

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

I.A. 89/2024

IN

C.P. NO. 972(IB)/MB/2023

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

Dharmendra Dhelariya

Resolution Professional of
Alka India Limited,
B/605, Titanium Square, Thaltej,
Cross Road, Thaltej, Ahmedabad - 380054

.... Applicant/ Resolution Professional

In the matter of:

Micro Capitals Private Limited

.... Petitioner/ Financial Creditor

Versus

Alka India Limited

.... Corporate Debtor/ Respondent

Order Pronounced on: 07.02.2025

Coram:

Hon'ble Smt. Lakshmi Gurung, Member (Judicial)

Hon'ble Shri Charanjeet Singh Gulati (Technical)

Appearances:

For Applicant/RP in I.A. 89 of 2024: Adv. Amit Tungare a/w Adv.

Prathamesh Nirkhe



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For Suspended Director: Present but not marked his presence.

PER: SHRI CHARANJEET SINGH GULATI, MEMBER (TECHNICAL)

ORDER

1. I.A. NO. 89/2024

This I.A. is filed by, **Mr. Dharmendra Dhelariya, the Resolution Professional of Alka India Limited ('the Applicant')** under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (**'the Code'**), seeking following reliefs:

- a) To allow the present Application;
- b) To approve the Resolution Plan approved by the Committee of Creditors in the 10th CoC Meeting held on 09.09.2023 of Mr. Jatinbhai Ramanbhai Patel under Section 30(6) of the Code;
- c) To pass order that resolution plan approved by the Hon'ble Tribunal shall be binding on the Corporate Debtor and its employees, members, creditors including the central government, state governments, local authorities, department of income tax, GST department to whom a debt in respect of the payment of dues arising under any law for the time being in force;
- d) To pass such other necessary orders as may be deemed fit in the matter.

Brief Facts:

2. The Corporate Insolvency Resolution Process (**'CIRP'**) of Alka India Limited (**'said corporate debtor'**) was initiated by this Tribunal vide order dated 18.12.2023 under Section 7 of the Code (**'said order'**). The said corporate debtor is a guarantor to the loan facility availed by one principal borrower, K Sera Sera & Vikram Bhatt Studio Virtual World Private



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Limited. The said order was passed in Company Petition (IB) 972 (MB) of 2023 filed by one financial creditor, Micro Capital Private Limited on 14.09.2023. Pursuant to the said order, Mr. Dharmendra Dhelariya was appointed as an Interim Resolution Professional ('IRP').

3. Subsequent to admission of the petition for CIRP, a Public Announcement inviting claims from creditors was made by the IRP on 21.12.2023. The Public Announcement was made in Financial Express (English Language) and one Mumbai Lakshdeep (Marathi Language) in accordance with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate Persons) Regulations, 2016 (said '**IBBI (CIRP) Regulations, 2016**'). The last date of submission of claims was 01.01.2024.
4. Following the Public Announcement, the IRP received claims from the stakeholders/creditors and collated them as under:

(in Rupees)

(in Lakhs)

Sr. No.	Category of Creditors	Amount Claimed	Amount Admitted
1.	Secured Financial Creditors	Nil	Nil
2.	Unsecured Financial Creditors	15.70	Nil
	-Creditors not having a right to vote under Section 21(2) of the Code		
	- Micro Capitals Private Limited ¹	630.86	630.86
3.	Operational Creditors Government Dues)		
	-Government Dues	276.00	276.00
	- Workmen	Nil	Nil



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	-Employees	Nil	Nil
	-other operational creditors (who supplied goods and services)	86.92	86.92
4.	Other debts and dues	Nil	Nil
	Total	1009.48	993.78

5. Subsequent to collation of claims, the CoC was constituted on 10.01.2024 in accordance with Section 21 of the Code. The CoC consists of the sole Financial Creditor as per the details given below:

Particulars	Amount Claimed (In Rupees)	Amount of Claim Admitted (In Rupees)	Percentage of Voting (%)
Micro Capitals Private Limited	6,30,85,815.45	6,30,85,815.45	100

6. In the 1st CoC meeting convened on 17.01.2024 after the constitution of CoC, the IRP was appointed as a Resolution Professional ('RP').
7. For the purpose of determining Fair Value and Liquidation Value of Assets of the corporate debtor, registered valuers were appointed by the applicant on 22.01.2024 in pursuance to the resolution passed in 1st CoC meeting. The following appointments were made in compliance with Regulation 27 of the said IBBI (CIRP) Regulations, 2016.

Sr. No.	Category	Name of the Valuer
1.	Securities and Financial Assets	Ativ Hasmukhbhai Patel (IBBI Reg. No.: IBBI/RV/06/2020/13434)



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2.	Securities and Financial Assets	Maitri Valuation Private Limited (IBBI Reg. No.: IBBI/RV-E/11/2023/184)
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8. Further, the above-mentioned valuers have submitted their Valuation Reports to the Applicant/RP. The Valuation Reports comprise an estimate of fair value and liquidation value of assets of said corporate debtor, which is as follows:

i. Securities and Financial Assets ('SFA')

Sr. No.	Name of the Valuer	Fair Value	Liquidation Value
1.	Ativ Hasmukhbhai Patel ² (Report dated 31.07.2024)	3,61,000	3,61,000
2.	Maitri Valuation Private Limited ³ (Report dated 30.07.2024)	3,61,000	3,61,000

*Note:

1. As the two estimates are identical, the fair value is Rs. 3,61,000 and liquidation value is Rs. 3,61,000 of Securities and Financial Assets of the corporate debtor.
2. The Book Value of Assets of the Corporate Debtor is estimated as Rs. 1575.49 Lakhs.
3. The Book Value of Assets of the Corporate Debtor is estimated as Rs. 1575.49 Lakhs.

9. The Applicant submits that the CoC after thorough deliberation approved Eligibility Criteria of PRA, Evaluation Matrix, and Request for Resolution Plan in the third CoC meeting convened on 19.02.2024.



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10. The publication for Invitation of Expression of Interest in Form -G from Prospective Resolution Applicants ('PRA') was made in The Free Press Journal (English Language) and one Mumbai Lakshdeep (Marathi Language) by the applicant as per Section 25(2)(h) of the Code on 16.02.2024, wherein the last date of submission of EoI was 02.03.2024. The CoC for reasons recorded in minutes of the 4th CoC Meeting held on 11.03.2024 decided to extend the due date for submission of EoI and hence, a revised Form-G was issued on 12.03.2024, wherein the last date of submission of EoI was 27.03.2024 and the last date for submission of Resolution Plan was 26.05.2024.
11. Following the publication of EoI in Revised Form-G on 12.03.2024, the applicant received a 'Resolution Plan' from one PRA, that is, Mr. Jatinbhai Ramanbhai Patel (said '**Resolution Plan**'). The Resolution Plan underlines that the Resolution Applicant through his company mainly engaged in the business of processing and trading of agro commodities as Basmati Rice, Wheat, Dal etc. pan India. The PRA in its resolution plan states to have a developed a strategic plan to address the underlying issues and revive the corporate debtor, M/s Alka India Limited. The plan focuses on improving operational efficiency, market repositioning, and ensuring compliance with regulatory requirements. Whereas, the corporate debtor is a publicly listed company engaged in the business of importing, exporting, purchasing, selling, and/or otherwise dealing in all types of yarns, cloth, fibers, fabrics and textiles made from cotton and rayon.
12. The Applicant submits that the PRA in its Resolution Plan makes available the CoC a proposal to infuse Rs. 7.25 Crores consisting of amount payable to unsecured creditors and amount for CIRP Cost from effective date till closing date.



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13. Further, the PRA furnishes an Affidavit dated 27.05.2024 stating on oath that the PRA is not ineligible under Section 29-A as attached as Annexure- '8' of the application.
14. Further, the Applicant submits that the CIRP commenced vide said order dated 18.12.2023. However, the completion of CIRP was to exceed beyond 180 days, being 15.06.2024. Hence, in the seventh CoC meeting convened on 12.06.2024, the members approved to file an application for extension of CIRP period. On the direction of CoC, the applicant filed I.A. (IBC) No. 3326/MB/2024 on 14.06.2024 for extension of CIRP Period for a further period of 90 days with effect from 15.06.2024 under Section 12(2) of the Code, which was allowed on 02.08.2024.
15. The Applicant submits that it has complied with requirements of Regulation 36A (1) of the said IBBI (CIRP) Regulations, 2016 and EoI in Form-G, to publish the final list of PRAs. The same was published on 14.08.2024.
16. The Applicant submits to have issued a Letter of Intent to SRA on 16.09.2024, the SRA was advised to furnish a performance bank guarantee of 10% of resolution plan consideration, on approval of the said Resolution Plan. The performance bank guarantee of Rs. 72,50,000/- was transferred in favor of the corporate debtor through RTGS on 17.09.2024.
17. In the 10th CoC Meeting convened on 09.09.2024, it was resolved to approve the resolution plan submitted by Mr. Jatin Ramanbhai Patel (said **'Successful Resolution Applicant' / 'SRA'**) and the Resolution Plan was filed before this Tribunal on 19.09.2024.
18. Further, the Applicant has filed an application I.A. 5072 of 2024 for seeking extension of CIRP period of 30 days beyond 270 days from



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14.09.2024 to 13.10.2024, which was allowed by this Tribunal on 25.11.2024.

CIRP Cost:

19.1 The SRA in its Resolution Plan provides that the unpaid CIRP costs is payable in priority to any other creditor of the corporate debtor as per Section 30(2)(a) of the Code. A total sum of Rs. 40 Lakhs is estimated till approval of the plan by this Tribunal. Further, the SRA undertakes to contribute 100% of CIRP costs to cope with variations, if any.

19.2 It is provided in the Resolution Plan that any cost payable from the internal accruals of the Corporate Debtor would not be classified as CIRP cost as per the Code and hence should not be funded by the SRA. On the contrary, if any cost is paid from the internal accruals of the Corporate Debtor and funded by the SRA then such cost would become a part of the current assets of the corporate debtor and is provided to be taken over by the SRA ultimately.

Sources of Fund:

20.1 The Upfront Cash (of Rs. 7,25,00,000/- shall be paid within fifteen (15) days from the date of approval of plan by this Tribunal) and any subsequent working capital infusion shall be brought in by the SRA and is clarified to be made out of internal accruals of SRA and/or financing arranged by the SRA from any financial institution.

20.2 The SRA shall infuse upfront cash to the corporate debtor, by way of equity/quasi equity as may be decided by the SRA at its sole discretion.

20.3 Any contribution as Working Capital for rehabilitation of Corporate Debtor's operation will be provided by the SRA, as needed.



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20.4 It is submitted by the SRA at Annexure – 9, 10 and 11 of the petitions, a C.A. Certificate along with Statement of Accounts and CIBIL Report authenticating the capability of the SRA to make payment towards the proposal out of internal accruals.

20.5 The Applicant vide additional affidavit dated 14.12.2024 submits a copy of unaudited financials of last three financial years being 2021-2022, 2022-2023 and 2023-2024 along with Income Tax Return Acknowledgment for the assessment years being 2021-2022, 2022-2023 and 2023-2024.

Upfront Cash

21. The Resolution Plan contemplates a total resolution Plan amount of Rs.7,25,00,000.00/- (Rupees Seven Hundred Twenty-Five Lakhs Only/-) **('Upfront Cash')** which shall be paid by the SRA within fifteen (15) days from the date of approval of the plan by this Tribunal (T+15 days). The Upfront cash would be sourced by the SRA in the manner as reproduced as under:

(in Rupees)

(in Lakhs)

Sr. No.	Particulars	Amount	Remarks
1.	Resolution Applicant or its Promoter and Family Contribution	700.00	The same be brought in by the Resolution Applicant and Families in the form of infusion as New Equity Capital
2.	Adjustment of Earnest Money	20.00	CoC members to utilize Earnest Money Deposit as per EoI conditions to make



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	Deposit as per EoI conditions		payment as per resolution Plan.
3.	Adjustment of Earnest Money Deposit/ Bid Bond Guarantee Amount as per RFRP conditions.	5.00	CoC members to utilize Bid Bond Guarantee Amount as per RFRP conditions to make payment as per resolution Plan.
	TOTAL	725.00	

22. In accordance with Regulation 38(1-A) of the IBBI Rules, 2016, the statement showing the treatment given to the stakeholders as given below:

(in Lakhs)						
Sr. No.	Particulars	Amount Claimed (in Rupees)	Amount Admitted (in Rupees)	Settlement Value (in Rupees)	Terms of Payment	Amount provided to Amount Claimed %
1.	CIRP Cost			40	CIRP Cost is considered as Rs. 40,00,000 However, 100% of the actual CIRP Cost will be paid by the SRA.	100



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2.	Secured Financial Creditors	Nil	Nil	Nil	Nil	Nil
3.	Unsecured Financial Creditors	646.56	630.86	630.86	The said amount is 100% of the admitted claim of the Unsecured Financial Creditor. The amount will be paid 50% of the admitted claim within 15 days of approval of resolution plan.	100
4.	Operational Creditors					
a.	Employees and Workmen	Nil	00	00	The said liability stands extinguished after the approval of	



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					Resolution Plan.	
b.	Government Authority Dues	276.00	276.00	41.17	The said amount shall be paid within 15 days from the approval of the plan by this Tribunal.	14.92
c.	Other Operational Creditors	86.92	86.92	12.97	The said amount shall be paid within 15 days from the approval of the plan by this Tribunal.	14.92
	Grand Total	1009.48	993.78	725.00		

23. Though there is no bifurcation given of Government Dues of Rs. 276.00 Lakhs. However, from the IBBI website details of the same were looked into and it is seen that the break-up of Government Authority Dues comprises of claims from the Income Tax Department of Rs. 224.73 Lakhs and Securities and Exchange Board of India of Rs. 51.30 Lakhs.



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Earnest Money Deposit (EMD) and Bid Bond Guarantee Amount:

- 24.1 At the stage of submission of the EoI for the said corporate debtor, the SRA has submitted an amount of Rs. 20,00,000 as EMD and Rs. 5,00,000 as a bid bond guarantee amount.
- 24.2 The SRA provides in the resolution plan to utilize the EMD and bid bond guarantee amount as per EoI conditions and RFRP conditions, respectively to make payment as per the resolution plan.

Performance Bank Guarantee:

- 25.1 As per the Resolution Plan, the SRA was required to provide the Performance Bank Guarantee of Rs. 72,50,000/- (Rupees Seventy-Two Lakhs Fifty Thousand Only/-) within 7 business days of the date of approval of Resolution Plan by the CoC, in favour of the corporate debtor.
- 25.2 The SRA has submitted the performance bank guarantee of Rs. 72,50,000/-, that is 10% of the total resolution plan through RTGS on 17.09.2024.

Supervision of the Resolution Plan from the NCLT Approval date:

- 26.1 A Monitoring Committee would be formed on the approval of resolution plan by this Tribunal to oversee day-to-day affairs and management of the Corporate Debtor and implementation of the Resolution Plan till the completion date.
- 26.2 The composition of Monitoring Committee is described as follows:
- a) appointment of existing resolution professional as the monitoring official for supervising effective implementation of the plan,
 - b) one authorized representative from financial creditor and



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- c) one person from SRA in consultation with CoC or the monitoring committee (if any) formed for the purpose of implementing the resolution plan

26.3 Therefore, the Monitoring Committee would comprise of one member appointed by the SRA, and the majority of the members are nominated by the CoC.

Nature of Company after approval of Resolution Plan

27 Upon approval of Resolution Plan by this Tribunal, the corporate debtor would continue to be listed entity on the Bombay Stock Exchange, subject to requisite compliances.

Treatment of Promoters Shares

28 Upon approval of the Resolution Plan by this Tribunal, the entire shareholding of the promoters and its group (whether holding preference share capital or equity share capital) shall be fully cancelled and stand reduced to zero. These shares shall be issued carrying face value of Rs. 1.00 each in the name of SRA and its promoters pursuant to Companies Act, 2013 and any other applicable laws.

Issue of New Shares

29.1 The existing authorized capital of Rs. 100 Crores and number of equity shares of the corporate debtor will remain the same. It is proposed to reduce existing number of equity shares to 50,00,000 shares of Rs. 1.00 per share (face value). Accordingly, the paid-up share capital will be Rs. 50,00,000 post approval of the Resolution Plan.

29.2 In respect of public shareholders holding Equity Shares in the company, it is proposed to issue 2,50,000 equity shares in totality in proportion of their existing shareholding as on the date of approval of resolution plan by this Tribunal, out of newly reconstructed 50,00,000



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shares. The remaining 47,50,000 newly restructured shares will be allotted to SRA and successful resolution applicant's group of promoters.

29.3 Further, it is proposed that any fraction of shares shall stand reduced to zero and will decrease the capital to that extent. The SRA also clarifies that no cash consideration would be paid to shareholders who are entitled to such fraction(s).

29.4 The approval of the resolution plan by this Tribunal shall be deemed to be an order under Section 66 of the Companies Act along with other applicable provisions of the Companies Act, sanctioning and approving the Standalone Capital Reduction and all matters thereto. The amount of reduction in the equity share capital of the corporate debtor shall be credited to capital reserves of the company

29.5 Furthermore, the Corporate Debtor being a listed entity at Bombay Stock Exchange shall on approval of the Resolution Plan, necessitate the Securities and Exchange Board of India and Bombay Stock Exchange to relist its securities without requiring to make any payment of any additional fees or outstanding fees for the period prior to the date of approval of the Resolution Plan by this tribunal. However, the SRA provides to comply with all necessary formalities for getting the securities of the corporate debtor listed as per provisions of SEBI Act and Companies Act and also for restructuring of the Share Capital of the CD, compliances with RoC, Stock Exchange, SEBI, NSDL, CDSL or any other intermediaries will be done by SRA after the approval of Resolution Plan by this Tribunal, after the approval of this Plan.

29.6 Accordingly, the Public Shareholding shall be increased to the minimum threshold requirements within prescribed time limit from the



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date of relisting of security as per provisions of SEBI. The SRA will hold 95% of the total equity share capital of the company upon reduction of the capital and allotment of equity shares under the resolution plan. The SRA shall take necessary steps as per the time permitted under the law or as may be extended by this Authority for increasing the public shareholding at requisite level.

29.7 It is clarified that the approval for issuance and allotment of equity shares by the company to the subscribers in accordance with Section 42 and Section 62(1)(c) of Companies Act, 2013 and LODR Regulations, if applicable and accordingly, no approval or consent shall be necessary under any Applicable Law for making such allotment other than from the Board of Directors of the company constituting post approval of the Resolution Plan.

Appointment of New Board of Directors:

30.1 A proposed list of Board of Directors and Overall Management Strength of the corporate debtor is provided in the Resolution Plan; however, the given composition is noted to change subject to circumstances.

30.2 The Proposed Board of Directors and Overall Management Strength, would comprise of:

- a. Jatinbhai Ramanbhai Patel – Director
- b. Karnik Pillai – Managing Director
- c. Komal Motiani – Independent Director

Compliance Certificate in Form - H

31 Pursuant to Regulation 39(4) of Said IBBI (CIRP) Regulations, 2016, the Successful Resolution Applicant has prepared a Compliance Certificate dated 11.11.2020 in Form H which is annexed to the Application.



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a. Compliance of mandatory requirements under the Insolvency & Bankruptcy Code, 2016:

Sr. No.	Particulars	Compliance
1	Section 25(2)(h): Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the Said corporate debtor?	Yes. Resolution Applicant complies with the minimum eligibility criteria as approved by the CoC considering the complexity and scale of operation of business of the CD.
2	Section 29A: Whether Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Yes.
3	Section 30: (1) Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Yes. The Resolution Applicant has submitted an affidavit in Clause 10 at page number 30-31 of the resolution plan.
	(2)(a) Whether the Resolution Plan provides for payment of insolvency resolution process costs?	Yes. Clause 6.1.2.2 at page no. 22 of the Plan.
	(2)(b) Whether the Resolution Plan provides for the payment of the debts of operational creditors?	Yes. Clause 6.1.3.1 at page no. 23 and 24 of the Plan.
	(2)(c) Whether the Resolution Plan provides for the payment to the financial creditors who did not vote in favor of the resolution plan?	Yes. Clause 6.1.3.3 at page no. 25 of the Plan.



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	2(d) Whether the Resolution Plan provides for the management of the affairs of the Said corporate debtor?	Yes. Clause 6.2.2 at page no. 28 of the Plan.
	2(e) Whether the Resolution Plan provides for implementation and supervision of the resolution plan?	Yes. Clause 6.2.3 at page no. 29 of the Plan.
	(2)(c) Whether the resolution plan contravenes any of the provisions of the law for the time being in force?	Yes. Clause 11.5.1 at page no. 42 of the plan.
	(4)(a) Whether the Resolution Plan is feasible and viable, according to the CoC?	Yes. According to CoC, the Resolution Plan submitted by Resolution Applicant is feasible and based on the said consideration it has approved the Plan.
	(4)(b) Whether the Resolution Plan has been approved by the CoC with 66% voting share?	Yes. It is approved by CoC with 100% vote.
4	Section 31(1): Whether the Resolution Plan has provisions for its effective implementation Plan, according to CoC	Yes.

b. Compliance under mandatory requirements under IBBI (Insolvency Resolution Process of Corporate Debtor) Regulations, 2016

Regulation 38		
1	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	Yes. Clause 6.3.1.1 at page no. 23 and 24 of the Plan. Clause 9 at page no. 38 of the Plan.



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1A	Whether the resolution plan includes a statement as to how it has dealt with the interest of all stakeholders?	Yes. Clause 11.1 at page no. 40 of the Plan.
1B	i) Whether the Resolution Applicant or any of its related parties has filed to implement or contribute to the failure of implementation of any resolution plan approved under the Code? ii) If so, whether Resolution Applicant has submitted the statement giving details of such non-implementation?	Yes. Clause 11.5.2 at page no. 42 of the Plan. Not Applicable.
2(a)	Whether the Resolution Plan provides the term of the plan and its implementation schedule?	Yes. Clause 6.2.1 at page no. 22 of the Plan.
2(b)	Whether the Resolution Plan provides for the management and control of the business of the said corporate debtor during its term?	Yes. Clause 6.2.2 at page no. 28 of the Plan.
2(c)	Whether the Resolution Plan provides adequate means for supervising its implementation?	Yes. Clause 6.2.3 at page no. 29 and 30 of the Plan.
3	Whether the Resolution Plan demonstrates that -	Yes. Clause 11.5.3 at page no. 42 of the Plan
(a)	It addresses the cause of default?	
(b)	It is feasible and viable?	
(c)	It has provisions for its effective implementation?	
(d)	It has provisions for approvals required and the time for the same?	
(e)	The Resolution Applicant has the capacity to implement the Resolution Plan?	



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Regulation 39		
2	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	No
4	Provide details of performance security received as referred to in sub-regulation (4A) of Regulation 36.	Resolution Applicant provided performance security of Rs. 72,50,000/- (10% of offer value-725.00 Lakhs) on 17.09.2024

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

Section/ Regulation No.	Description of Activity	Latest Timeline under Regulation 40A	Dates according to Regulation 40A	Actual Date
Section 16(1)	Commencement of CIRP and Appointment of IRP	T	18.12.2023	18.12.2023
Regulation 6(1)	Publication of Public Announcement	T+3	21.12.2023	21.12.2023
Section 15(1)(c)/ Regulation 12(1)	Submission of Claims	T+14	01.01.2024	01.01.2024
Regulation 13(1)	Verification of Claims	T+21	08.01.2024	08.01.2024
Section 26(6A)/ Regulation 15A	Application for Appointment of Authorized Representative, if necessary	T+23	10.01.2024	Not Applicable
Regulation 17(1)	Filing of Report certifying	T+23	10.01.2024	10.01.2024



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	Constitution of CoC			
Section 22(1) and Regulation 17(2)	First Meeting of CoC	T+30	17.01.2024	17.01.2024
Regulation 35A	Determination of fraudulent and other transactions	T+115	11.04.2024	Not Applicable
Regulation 27	Appointment of two registered Valuers	T+47	03.02.2024	22.01.2024 and 29.01.2024
Regulation 36(1)	Submission of Information Memorandum to CoC	T+95	10.02.2024	22.03.2024 (Confidentiality undertaking was received on 22.03.2024)
Regulation 36A	Invitation of EoI	T+75	16.02.2024	16.02.2024 (1 st EoI) 12.03.2024 (2 nd EoI)
	Publication of Form G	T+75	16.02.2024	16.02.2024 (Original) 12.03.2024 (Extended)
	Provisional list of Resolution Applicants	T+100	12.03.2024	12.03.2024 (Original) 06.04.2024 (Extended)
	Final list of Resolution Applicants	T+115	27.03.2024	27.03.2024 (Original) 21.04.2024 (Extended)
Regulation 36B	Issue of RFRP including Evaluation Matrix, etc	T+105	03.04.2024	03.04.2024 (Original) 26.04.2024 (Extended)



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Section 30(6)/ Regulation 39(4)	Submission of CoC approved Resolution Plan	T+165	31.05.2024	19.09.2024
Section 31(1)	Approval of Resolution Plan	T+180	15.06.2024	

- 32 On perusal of Form-H, it is seen that the Resolution Plan is in compliance with the mandatory compliances as stipulated under Section 30(2) of the Code. The Resolution Plan also meets the requirements of Regulations 37, 38, 38(1A) and 39 (4) of the IBBI Regulations, 2016. The SRA has submitted an Affidavit dated 27.05.2024 in Annexure- '8' of the application stating that Successful Resolution Applicant nor any other person who is a connected person (as defined under the IBC) are ineligible under Section 29 A of the IBC. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law.
- 33 The Resolution Plan of the Corporate Debtor provides that all Preferential, Undervalued, Fraudulent and Extortionate Transactions (PUFE) and related recoveries/ expenses is excluded from the resolution plan. Further, the SRA states that in case of any future developments, the matters pertaining to PUFE would be considered by it.
- 34 The Applicant identifies that there are no avoidance transaction applications pending before this Tribunal.
- 35 In **K Sashidhar v. Indian Overseas Bank & Others (2019) 12 SCC 150**, the Hon'ble Apex Court held that if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such



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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.

36 In view of the law laid down by Hon'ble Supreme Court, the commercial wisdom of the COC is to be given paramount importance for approval / rejection of the resolution plan. As the Resolution Plan meets the requirements of the Code and the IBBI (CIRP) Regulations, 2016 the same needs to be approved. Accordingly, the **Resolution Plan is approved** with the following directions:

- i. The Resolution Plan submitted by Mr. Jatin Ramanbhai Patel is hereby approved. It shall become effective from this date and shall form part of this order. It shall be binding on the Said 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.
- ii. No person will be entitled to initiate or continue any proceedings in respect to a claim prior to CIRP which a part of the Resolution Plan is not.



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- iii. The Monitoring Committee shall supervise the implementation of the Resolution Plan and shall review operational performance of the Said corporate debtor.
- iv. The Resolution Professional is further directed to handover all records, premises / documents to Resolution Applicant to finalise further line of action required for starting of 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 further line of action required for starting of the operations.
- v. As per the Resolution Plan, extinguishment of existing shares of the said corporate debtor, allotment of shares to the Resolution Applicant and to New Investor and reduction of share capital do not require the consent of shareholders as required under the Companies Act or any other authority for implementation of the Resolution Plan.

Reliefs and Concessions:

- a. Approval of the Resolution Plan shall not be a ground for termination of any existing consents, approvals, licenses, concessions, authorizations, permits or the like that has been granted to the Said corporate debtor or for which the Said corporate debtor has made an application for renewal, grant permissions, sanctions, consents, approvals, allowances, exemptions etc.
- b. Any exemption as sought for in relation to the payment of registration charges, stamp duty, taxes and fees arising out of the implementation of the Resolution Plan is not granted but the



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Resolution Applicant is at liberty to approach Competent Authorities for the exemptions if permitted under the law.

- c. For past non-compliances of the Said corporate debtor under applicable laws the Resolution Applicant shall not be liable for any liabilities and offences committed prior to the commencement of CIRP and as stipulated under Section 32A of IBC, 2016.
- d. It is hereby clarified that in terms of the Judgement of Hon'ble Supreme Court in the matter of **Ghanshyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited**, on the date of approval of the Resolution Plan by the Adjudicating Authority, all such claims which are not a part of Resolution Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect of a claim which is not a part of the Resolution Plan.
- e. With regard to other concessions and reliefs, most of them are subsumed in the reliefs granted above. The relief which is not expressly granted above, shall not be construed as granted. The exemptions if any sought in violation of any law in force, it is hereby clarified that such exemptions shall be construed as not granted. It is further clarified that the reliefs and concessions sought which are beyond the scope of provisions of Section 31(1) and Section 32A of the Code cannot be granted and are as such deemed to have not been granted.
- f. Any amount out of the action taken against other persons for Preferential/ Fraudulent Transactions u/s. 43 and 66 of the IBC, 2016 as found in the Audit Report and also Unauthorized



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Transaction post CIRP order, shall be appropriated towards the unsatisfied claims of Secured Financial Creditors.

- g. 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.
- h. The moratorium under Section 14 of the Code shall cease to have effect from this date.
- i. 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.
- j. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.

37 Accordingly, the Resolution Plan in I.A. No. 89 of 2024 is hereby allowed and **approved**.

Sd/ -

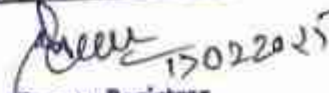
Charanjeet Singh Gulati
Member (Technical)

Akshita, L.R.A.

Sd/-

Lakshmi Gurung
Member (Judicial)

Certified True Copy
Copy Issued "free of cost"
On 13/02/2025


Deputy Registrar
National Company Law Tribunal Mumbai Bench

