

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT-II**

IA. No. 1045/2021
In
CP(IB)No. 2808/MB/C-II/2018

Application filed under section 30(6), r/w Section 31(1) of the Insolvency & Bankruptcy Code,2016 read with Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016,

Filed by

**Mr. Anuj Bajpai,
Resolution Professional**

...Applicant

In the matter of

Pegasus Assets Reconstruction Private Limited

...Financial Creditor

Versus

Panache Aluminium Extrusions Private Limited

...Corporate Debtor

Order Pronounced on: - 21.12.2023

Coram:

**Anil Raj Chellan
Member (Technical)**

**Kuldip Kumar Kareer
Member (Judicial)**

Appearances -

For the Resolution Professional : Adv. Rahul Gaikwad

ORDER

Per Anil Raj Chellan, Member Technical

1. The present Interlocutory application is filed by **Mr. Anuj Bajpai** the Applicant, Resolution Professional of **Panache Aluminium Extrusions Private Limited** (“the Corporate Debtor”) seeking approval of the resolution plan under section 30(6) of the Insolvency and Bankruptcy Code, 2016 (“the Code”) read with Regulation 39 (4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 submitted by Mr. Arun Duggar and Mr. Vinod Kothari (“Successful Resolution Applicant”) and duly approved by 99.88% of the Committee of Creditors (“CoC”) of the Corporate Debtor in its 15th CoC meeting held on 25.03.2021.
2. The Applicant submits that the Financial Creditor, Pegasus Assets Reconstruction Private Limited, initiated the Corporate Insolvency Resolution process (“CIRP”) against the Corporate Debtor under Section 7 of the Code. Vide Order dated 31.12.2019, CIRP against the Corporate Debtor was initiated and Mr. Anuj Bajpai was appointed as Interim Resolution Professional (“IRP”). Pursuant to the said admission order, the CoC was constituted on 24.01.2020 and the members of the CoC unanimously resolved and confirmed appointment of the Applicant as the Resolution Professional (“RP”).

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3. The Applicant published the Public Announcement for inviting claims on 03.01.2020 in Form 'A' and the last date for receipt of claims was 16.01.2020. Based on the claims received, the Applicant admitted claims aggregating Rs.61.38 crores (financial debt of Rs.45.64 cr and operational debt of Rs.15.74 cr).
4. The Applicant further appointed registered valuers to determine the Liquidation Value and Fair Value of the Corporate Debtor for each class of assets namely, Karan Pravin Kothari and Parag Kishori Sheth for Land and Building, Mr. Purnabrat Shankar Das and Yogendra Pradyumanbhai Pandya for Plant and Machinery, Jayesh Desai and Pinakin Surendra Shah for Securities and Financial Assets.
5. In the 2nd CoC meeting, the Applicant presented and circulated the detailed invitation for Expression of Interest (EoI) of Resolution Plan to the members of the CoC. The eligibility criteria for submission of the Resolution Plan, publication of notification and advertisement in Form G was accordingly approved by the members of the CoC. Pursuant to the approval, Form G was published in the newspapers namely, Business Standard-Mumbai, Business Standard – Pune and Loksatta – Pune on 20.03.2020. After release of advertisement, there was an immediate lockdown announced from 25.03.2020 and response was received from one company – KLJ Resources Limited.
6. The eligibility criteria set forth by CoC for resolution applicant are as under:
 - a) A refundable deposit of Rs. 2 lacs at a time of submission of the EoI.

- b) Business Capacity for Body Corporate/ Partnership Firm/ Companies incorporated outside India – Turnover at Group Level of Rs. 10 crores or more as per last audited financial statements.
- c) Financial Capacity for Body Corporate/ Partnership Firm/ Companies incorporated outside India – Standalone Net worth of Rs. 2.50 crores or more as per last audited financial statements.
- d) Financial Capacity for Investment Companies/ FIs/ Fund houses/ PE Investors – Assets under Management (AUM) of Rs. 100 crores at group level as on 31 December 2019.
- e) For Sole Individual Investor/ Consortium of Sole Individual, among the consortium, should hold more than 51% of the total net worth at the consortium level.
7. On account of the nationwide lockdown, the CIRP was hampered and CIRP period of 180 days was set to expire on 27.07.2020, the CoC passed a resolution for seeking exclusion of the lock down period and also to issue afresh invitation for EoI. Accordingly, second advertisement for inviting EoI was published in Business Standard, Mumbai and Pune edition and Loksatta, Pune edition on 01.09.2020.
8. In response to the 2nd advertisement, five prospective Resolution Applicants showed interest that was recorded in the 5th meeting of CoC held on 25th September, 2020. Out of the five prospective resolution applicants, one applicant (Consortium of Mr. Arun Sagarmal Duggar & Vinod Kumar

Kothari) submitted a resolution plan in a password protected file on 24.10.2020 and another applicant ie., the Commodity Hub submitted a provisional resolution plan in a password protected file on 24.10.2020. However, the applicants expressed difficulties to undertake a visit to the plant on account of covid pandemic and sought extension of time to submit a revised resolution plan. Accordingly, CoC granted time to all the applicants till 21.11.2020. Both the aforesaid applicants submitted revised resolution plans though the resolution plan submitted by the Commodity Hub did not enclose all the required documents.

9. In the 10th CoC meeting held on 23.12.2020, the Applicant informed the CoC members about the two revised Resolution Plans from 'The Commodity Hub (Partnership Firm)' and Mr. Arun S Duggar and Mr. Vinod Kumar Kothari (consortium), through email on 18.12.2020. The authorized representative of the Resolution Applicants were invited to the meeting and both the resolution plans read-out by the Applicant and confirmed by each Resolution Applicants.
10. In the 11th CoC meeting held on 30.12.2020, the revised Resolution Plans were placed by the Applicant for perusal and for the benefit of the CoC, Applicant summarized financial terms of both the Resolution Plans. However, CoC was of the view that several potential resolution applicants were unable to participate in the process of EoI due to lockdown restrictions; and with the lifting of the lockdown and current signs of economic recovery, CoC decided to conduct a fresh invitation of EoI process to maximize the value for all stakeholders. Also, the CoC members decided to allow the current Resolution Applicants to re-participate in the fresh EoI process subject to meeting the eligibility criteria in the fresh EOI process document.

Then, the Applicant published a fresh Form-G on 12.01.2021 with last date for the submission of Resolution Plan as 01.03.2021. Pursuant to the latest Form-G, three Resolution Applicants showed their interest in submitting Resolution Plan and two eligible Resolution Applicants viz., (i) Mr. Arun Duggar and Vinod Kothari (Consortium) and (2) Ms. Kiran Ramani, proprietor of M/s. Kiran Metals submitted the Resolution Plans before the last date specified.

11. In the 14th CoC meeting held on 15.03.2021, the Applicant discussed the important features and commercial terms of both the Resolution Plans with CoC members. Mr. Arun Duggar and Mr. Vinod Kothari were invited to the meeting for discussion and presentation of their Resolution Plan. Then, CoC conveyed to both the Resolution Applicants that the Resolution Plans were below expectations and provided more time to the Resolution Applicants to submit revised plans.
12. In the 15th CoC meeting held on 25.03.2021, CoC members discussed the feasibility and viability of both the Resolution Plans submitted by (a) Mr. Arun Duggar and Mr. Vinod Kothari and (b) Ms. Kiran Ramnani and decided to put both the Resolution Plans for e-voting with a condition that whichever plan receives the highest votes shall be considered as approved. The Resolution Plan submitted by consortium of Mr. Arun Duggar and Mr. Vinod Kothari, scored higher votes than other applicant Ms. Kiran Ramnani.
13. CoC again held further discussions with the resolution applicants for improving the resolution plans. The consortium of Mr. Arun Duggar and Mr. Vinod Kothari agreed to further revise the resolution plan and submitted the

final resolution plan with the revisions. As decided in 15th CoC meeting held on 25.03.2021, both the resolution plans were put to vote. The resolution plan submitted by Mr. Arun Duggar and Mr. Vinod Kothari (consortium) received 99.88% voting in its favour and the resolution plan submitted by Ms. Kiran Ramani received nil votes in its favour.

14. In the 16th meeting of CoC that held on 30.03.2021, CoC approved the Resolution Plan submitted by Mr. Arun Duggar and Mr. Vinod Kothari (consortium of individuals) by 99.88% of votes and was declared as Successful Resolution Applicant.

15. Brief Background of the Corporate Debtor

a. The Corporate Debtor is an MSME Company and is engaged in manufacturing of extruded Aluminium products, and has developed expertise in the industry through meticulous trading activity for a period of more than 30 years.

b. CD has diverse product range catering to various industries that included Automobiles, Air Handling, Architecture, Curtains, Display, Electricals, Furniture and Solar.

c. The cause of default by the Corporate Debtor, as analyzed by the Successful Resolution Applicant is that the Corporate Debtor was making losses and, therefore could not service the loans availed by it.

17. Brief Background of the Successful Resolution Applicant

The Successful Resolution Applicant is a consortium of Mr. Arun Sagarmal Duggar and Mr. Vinod Kothari.

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(a) As per the applicants, Mr. Arun Duggar has rich industrial background and an experience of over 12 years in manufacturing and dealing of Aluminium profiles. He has sound financial position with sufficient liquidity to promote new ventures. He is presently managing successfully his proprietorship concern in the name of M/s. K.D. Metals which has achieved turnover of Rs. 100 Crore in the F.Y. 2019-20. He is looking after the overall affairs of the concern including procurement of goods, sales and marketing, recruitment of man power and managing finance etc. The Resolution Applicant was a director of M/s RHJ Metals Private Limited for six years and is now focusing on strengthening the concerns, position in the global market and expansion of project in the International market.

(b) Mr. Vinod Kumar Kothari is a first entrepreneur in his family business and has an experience of 32 years in dealing all kinds of electric items and 15 years experience in manufacturing of plastic items using injection moulding process. The Resolution Applicant is currently a director in Kothari Electric and Services Private Limited and managing all affairs of the Company in procurement of goods, sales and marketing, recruitment of man power, managing finances of the Company and also engaged in strengthening the company's position in global market, expansion of business of the company and establishing footprint of company's products in International markets.

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18. SALIENT FEATURES OF THE APPROVED RESOLUTION

A. Synopsis of Payments to various Stakeholders.

Particulars	Name of Creditors	Claims Admitted (Rs.)	Proposed Payment Amount (Rs.)	Upfront Payment (Rs.)	Deferred Payment (Rs.)	Proposed Payment Structure
CIRP Cost	CIRP Cost	NIL	51,13,970	51,13,970	NIL	As per information memorandum dated 30/01/2021, no claims have been made by MSEDCL. RP has received the electricity bill dated 10.03.2021 (meter reading upto 28/02/2021) for Rs. 51,13,970/-. It is proposed to pay the actual CIRP costs including electricity bill amount as specified above and any further costs up to the date of approval of resolution plan by NCLT at actuals.
Financial Creditors (secured)	Pegasus Assets Recons-trution Pvt. Ltd.	42,30,00,000	14,00,00,000	3,00,00,000	11,00,00,000	Upfront payment of Rs. 3.00 crore within 30 days from date of receipt of NCLT order approving Resolution Plan, balance amount will be payable within 180 days from the date of receipt of NCLT order approving Resolution Plan.

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Financial Creditors Unsecured	Bipin Motichand Gandhi	5,00,000	1,65,485	1,65,485	NIL	It is proposed for payment of 33.10% claims admitted, within 30 days from the date of receipt of NCLT order approving Resolution Plan.
Unsecured Financial Creditor (Related Party)	Panache Metal India Pvt. Ltd.	3,29,00,000	NIL	NIL	NIL	NA
Workmen & Employees Dues	NIL	NIL	NIL	NIL	NIL	NA
Statutory Authorities	Statutory Authorities	65,25,05,676	1,68,765	1,68,765	NIL	It is proposed for payment of 0.27% claims admitted. Within 30 days from the date of receipt of NCLT order approving Resolution Plan.
Operational Creditors	Operational Creditors	9,48,43,930	2,56,079	2,56,079	NIL	It is proposed for payment of 0.27% claims admitted. Within 30 days from the date of receipt of NCLT order approving Resolution Plan.
Equity/ Preference Shareholders	Equity/ Preference Shareholders	NIL	NIL	NIL	NIL	NA

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Any other dues, claims or liabilities not covered in this Plan.	-	-	NIL	NIL	NIL	-----
TOTAL-A (Rs.)		61,37,49,606	14,57,04,299	3,57,04,299	11,00,00,000	-----

Capital Expenditure	For upgradation of Plant and Machinery	-----	75,00,000	75,00,000	-----	Within 30 days from the date of receipt of NCLT order approving Resolution Plan.
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Working Capital	Reserved for implementation	-----	15,00,00,000	4,00,00,000	11,00,00,000	Rs. 4 Crore within 180 days from the date of receipt of NCLT order approving Resolution Plan and balance amount shall be infused as per the requirement of operations over a period of 3 years.
TOTAL-B (Rs.)		0	15,75,00,000	4,75,00,000	11,00,00,000	-----
Grand Total (A+B) (Rs)		61,37,49,606	30,32,04,299	8,32,04,299	22,00,00,000	-----

B. CIRP Cost

The CIRP Cost includes an outstanding electricity bill of Rs 51,13,970/- in terms of unpaid CIRP expenses, which is up to 28th February, 2021.

The Successful Resolution Applicants have undertaken to pay electricity dues along with any additional electricity costs and any other CIRP costs that may accrue till the Effective Date i.e. approval date of the Resolution Plan by the Adjudicating Authority.

C. Secured Financial Creditors

As per Information Memorandum, secured Financial Creditors of the CD is Pegasus Assets Reconstruction Private Limited only. The Resolution Plan lists in detail the amount proposed for them as follows:

1. The Financial Creditor shall have exclusive right over any recoveries made through the proceedings in any applications filed by RP u/s 43,45,50 or 66 of the Code. After the approval of the Resolution Plan by Hon'ble NCLT, the Financial Creditors shall be authorized to represent and contest the matter at any forum/tribunal at their own costs.
2. Any personal guarantees provided by the promoters of the Corporate Debtor and/or corporate guarantees by third parties in connection with any financial debt or any other debt or obligation of the corporate debtor shall continue to be valid and applicable notwithstanding anything to the contrary mentioned anywhere in the Resolution Plan.

D. Unsecured Financial Creditors other than Related Parties

RP has received claim of Rs. 12,00,000/- from Mr. Bipin Motichand Gandhi (unsecured Financial Creditor other than related parties) and the claim amount admitted by Resolution Professional is Rs. 5,00,000/-. Hence Resolution Applicant is proposing to pay Rs. 1,65,485/- i.e. 33.10% of the claim admitted towards unsecured Financial Creditor other than related parties.

E. Unsecured Financial Creditors who are Related Parties

The Resolution Applicants propose NIL payment to the related Financial Creditors.

F. Treatment of Statutory Dues

RP has received claims from (a) Deputy Commissioner of Customs, EPCG Monitoring Cell (Rs. 5,84,11,031/-), and (b) Office of Deputy Commissioner of Central Goods and Service Tax, Division-I (Rs. 40,94,645/-). The admitted claim amount by RP is Rs. 6,25,05,676/-. The Successful Resolution Applicants is proposing to pay Rs. 1,68,765/- i.e 0.27% of the claim admitted towards statutory dues.

Further, RP has received notice from Grampanchayat Ahire, District Khandala towards payment of property tax of Rs. 7,03,070/-. RP has not admitted the claim till date. Therefore, Successful Resolution Applicant is not proposing to pay any amount to Grampanchayat.

As per the Information Memorandum, claims from Deputy Commissioner, EPCG Monitoring Cell and Office of Deputy Commissioner of Central Goods and Service Tax, Division-I has been included as part of operational creditors. Therefore, Resolution Applicants have proposed to make payment to statutory authorities which has been separately stated in the resolution plan.

G. Treatment towards Operational Creditors

The RP received claim of Rs. 12,87,37,100/- from Operational Creditors excluding government authorities/ statutory authorities and admitted claim amount by RP is Rs. 9,48,43,930/-. Therefore, the Successful Resolution Applicant is proposing to pay Rs. 2,56,079/- i.e 0.27% of the claim admitted to the Operational Creditors.

H. Security on the assets of Corporate Debtor

All the security created on the assets of the Corporate Debtor to the secured Financial Creditor i.e. Pegasus Assets Reconstruction Private Limited shall be continued till the payment of full and final settlement as proposed in this Resolution Plan and the same shall be released on payments under the Resolution Plan.

I. Monitoring Committee for Supervision and Implementation of the Resolution Plan.

A monitoring committee shall be formed to oversee the board, for proper and smooth implementation of the Resolution Plan by the Successful Resolution Applicants. The same will be formed within T+1 day of approval of Resolution Plan by the Adjudicating Authority. One member from Pegasus ARC Limited and one from the Resolution Applicant and one professional person having qualification as CA or CS or Advocate or Insolvency Professional shall form the Monitoring Committee.

Role of the Monitoring Committee should be to broadly oversee the affairs of the Corporate Debtor and to supervise the proper and smooth implementation of Resolution Plan by the Successful Resolution Applicant. The Monitoring Mommittee shall be dissolved upon final payment of amount as proposed in the Resolution Plan.

J. Management of the Corporate Debtor

Upon the approval of the Resolution Plan by the Adjudicating Authority in favour of the Successful Resolution Applicant, the management of the Corporate Debtor will be reconstituted as under:

- A board of Directors/ Reconstituted Board of Directors:

Successful Resolution Applicants shall be the Board of Directors of the Corporate Debtor and whenever it is required new Directors can be appointed/infused in the Board. Accordingly, the existing directors shall be deemed to have vacated the office of director from the date of approval of this Resolution Plan by the Hon'ble NCLT. However, the existing Directors shall co-operate with the new Directors and Monitoring Committee in taking charge of the affairs of the Corporate Debtor.

K. Performance Guarantee

The Successful Resolution applicants have arranged performance guarantee in the form of Bank Guarantee for an amount of Rs 3,00,00,000/- (Rs. Three Crore) in favour of Corporate Debtor that agreed to keep the same valid throughout the period of implementation of the Resolution Plan.

L. Recoveries from Preferential/Fraudulent Transactions.

Any amount recovered out of preferential/ fraudulent transactions u/s. 43 and 66 of the Code shall be appropriated towards the unsatisfied claims of Secured Financial Creditors.

M. Other Terms.

- If delay arises in any payment mentioned in the Resolution Plan then the Resolution Applicants and PAC (persons acting in concert) will be liable to provide simple interest @ 15% per annum.
- The Resolution Plan envisages to cancel the existing paid-up Equity Share Capital of the Corporate Debtor as per Companies Act, 2013.
- Any Exemption as sought for in relation to the payment of income tax return, waivers from applicability of any section under Income Tax Act, 1961, the

Central Goods and Services Tax Act, 2017 and other indirect taxes, arising out of the implementation of the Resolution Plan is not granted but the Resolution Applicant is at liberty to approach Competent Authorities for the exemptions if permitted under the law.

- With regard to other concessions and reliefs, most of them are subsumed in the reliefs granted above. The relief which is not expressly granted shall not be construed as granted. It is hereby clarified that exemptions, if any, sought in violation of any law in force, shall be construed as not granted.

N. Eligibility of Applicants under Section 29A of the Code:

The Successful Resolution Applicant has provided an affidavit dated 26.02.2021 confirming eligibility u/s. 29A of the Code to submit the Resolution Plan.

19. The Applicant further submits that the Resolution Plan submitted is in compliance **with Section 30 (2) of the Code and Regulation 38 (A) of the CIRP Regulations**. The RP has provided a compliance certificate in “**FORM H**” as mandated under the Code for seeking approval of the Resolution Plan from this Tribunal.

20. This Application for approval of the Resolution Plan has been filed before the extended period of CIRP for 6 months from the date of the Hon’ble NCLT vide its order dated 13th May 2021 in IA No. 2033 of 2020.

Observations of the Adjudicating Authority.

21. We have heard the Applicant and perused the Resolution Plan and related documents submitted along with the Application.

22. As referred to the above summary of the Resolution Plan, we are satisfied that all the requirements of Section 30 (2) are fulfilled and no provision of the law appears to have been contravened.

23. Section 30 (4) of the Code reads as follows:

“(4) The committee of creditors may approve a resolution plan by a vote of not less than sixty-six percent. of voting share of the financial creditors, after considering its feasibility and viability, the manner of distribution proposed, which may take into account the order of priority amongst creditors as laid down in sub-section (1) of section 53, including the priority and value of the security interest of a secured creditor and such other requirements as may be specified by the Board.

24. Section 30(6) of the Code enjoins the Resolution Professional to submit the Resolution Plan as approved by the CoC to the Adjudicating Authority. Section 31 of the Code deals with the approval of the Resolution Plan by the Authority if it is satisfied that the Resolution Plan as approved by the CoC under section 30(4) meets the requirements provided under section 30(2) of the Code. Thus, it is the duty of the Adjudicating Authority to satisfy itself that the Resolution Plan as approved by the CoC meets the above requirements.

25. On perusal of the Resolution Plan, it is observed that the Resolution Plan provides for the following:

- a) Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.
- b) Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.
- c) For management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified u/s 30(2)(c) of the Code.
- d) The implementation and supervision of the Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.

26. The Resolution Plan has been approved by the CoC in its 16th meeting with 99.88% votes in terms of Section 30(4) of the Code.

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

requirements.

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

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

29. In view of the discussions and the law thus settled, we are of the considered view that the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38(1A) and 39 (4) of the Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. We are thus inclined to allow the Application in the following terms.

ORDER

30. The Application IA No. 1045 of 2021 in CP (IB) No. 2808/2018 is allowed.

The Resolution Plan submitted by Mr. Anuj Bajpai is hereby approved. It shall become effective from this date and shall form part of this order. It shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.

31. No person will be entitled to initiate or continue any proceedings in respect to a claim prior to CIRP which is not a part of the Resolution Plan.

32. The Monitoring Committee as proposed in para 7 of the Resolution Plan shall be constituted for supervising the effective implementation of the Resolution Plan.

33. The approval of the Resolution Plan shall not be construed as waiver of any future statutory obligations/liabilities of the Corporate Debtor and shall be dealt by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan relating to period after the date of this order shall be subject to approval by the Authorities concerned. This Tribunal will not deter such authorities to deal with any of the issues arising after effecting the Resolution Plan.

34. With respect to the application(s) relating to preferential/fraudulent transactions under section 43 and 66 of the IBC, 2016 pending before this Tribunal, the Financial Creditor, as mentioned in the Resolution Plan, shall have exclusive right over any recoveries through those proceedings in any applications filed by RP u/s 43, 45, 50 or 66 of IBC, 2016.

35. As regards the other reliefs and concessions as sought for which exempts the Corporate Debtor from holding them liable for any offences committed prior to the commencement of CIRP as stipulated under Section 32A of the Code, is granted to the Resolution Applicants. However, exemptions, if any, sought in violation of any law in force, it is hereby clarified that such exemptions shall be construed as not granted.

36. In terms of the Judgment of the Hon'ble Supreme Court in the matter of **Ghanshyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited**, (*Civil Appeal No. 8129 of 2019 decided on 13.04.2021*) the Hon'ble Apex Court on the date of the 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 are not a part of the Resolution Plan.

37. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the concerned Registrar of Companies (RoC), for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed. However, if any approval of shareholders is required under the Companies Act, 2013 or any other law for the time being in force for the implementation of actions under the Resolution Plan, such approval shall be deemed to have been given and it shall not be a contravention of that Act or law.

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

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

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

Sd/-

**ANIL RAJ CHELLAN
MEMBER (TECHNICAL)**

Sd/-

**KULDIP KUMAR KAREER
MEMBER (JUDICIAL)**