefore, being in the same business line, it is inferred that a significant number of synergies can be derived if the two come under the same management.

6.3.2. Some of these synergies are:

- a) The location of the stranded project of the corporate debtor is excellent and a viable, saleable and profitable real estate project can be developed herein.
- b) Resolution Applicant group has a vibrant, efficient and cost effective in house project designing, conceptualizing and management team. Thereby the resolution applicant is hopeful of developing the project in a time bound manner with tight controls on costs.
- c) The technical manpower of the Casagrand Group has adequate experience in working in residential real estate development. This can result in better efficiency in the construction activities for the Corporate Debtor.

- d) Most of the raw materials required by Casagrand Group and the Corporate Debtor are common. Therefore, common sourcing of materials can bring in the economies of scale and can help in bringing down the cost of purchased raw materials.
- e) In house marketing and sales team.
- f) Resolution applicant enjoys a good brand name and market following.
- g) Resolution applicant can infuse the necessary project finance to kick start the project and take it to a critical mass of development.

6.4. SETTLEMENT PROPOSED IN RESOLUTION PLAN:

6.4.1. CIRP COST:

- a) As per the proposed Resolution Plan the CIRP cost till the effective date is estimated to be Rs.1.48 crore.
- b) In the notes on submissions (hereafter mentioned as 'Notes') filed on 21.09.2023 it is stated that the CIRP cost is Rs.4.60 crore and it pending approval of the CoC. The amount is adjusted from distribution based on Section 6 of the Resolution Plan.
- c) In Clause 6 of the Resolution Plan the Resolution Applicant undertakes to pay all the unpaid Insolvency Resolution Process Costs till the effective date (even more than Rs.1.48 crore) in top priority.
- d) Further in Clause 6 it is stated that as per the information provided by the Resolution Professional, the total IRP Costs till effective date is approximately Rs.1.48 Cr and for the period thereafter the IRP cost is yet to be determined. If the

actual IRP Costs exceed the estimated IRP Costs of Rs.1.48 Cr, the Resolution Applicant shall pay the entire amount of the IRP Costs, and the amount by which the IRP Costs exceed the estimated IRP Costs of Rs.1.48 Cr shall be deducted from the amount payable to the Financial Creditors (including homebuyers) on the Effective Date and the amount payable to the Financial Creditors (including homebuyers) shall stand reduced by such excess IRP Costs.

e) Be that as it may, in the memo dated 29.11.2023 filed by the Resolution Professional the CIRP cost is arrived as follows,

Particulars	Amount
Administrative Expense	20,16,813
Expenses Provision	20,00,000
Interest On Contribution to be Paid	57,72,260
Legal Fee	29,54,705
Professional Fee	3,93,21,365
Taxes Paid	6,80,846
Grand Total	5,27,45,989

f) It is also stated in the memo that the said CIRP expenses/cost shall be proportionally deducted from the amounts to be received by the Financial Creditors under the Resolution Plan.

6.4.2. FINANCIAL CREDITORS (BANKS AND FINANCIAL INSTITUTIONS):

a) In the Notes the proposed payment to the captioned Financial Creditors is proposed as follows,

Payment Plan	Claim Admitted (INR Cr)	Settlement Amount (INR Cr)	Settlement to Claim Admitted Ratio	Remarks
ASK Investment Managers	182.53	76.89	42.1%	
ICICI Bank	12.08	7.44	61.6%	Financial Creditor did not vote in favour and hence resolution plan provides for a minimum value due U/s.53(1) to be provided

b) Wherein to the ICICI bank the dissenting Financial Creditor the plan provides a minimum liquidation value as per Section 53(1) of IBC, 2016.

c) The Liquidation value in respect of the dissenting Financial Creditor is valued as follows,

Liquidation Value (Average of value reported by 2 valuers)	126.34
Less: CIRP Costs	4.60
Net Value	121.74
ICICI distribution % within secured FC	6.11%
Value under 53(1)	7.44

6.4.3. FINANCIAL CREDITORS (HOME BUYERS):

a) In the Notes the proposed payment to the homebuyers are as follows,

Payment Plan	Claim Admitted (INR Cr)	Settlement Amount (INR Cr)	Settlement to Claim Admitted Ratio	Remarks
Homebuyers	62.97	52.56	83.5%	

b) The Resolution Plan proposes to pay Rs.43 crore out of the total admitted claim of Rs.56.93 crore to the home buyers.

(Incl. claim forms filed by those homebuyers who haven't filed it yet and could do so later).

c) Homebuyers who have undivided share of land will have to transfer their UDA rights to the CD or to the nominee of the RA irrespective of whether they have filed claims or not.

d) In case homebuyers refuse to comply with the terms of the approved resolution plan within 60 days of the offer of payment – then RA can adjust the said amount against booking of a flat in future project of CD as per prevailing rates.

e) However amount to be settled to Homebuyers is now revised to Rs.52.56 Cr based on the above mentioned Supreme Court Order as well as additional CIRP cost.

f) Regarding payment to the other homebuyers viz. Ask Investment Managers the Hon'ble Supreme Court vide order dated 27.07.2023 ordered that *"Rs.11 Cr foregone by ASK Investment Managers is payable to 168 homebuyers whereas the actual no. of homebuyers who claim has been admitted are higher. While it seems to be an inadvertent error on recording the number of homebuyers by the Hon'ble Supreme Court in its order, the Resolution Plan clearly provides settlement to all homebuyers who file claim within 60 days of the effective date (Refer Section 7B of Resolution Plan). Therefore whether the additional Rs.11 Cr shall be payable to 168 homebuyers or all homebuyers filing a claim up to 60 days from effective date shall be decided based on orders of adjudicating authority."*

g) This Tribunal vide order dated 04.04.2024 in IA/1141/2023 allowed one claim of the Homebuyer viz.

Mrs.Amutha. In view of the said order, we direct the Resolution Professional to distribute the claim of the Applicant on par with the other homebuyers from the amount received for homebuyers in the Resolution Plan.

6.4.4. OPERATIONAL CREDITORS:

a) In the Notes the proposed payment to the Operational Creditors are as follows,

Payment Plan	Claim Admitted (INR Cr)	Settlement Amount (INR Cr)	Settlement to Claim Admitted Ratio	Remarks
Operational Creditors	75.33	0.02	0.0%	

6.4.5. SOURCE OF FUND AND TIMELINE FOR PAYMENT:

a) It is stated that the Resolution Applicant will infuse Rs.141.50 crore as Resolution Fund. The source of the infusion along with the timeline for payment is as follows,

Source of Funds	Amount (Rs.)	Timeline of Infusion (days from Effective Date)
From the RESOLUTION APPLICANT through its HOLDING Company		
Infusion as Equity in the Corporate Debtor by Resolution Applicants(s)	2,00,00,000/-	Within 60 days
Amount deposited as "Performance Deposit" (to be adjusted with last tranche of payment to financial creditors) to be treated as debt by Resolution Applicants (raised as ICD from their	20,00,00,000/-	Before Effective Date (shall be adjusted in the last tranche of payment to financial creditors)

holding company)		
Infusion as Debt in the Corporate Debtor by Resolution Applicants (raised as ICD from their holding company)	49,50,00,000/-	Rs. 8 Crores within 60 days and Rs. 41.50 Crores within 180 days
Infusion of Project funding (as debt) in the corporate debtor by resolution applicant to kick start the process of getting approvals and NOCs to restart the construction	10,00,00,000/-	Within 121-270 days
Fresh Equity/Debt Raised from ARC/AIF/Private Equity Funds by the Resolution Applicant	70,00,00,000/-	Within 61-180 days
Total funds being mobilized	151,50,00,000/-	Within 180 days
To be used as Resolution Fund	141,50,00,000/-	Within 180 days
For Project Restart	10,00,00,000/-	Within 121-270 days

6.4.6. BANK GUARANTEE:

It is stated in the notes that,

- a) The Resolution Applicant has submitted a Performance Guarantee Deposit of Rs.20 Crore BG No. (0350NDDG00004621) issued on 19.12.2020.
- b) The Earnest Money Deposit of Rs.2 Crore being paid by the Resolution Applicant has been returned back.

6.4.7. MONITORING COMMITTEE:

It is stated that,

- a) After the Effective Date and infusion of upfront payment of INR 10 Crore, the Resolution Applicant shall constitute the Board of the Corporate Debtor and appoint key managerial personnel.
- b) As on the Effective date till the formation of the Board of Directors of the CD, the Supervisory Committee shall look after the affairs of the CD.
- c) Supervisory Committee- 5 members-Resolution Applicant shall nominate 2, 2 nominated/appointed by the CoC and the other shall be the RP Mr. AnilKumar Khicha.
- d) Fees to be paid to the Supervisory Committee- (Para Ixi-Pare-42 of the Application) and (Annexure 31 – Addendum dated 03.12.2020, at pages 619, 620) Implementation of Resolution Plan after the formation of the Board of Directors Resolution Applicant shall implement the Plan under the supervising of the Supervisory Committee till complete payment of the Resolution Fund. CD will be operated by the newly constituted Board of Directors.

7. TABULATION OF VARIOUS MANDATORY COMPLIANCES REQUIRED UNDER THE PROVISIONS OF IBC, 2016:

From the averments as well as in the Form-H filed by the Resolution Professional the details of various compliances as envisaged within the provisions of IBC, 2016 and CIRP Regulations, which requires a Resolution Plan to adhere to, which are reproduced hereunder:

MANDATORY COMPLIANCE UNDER IBC, 2016	COMPLIANCE UNDER RESOLUTION PLAN
S. 30(1) - Resolution Applicant to submit an affidavit stating that he is eligible under Sec.29A of the Code, 2016	Clause 16(xv) of the Plan speaks about the eligibility of Resolution Applicant. In the Form-H submitted by the Resolution Professional confirms that the Resolution Applicant had submitted Eligibility Affidavit as per Section 29A of IBC.
S.30(2)(a) - Payment of Insolvency and Resolution cost in the manner specified by the Board	In Clause 6 of the Resolution Plan and the Notes on submission filed by the RP ('Notes') describes the payment of CIRP cost.
S.30(2)(b) -Payment of debts of Operational Creditors in such manner as may be specified by the Board, which shall not be less than the amount to be paid to the Operational Creditors in the event of a liquidation of the Corporate Debtor under Sec. 53.	Clause 8 of the Resolution Plan and Notes provides for the payment of Operational Creditors.
S. 30(2)(c) - Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	Annexure-1 Point 4 of the Plan at page 604 of the typed set filed with the application provides the details of the management who deals with the affairs of the Corporate Debtor after approval of the Resolution Plan.
S.30(2)(d) - Implementation of and Supervision of the Resolution Plan.	Clause 13 of the Resolution Plan prescribes the constitution of Supervising/Monitoring committee and its functions.
S. 30(2)(e) - The plan does not contravene any of the provisions of the law for the time being in force.	Clause 16 shows that the plan does not contravene any other law for time being in force.
S.30(2)(f) - Conforms to such other requirements as may be specified.	In the Annexure-1 of the Plan it is stated that the Resolution Plan has been prepared taking every aspect into consideration so as to confirm with such other requirements as may be specified by Board.

<p>S. 30(4) - Committee of Creditors approve the Resolution Plan by not less than 66% of the voting share of Financial Creditors, after considering its feasibility, viability and such other requirement as specified by the Board</p>	<p>The CoC, in its 15th meeting, has unanimously approved the Resolution Plan voting is given below;</p>			
	S.No	Name of Creditor	Assent (%)	Dissent (%)
	1.	ICICI Bank	-	4.72
	2	Ask Investment Managers Private Limited	71.35	-
	3	Chandra Sekhar Sugutoor on behalf of Homebuyers	23.93	-
	TOTAL	95.28	4.72	

8. MEASURES REQUIRED FOR IMPLEMENTATION OF THE RESOLUTION PLAN IN TERMS OF REGULATION 37 OF CIRP REGULATIONS.

MANDATORY COMPLIANCE UNDER CIRP REGULATION	COMPLIANCE UNDER RESOLUTION PLAN
<p><i>A Resolution Plan shall provide for the measures, as may be necessary, for insolvency resolution of the Corporate Debtor for maximisation of the value of its assets, including by not limited to the following: -</i></p>	
(a) transfer of all or part of the assets of the Corporate Debtor to one or more persons;	<p>The Resolution Plan does not immediately envisage transfer or sale of any of the assets of the Corporate Debtor.</p>
(b) sale of all or part of the assets whether subject to any security interest or not;	
(ba) restructuring of the Corporate Debtor, by way of merger, amalgamation and demerger;	<p>Not Applicable</p>
(c) the substantial acquisition of shares of the Corporate Debtor, or the merger or consolidation of the Corporate Debtor with one or more persons;	<p>Resolution Applicant directly or through its HOLDCO (Holding Company) proposes to acquire 100% of the equity of the restructured capital of the company.</p>
(ca) cancellation or delisting of	<p>Resolution Applicant proposed to</p>

any shares of the Corporate Debtor, if applicable;	extinguish all the paid-up shares issued by the Corporate Debtor as on the CIRP date.
(d) satisfaction or modification of any security interest;	It is stated that on full payment of resolution amount as proposed in the plan, the entire charge on the assets of the Corporate Debtor would be deemed to be satisfied and vacated by the financial creditors therein.
(e) curing or waving of any breach of the terms of any debt due from the Corporate Debtor;	The debts of various parties due from the Corporate Debtor are proposed to be settled / restructured / waived as provided separately under this Resolution Plan.
(f) reduction in the amount payable to the creditors;	Section 4, Section 10 of the Resolution Plan.
(g) Extension of maturity date or a change in interest rate or other terms of a debt due from the Corporate Debtor.	All the claims and liabilities whatsoever of any nature from any class of creditors shall be deemed to be absolutely crystallized on approval of the resolution plan and further shall be deemed to be satisfied and settled on full payment of the resolution amount as proposed in this resolution plan.
(h) amendment of the constitutional documents of the Corporate Debtor;	No amendment of the constitutional documents of the Corporate Debtor is proposed under the Resolution Plan
(i) Issuance of Securities of The Corporate Debtor, for cash property, securities, or	Fresh equity shares would be issued as per section 12 of the

in exchange for claims or interests, or other appropriate purpose;	resolution plan.
(j) change in portfolio of goods or services produced or rendered by the Corporate Debtor;	No amendment or change in the portfolio of goods or services produced or rendered by the corporate debtor is envisaged/proposed at this stage. In case of any change in end use of the project, the RA shall be allowed to make such changes at appropriate time/ stage.
(k) change in technology used by the Corporate Debtor; and	There is no change in the technology proposed.
(n) Obtaining necessary approvals from Central and State Governments and other Authorities.	Necessary approvals of the Central and State Governments State Governments are already in place for the operation of the business.

9. MANDATORY CONTENTS OF THE RESOLUTION PLAN IN TERMS OF REGULATION 38 OF CIRP REGULATIONS.

	MANDATORY COMPLIANCE UNDER CIRP REGULATION	COMPLIANCE UNDER RESOLUTION PLAN
38(1)	The amount due to the Operational Creditor under Resolution Plan shall be given priority in payment over Financial Creditor.	Operational creditors dues (other than related parties to the corporate debtor) are proposed to be paid Rs.2.00 lakhs towards their dues, within 60 days of approval of the Scheme by NCLT.
38(1A)	A Resolution Plan shall include a statements as to how it has dealt with the interest of all stakeholders, including Financial Creditors and Operational Creditors of the Corporate Debtor.	Resolution Applicant proposes to make payment to various creditors (financial & operational) as per provisions of section 4,5,6,7,8,9 of the resolution plan.

38(1B)	A Resolution Plan shall include a statement giving details if the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past.	Resolution Applicant or related parties has any of its related parties hasn't failed to implement or contributed to the failure of implementation of any resolution plan approved under the IBC.
38(2)	a) term of the plan and its implementation schedule	Clause 10, 11, 12, 13, 14, 15 of the resolution plan.
	b) management and control of the business of the Corporate Debtor during its term;	Resolution Applicant shall identify and appoint suitable professional to manage the affairs of the company on a day-to-day basis, with the support of the Key Managerial personnel of the Company and with guidance from the Board of Directors.
	c) adequate means for supervising its implementation	
38(3)	a) it address the cause of default;	Clause 1.3 of the Resolution Plan.
	b) it is feasible and viable	Clause 3 of the Resolution Plan
	c) it has provisions for effective implementation	Clause 13 of the Plan
	d) it has provisions for approval required and the timeline for the same; and	Clause 14 of the Plan
	e) the resolution applicant has the capability to implement the Resolution Plan.	Clause 2 of the Plan shows that the Resolution Applicant is capable to implement the Resolution Plan.

10. OBSERVATIONS OF THIS TRIBUNAL:

10.1. We see that 95% of the CoC has approved the Resolution Plan. The Resolution of the CoC approving the Resolution Plan and the corresponding voting is reproduced below,

Resolution No. 1

To approve the Resolution Plan submitted to the Resolution Professional by Casagrand Regale Private Limited

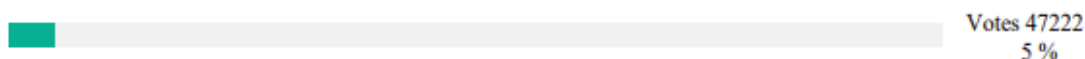
“RESOLVED THAT the members of the Committee of Creditors are be and hereby approves the Resolution Plan submitted by Casagrand Regale Private Limited in the matter of Ambojini Property Developers Private Limited.”

“RESOLVED FURTHER THAT the members of the Committee of Creditors is be and herby authorizes the Resolution Professional to file an application under section 30(6) of Insolvency and Bankruptcy Code, 2016 read with Regulation 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for the approval of the Resolution Plan to the Hon’ble NCLT, Chennai Bench.”

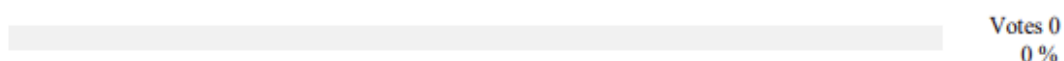
Accept



Reject



Abstain



10.2. We see that in the 20th meeting of the CoC held on 20.09.2023 the revised amount distribution in the Resolution Plan

after the judgment of the Hon'ble Supreme Court of India is discussed wherein all the CoC members were present. The attendance, the total original and revised distribution amounts as per the minutes of the 20th CoC meeting held on 20.09.2023 are extracted hereunder,

Members Present in the Meeting

S. No.	Name of the person present	Self/Representative	Voting%
COMMITTEE OF CREDITORS			
1	Ms. Ritu baagri	Authorized Representative - ICICI Bank Ltd	4.69
2	Mr. Satya Prakash		
3	Ms. Kalpana		
2	Mr. Chandrasekhar Sagutoor	Authorized Representative of Home Buyers	24.32
3	Mr. C Lakshimipathi	Authorized Representative - M/s ASK Investments Managers Ltd.	70.99

Original Distribution

Payment Plan	Total	Upfront	Deferred	Upfront Payment Ratio between FC
Total funding from RA	141.50	10.00	131.50	
Less:CIRP Costs	1.48	1.48		
Net Available for Creditors	140.02	8.52	131.50	
ASK	90.00	1.80	88.20	21.18%
ICICI	7.00	0.20	6.80	2.35%
Homebuyers	43.00	6.50	36.50	76.47%
Operational Creditors	0.02	0.02	-	

Revised Distribution

Upfront Payment Ratio between FC maintained

Payment Plan	Total	Upfront	Deferred	Upfront Payment Ratio between FC
Total funding from RA	141.50	10.00	131.50	
Less:CIRP Costs	4.60	4.60		
Net Available for Creditors	136.90	5.40	131.50	
ASK	76.89	1.14	75.75	21.2%
ICICI	7.44	0.13	7.31	2.4%
Homebuyers	52.56	4.11	48.44	76.5%
Operational Creditors	0.02	0.02	-	

It is thus clear that except the dissenting Financial Creditor, all others had no objection to the revised distribution.

10.3. From Form-H we see that the fair value, liquidation value and the proposed Plan value of the Corporate Debtor is

Particular	Amount in Rupees
Fair Value	162,95,61,000
Liquidation Value	126,33,61,000
Plan Value	141,50,00,000

The Total infusion through Resolution Plan is Rs.141,50,00,000/. The Resolution Plan value is much higher than that of the Liquidation Value.

10.4. In so far as the approval of the Resolution Plan is concerned, this Authority, along with considering the decision of the Committee of Creditors, is duty-bound to follow the precedents of the 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 the 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."*

Further, the Hon'ble Supreme Court of India in the matter of **Committee of Creditors of Essar Steels –Vs– Satish Kumar Gupta & Ors. in Civil Appeal No. 8766 – 67 of 2019** at para 42 has held as follows;

"42.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)."

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)

Also, the Supreme Court of India in the matter of **Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta and Ors.** (2020) 8 SCC 531 after referring to the decision in **K. Sashidhar (supra)** has held as follows;

"73. There is no doubt whatsoever that the ultimate discretion of what to pay and how much to pay each class or sub-class of

creditors is with the Committee of Creditors, but, the decision of such Committee must reflect the fact that it has taken into account maximising the value of the assets of the corporate debtor and the fact that it has adequately balanced the interests of all stakeholders including operational creditors. This being the case, judicial review of the Adjudicating Authority that the resolution plan as approved by the Committee of Creditors has met the requirements referred to in Section 30(2) would include judicial review that is mentioned in Section 30(2)(e), as the provisions of the Code are also provisions of law for the time being in force. Thus, while the Adjudicating Authority cannot interfere on merits with the commercial decision taken by the Committee of Creditors, the limited judicial review available is to see that the Committee of Creditors has taken into account the fact that the corporate debtor needs to keep going as a going concern during the insolvency resolution process; that it needs to maximise the value of its assets; and that the interests of all stakeholders including operational creditors has been taken care of. If the Adjudicating Authority finds, on a given set of facts, that the aforesaid parameters have not been kept in view, it may send a resolution plan back to the Committee of Creditors to re-submit such plan after satisfying the aforesaid parameters. The reasons given by the Committee of Creditors while approving a resolution plan may thus be looked at by the Adjudicating Authority only from this point of view, and once it is satisfied that the Committee of Creditors has paid attention to these key features, it must then pass the resolution plan, other things being equal."

(emphasis supplied)

10.5. The Supreme Court in its recent 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 exposted by this Court.”

(emphasis supplied)

11. 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.

12. Thus, the Resolution Plan is hereby **approved** and is binding on the Corporate Debtor and other stakeholders, shareholders and all creditors involved so that the revival of the Debtor Company shall come into force with immediate effect and the "Moratorium" under section 14 of IBC, 2016 shall cease to have any effect henceforth.

13. RELIEF AND CONCESSIONS:

In respect of additional relief and concessions prayed in Clause 11 of the Resolution Plan, this Tribunal directs as follows,

SL. No.	RELIEF / CONCESSIONS SOUGHT FOR	ORDERS THEREON
1	Bank guarantee, if any No obligation on CD, if any upon payment as per the proposed resolution plan.	Granted
2	Ability to utilise CENVAT credit, Service Tax credit etc. in the books of the Company In case of non-maintenance of requisite records by the Corporate Debtor, which has resulted in lapsing/ineligibility of the said benefits, under the new GST regime, benefits to available on retrospective basis / reinstated, without fees / penalties.	It is for Appropriate Authorities to consider.
3	Issuance I Renewal of all kinds of Licenses / Permissions / Approvals required for the operation of the Business / Restart of Fresh Construction a) Central State Government Departments Local Bodies to Renew / Issue Fresh licenses/ permissions / approvals on application of the same within 30 days of the Application. b) Temporary License shall be granted provided to operate the Business I Start Construction within 7 days of application for the Interim Period if required.	It is for Appropriate Authorities to consider.
4	Grace period to comply with various future statutory / regulatory requirements a) Twelve (L2) months grace period (from the date of NCLT approval) to be provided to the Corporate Debtor	It is for Appropriate Authorities to consider.

	to comply with the provisions of the various Acts / Regulations, to enable Corporate Debtor to ascertain the status of various compliances and take necessary steps to regularize the same b) During grace period, no additional charges fees etc. to be charged including on account of Interest Penal Interest, Penalty, Interest on Penalty, any kind of Late Fee or Damages.	
5	<p>Extinguishing of existing Onerous contracts by Corporate Debtor</p> <p>Any onerous contract made by the Corporate Debtor subsisting before the approval of Resolution Plan shall be duly extinguished and be ineffective.</p>	<p>Granted, subject to the provisions of IBC and other applicable laws and in terms of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons v. Edelweiss Asset Reconstruction Company Limited.</i> 2021 SCC Online SC 313</p>
6	<p>Termination of all existing Negotiable Instruments</p> <p>As on the insolvency commencement date, all outstanding negotiable instruments, issued by Corporate Debtor or any other person on behalf of Corporate Debtor shall stand terminated and no liability shall arise on the same.</p>	<p>Granted, subject to the provisions of IBC, 2016 and other Applicable laws.</p>
7	<p>Revocation of. Power of Attorneys</p> <p>All the power of attorneys provided to any person by the Corporate Debtor stands revoked with effect from the date of NCLT approval.</p>	<p>Granted, subject to the provisions of IBC and other applicable laws and in terms of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons v. Edelweiss Asset Reconstruction Company Limited.</i> 2021 SCC Online SC 313</p>
8	<p>Waiver/Exemption from requirement of No Objection Certificate under Sec 281 of the Income Tax Act, 1961.</p> <p>Waiver/Exemption from I requirement of No Objection I Certificate under Sec ZB1 of the I</p>	<p>It is for Appropriate Authorities to consider.</p>

	Income Tax Act, 1961 by the Selling I Shareholders and provision of taking over predecessor's tax liability under Sec. 170 of the Income Tax Act, 1961, and Specific Order for treating such Transactions as VOID under Sec 281 of the Income Tax Act, 1961 for any claims in respect of tax or any other sum payable by Selling Shareholders.	
9	<p>Waiver of Valuation of pricing of Shares by Registered Valuer</p> <p>Approval of Resolution plan by I NCLT will be treated as waiver of the requirements of the Valuation of Pricing of Shares by Registered Valuer to be computed for Issuance of Equity Shares through preferential Allotment / Warrants preference Shares / Convertible Debentures to RA as well as Investors for a period of 24 Months The request for such waivers is due to the fact that current valuation of the Company on the basis of Book Value or Net Assets Value Basis Realizable Valuation of Assets adjusted to Current Liabilities or Discounted Cash Flow of the Business will be "Negative",, whereas the RA is paying revised Face Value considering the Future potential of the Business</p>	<p>Granted, subject to the provisions of IBC and other applicable laws and in terms of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons v. Edelweiss Asset Reconstruction Company Limited.</i> 2021 SCC Online SC 313</p>
10	<p>Liabilities that may accrue under Various Corporate Laws and Acts, Rules and Regulations</p> <p>Approval of the Resolution Plan will be treated as waiver approval by the NCLT for any past liabilities, penalties and any form of payment by way Late Fees, Damages/proceedings, penalties/recovery etc. which occurred or become due because of any non-compliances related to the below stated Acts from Commencement of Insolvency</p>	<p>It is for Appropriate Authorities to consider.</p>

	<p>Process till 6 months from the Date of the NCLT Approval of Proposed Resolution Plan as it will provide Resolution Applicant, the time period to review the current compliance status of the Corporate Debtor under these Acts, Rules and regulations in terms of Compliances and action to be taken in this regard. The stated list is inclusive but not exhaustive of:</p> <ul style="list-style-type: none"> • The Companies Act, 1956 (the - Act) and the Rules made there under. • The Companies Act 2013 (the Act) and the Rules made there under • Foreign Exchange Management Act, 1999 and the Rules and Regulations made thereunder to the extent of Overseas Direct Investment. • 	
11	<p>Liabilities accrued may accrue under Various Acts & Laws</p> <p>Approval of the Resolution Plan will be treated as Waiver / Approval from past Liabilities, Payments of Fees and all Dues including any Penalties as well as any form of payment by way of Interest, Late Fees, Damages etc. related to all Government Authorities.</p> <p>with regard to non-compliances of various Statutes to be adhered related to Consent, Fees, Certification etc. by the Corporate Debtor prior to the Effective Date which is inclusive but not exhaustive of,</p> <ul style="list-style-type: none"> • Factories Act, 1948 • Industrial Disputes Act, 1947 • Payment of Wages Act, 1936 • The Minimum Wages Act, 1948 • The Employees State Insurance Act, 1948 	<p>It is for Appropriate Authorities to consider.</p>

	<ul style="list-style-type: none"> • The Employees Provident Fund Miscellaneous Provisions Act, 1952 • The Bonus Act, 1965 • The Payment of Gratuity Act, 1972 • Legal Metrology Act, 2009 • Negotiable Instruments Act, 1881 • Environment (Protection) Act, 1986 • Water (Prevention and Control of Pollution) Act, 1981 • Air (Prevention and Control of Pollution) Act, 1974 • Hazardous Waste (Management and handling) Rules, 1989 • State Fire Safety Act • The MSME Act • Electricity Act, 2003 • Trademarks Act, 1999 • Income Tax Act • TNRERA • GST Act • Service Tax <p>The Waiver also includes any dues relating to Interest Penal Interest, Penalty, Interest on Penalty, any kind of Late Fee as well as Damages.</p>	
12	<p>Liability which may accrue to Provisions of MAT and Other Sections of Income Tax Act</p> <p>Approval of the Resolution Plan will be treated as Waiver by NCLT for any liability (includes Tax, MAT, interest, fine, penalty etc) on Corporate Debtor, RAs on account of various actions proposed in the Approved Resolution Plan including but not limited to liabilities, rt any. under Sec 56, Sec 43. Sec 28, Sec 1"15J8 and Section 79 of. t}:re Income Tax Act, 1961.</p>	<p>It is for Appropriate Authorities to consider.</p>
13	<p>Claim by Government Authorities</p> <p>Approval of the Resolution Plan will</p>	<p>It is for Appropriate Authorities to consider.</p>

	<p>be treated is Approval by NCLT that claims of government authorities, in relation of all taxes etc. for period pertaining prior to the insolvency commencement date and till the date of NCLT orders, shall stand extinguished and ineffective, except to the extent provided for under the Resolution Plan.</p>	
14	<p>Extinguishment/ Revocation of Workmen Contract</p> <p>Approval of the Resolution Plan will be treated as Specific Order and Approval by NCLT that any contract subsisting with respect to Workmen/ contractual labour before the approval of Resolution Plan shall be duly extinguished and be ineffective.</p>	<p>Granted, subject to the provisions of IBC and other applicable laws and in terms of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons v. Edelweiss Asset Reconstruction Company Limited.</i> 2021 SCC Online SC 313</p>
15	<p>Liability to earlier promoters/recourse against the Personal or Corporate Guarantees Right Subrogation.</p> <p>It is to be noted that Post approval of the Resolution Plan by the NCLT, the RAs/New Management by virtue of the Approved Resolution Plan will have no obligation or any liability towards the earlier promoters under any circumstances whatsoever.</p> <p>It is to be noted that the recourse against the Personal or Corporate Guarantees shall be free from any subrogation rights of the Guarantors. This arrangement in relation to the Personal or Corporate Guarantees relies that it shall in no way or manner permit the Guarantors to claim any right of subrogation indemnity, security, recompense or any Claim of whatsoever nature (whether under contract. equity or Applicable Law) against the Corporate Debtor or the R& and all such rights and obligations stand irrevocably and unconditionally extinguished in perpetuity</p>	<p>Granted, subject to the provisions of IBC and other applicable laws and in terms of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons v. Edelweiss Asset Reconstruction Company Limited.</i> 2021 SCC Online SC 313</p>

	<p>In the event, array transaction is avoided set aside by the NCLT in terms of Sections 43, 45, 47, 49, 50 or 66 of the Insolvency and Bankruptcy Code,' 2016 and any amount is received by the resolution professional or the corporate debtor in furtherance thereof, such sum shall be deemed to have been received for the benefit of all the Financial Creditors and shall be paid to all the Financial Creditors ("Pass-Through Amount"). For the avoidance of doubt, the Pass-Through Amount shall be paid to all the Financial Creditors in addition to the pay-out envisaged for all Financial Creditors under this Resolution Plan. Further, the RA shall ensure that all cooperation is provided so that the actions initiated pursuant to Sections 43, 45, 47, 49, 50 or 66 of the Insolvency and Bankruptcy Code, 2016 shall be pursued, at all times even after the approval of the resolution plan by the Adjudicating Authority. It is to be noted that any such Pass-Through Amount will be allocated to all the Financial Creditors in the same proportion as paid to them from the Resolution fund.</p>	
16	<p>VAT/income tax/GST/ Customs / Duty waiver</p> <p>No amount whatsoever shall be paid by the CD after the plan is approved by NCLT except as proposed in section 4, section 5 & section 8 of the resolution plan. These Authorities will be required to drop all proceedings against the corporate debtor and extinguish all dues and penalties that they may have imposed , also these authorities be directed to remove notifications of a1l such demands from their official websites on approval of the plan by NCLT.</p>	<p>It is for Appropriate Authorities to consider.</p>

17	<p>Closure of redundant bank accounts</p> <p>Redundant bank accounts (operational) shall be closed and fresh bank accounts as per the preference of the Resolution applicant be opened.</p>	<p>Granted, subject to the provisions of IBC, 2016 and other Applicable laws.</p>
18	<p>Approvals and NOC for restarting the project</p> <p>EIA, IN Fire & Rescue Department NOC. Traffic Airport NOC, PWD NOC, Planning Permit Building Permit and TNRERA NOCS be issued/renewed by the concerned department at the earliest on payment of their normal fees/charges</p>	<p>It is for Appropriate Authorities to consider.</p>
19	<p>Acquisition of Undivided Area Rights already transferred in favour of 4 home buyers</p> <p>The 4 home buyers as mentioned in table -16 be directed to execute the transfer deed of their UDA rights on receipt of the proposed resolution amount.</p>	<p>Granted, subject to the provisions of IBC and other applicable laws and in terms of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons v. Edelweiss Asset Reconstruction Company Limited</i>. 2021 SCC Online SC 313</p>
20	<p>In relation to the Outgoing promoters and the related parties of the corporate debtor</p> <p>The Company and/or the Resolution Applicant and the promoter/promoter group of the Resolution Applicant! persons acting in concert with Resolution Applicant and promoter/promoter of such persons, holding companies, subsidiary companies, associate companies, group companies and/ or their respective Affiliates / associates shall not in any manner be implicated in, or in any manner adversely affected by. or have any liability in relation to any investigations proceedings/ orders or any matters relating to the existing promoter group/ holding companies, subsidiary companies,</p>	<p>Granted, subject to the provisions of IBC and other applicable laws and in terms of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons v. Edelweiss Asset Reconstruction Company Limited</i>. 2021 SCC Online SC 313</p>

	associate companies and or group companies of the Company	
21	<p>Amalgamation of the Resolution Applicant and the corporate debtor with the HOLDCO of the Resolution Applicant</p> <p>Permission be given for Amalgamation of the Resolution Applicant and the corporate debtor with the HOLDCO of the Resolution Applicant at a date later than the "Implementation Date"</p>	<p>Granted, subject to the provisions of IBC and other applicable laws and in terms of the judgment of the Hon'ble Supreme Court in <i>Ghanashyam Mishra and Sons v. Edelweiss Asset Reconstruction Company Limited.</i> 2021 SCC Online SC 313</p>

14. The Resolution Professional shall submit all the records, documents, belongings and assets of the Corporate Debtor processed during the commencement of the Proceedings and also return to the Resolution Applicant.

15. A certified copy of this Order be issued on demand to the concerned parties, upon due compliance. Liberty is hereby granted for moving any Interlocutory Application, if required, in connection with the implementation of this Resolution Plan.

16. That in respect of stepping in by the Resolution Applicant/Promoters into the shoes of the Corporate Debtor and taking over the business, the provisions of the Companies Act, 2013 shall be applicable.

17. Copy of this Order is to be submitted to the Office of the Registrar of Companies, Chennai, for updating the master data of the Corporate Debtor and to the IBBI for records.

18. The Resolution Professional is further directed to hand over all records, premises/documents to Resolution Applicant to finalise the further line of action required for starting the operation as contemplated under the Resolution Plan. The Resolution Applicant shall have access to all the records premises/documents through Resolution Professional to finalise the further line of action required for starting the operation.

19. The Resolution Professional shall stand discharged from his duties with effect from the date of this order.

20. Accordingly, IA(IBC)/60(CHE)/2021 shall stands **allowed** and **disposed of**.

21. 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 are consigned to the record.

-Sd/-

RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

-Sd/-

JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)