

**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**CA No.2778 (PB)/2019
IN
CP (IB) No.967(PB)/2018**

In the matter of

SGM Webtech Private Limited...

Financial Creditor

Versus

Boulevard Projects Private Limited

...Corporate Debtor

In the matter of

Mr. Amit Agarwal, Resolution Professional of
Boulevard Projects (Pvt) Ltd. ...

Applicant

Vs.

Max Estates Limited

...

Proforma Respondent

Order pronounced on: 27.02.2023

Coram:

Chief Justice (Retd.) Ramalingam Sudhakar : Hon'ble President

Shri Avinash K. Srivastava : Hon'ble Member (Technical)

Appearances :

For the Resolution Professional : Mr. Gopal Jain, Sr. Adv., Mr. Angad Varma, Adv., Mr. Prashant Kumar, Adv. Mr. Nikhil Mehndiratta, Adv. Mr. Toyesh Tewari, Adv. Ms. Mahima Singh, Adv. Mr. Shashank Agrawal, Adv. Mr. Pankaj Agarwal, Adv. Along with Mr. Amit Agarwal, RP

For the SRA : Mr. Ramji Srinivasan Sr. Adv., Mr. L. Vishwanathan, Adv. Mr. Raunak Dhillon, Adv. Mr. Uday Khare, Adv. Ms. Madhavi Khanna, Adv. Mr. Nihaad Dewan, Adv & Ms. Divisha Jindal, Adv.

RP in person : Mr. Amit Agarwal, RP

For NOIDA : Mrs. Madhvi Divan, Ld ASG , Mr. Sourav Roy, Adv

ORDER

Per: Chief Justice (Retd.) Ramalingam Sudhakar, President

1. Preliminary

- 1.1. The present interlocutory application bearing IA No.2778(PB) 2019 was moved on 05.12.2019 on behalf of Mr. Amit Agarwal, Resolution Professional ("**RP**") of Boulevard Projects Private Limited (CIN: U70200DL2010PTC203764), under the provisions of Sections 30(6) and 31(1) of the Insolvency & Bankruptcy Code, 2016 [hereinafter referred to as "**the Code**" or "**IBC**"] read with regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("**CIRP Regulations**") for approval of the Resolution Plan in respect of Delhi Boulevard Projects Private Limited ("**Corporate Debtor**").
- 1.2. The corporate debtor is engaged in the business of real estate development and is developing a plot of 34,697 sq meters, consisting of one commercial tower, one hotel tower, retail spaces and three residential towers, located in Noida under the project name "Delhi One".
- 1.3. The underlying Company Petition CP (IB) No.1567(PB)2018 filed by SGM Webtech Limited Private under Section 7 of the Code for initiation of Corporate Insolvency Resolution Process ("**CIRP**") of the Corporate Debtor was admitted by this Adjudicating Authority *vide* its order dated 08.02.2019 ("**Admission Order**"). On that date, *i.e.*, 08.02.2019 ("**Insolvency Commencement Date**") Mr. Amit Agarwal (IBBI Reg No. IBBI/IPA-002/IP-N00185/2017-18/10456) was appointed as IRP who was later confirmed as RP *vide* order of this Adjudicating Authority dated

05.04.2019.

2. Collation of claims by RP

2.1. The Applicant submits that the public announcement was made on 14.02.2019, and the IRP called for proof of claims from the creditors of the Corporate Debtor and informed lenders to submit their claims as envisaged under the Code. Further it is stated that the COC was constituted on 12.03.2019.

2.2. The list of financial creditors of the Corporate debtor being members of the COC and distribution of voting share among them is mentioned as under:

Sl. No.	Name of Creditor	Voting Share(%)
1.	Axis Bank	10.21%
2.	Piramal Enterprises	21.71%
3.	Real estate allottees	68.08%

2.3. The RP submits that a total of Eleven CoC meetings have been held during whole CIRP period.

2.4. The appointed registered valuers have submitted their reports providing the fair value of the corporate debtor as Rs. 452,00,00,000/- and liquidation value of the Corporate Debtor as Rs.284,00,00,000/- as per the valuation report.

3. Evaluation and voting

3.1 The Applicant submits that invitation for Expression of Interest (EoI) in Form-G was issued thrice on 07.05.2019, 04.06.2019 and 12.08.2019 by way of a public notice ("**Public Notice**") whereby prospective resolution

applicants (**PRAs**) were invited to submit the EoIs for submitting a resolution plan of the Corporate Debtor on or before 15.10.2019.

- 3.2 Pursuant to it, the applicant received 8 EoIs. On 15.09.2019, the RP issued RFRP and on the last date for submission of resolution plan i.e. on 15.10.2019, the RP received only one Resolution Plan from **Max Estates Limited**.
- 3.2. In the CoC meeting held on 21.10.2019, the sole resolution applicant was called to provide certain clarifications in respect to the submitted Resolution Plan. On 30.10.2019, the Resolution Applicant submitted a revised Resolution Plan which was forwarded by RP to COC in which the COC again on 02.11.2019 raised some concerns, which was addressed by the resolution applicant on 02.11.2019 and two clarificatory letters dated 02.11.2019 and 04.11.2019 was issued by the resolution applicant.
- 3.3. Further the CoC deliberated in accordance with Section 30(3) of the Code read along with Regulation 39(3) of CIRP Regulations and the feasibility and viability of the resolution plans was also discussed by the CoC. The e- voting on the compliant revised resolution plan was held between 05.11.2019 to 08.11.2019 through independent third party i.e. iNodesys Technologies.
- 3.4. The Resolution Plan submitted by the Successful Resolution Applicant (SRA) i.e Max Estates Limited was approved by a majority of 86% voting share by the CoC on 11.11.2019 and the application for approval of the resolution plan before this Adjudicating Authority was filed by the RP on

05.12.2019.

4. Details of Resolution Plan

- 4.1. The SRA i.e Max Estates Limited was incorporated on 22.03.2016 as a public limited Company and is wholly owned subsidiary of Max Ventures and Industries Limited. The resolution applicant was incorporated with the main object of carrying real estate activities. The cause of default as stated in the plan of the SRA is on account of the poor business model of corporate debtor, there being no clarity of any funding in case demand wanes, no regulatory body was there and collapse of real estate sector in somewhere around 2012-13 was also the major cause for the corporate debtor for going into insolvency.
- 4.2. The SRA has addressed the reason for insolvency by stating that the SRA has invested considerable time and resources in formulating the revival of the corporate debtor, including completion of construction of Boulevard Towers and allotment of units to allottees. The SRA has the vision of developing a unique multi use integrated campus, factoring in prevailing market trends and at the same time delicately balancing promises made to the existing customers and changes required to ensure the project is economically viable, thereby ensuring value maximisation for all stakeholders.
- 4.3. The amount proposed for payment to various stakeholders in the Resolution Plan are tabulated below:

Sl. No.	Stakeholders	Treatment under the plan
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Sl. No.	Stakeholders	Treatment under the plan
1.	Secured Financial Creditors (Axis Bank and Piramal Enterprises)	Amount Claimed – Rs. 394,65,61,000/- Amount Admitted- Rs. 394,65,61,000/- Amount provided under the Plan- Rs. 157,86,24,000/- (40% of the amount claimed (Upfront + Deferred – 15% + 85 % over 17 equated Quarterly instalments) (40% of the amount admitted)
2.	Allottees	Amount Claimed – Rs. 10,21,95,35,000/- Amount Admitted- Rs. 841,41,92,000/- Amount provided under the Plan- Rs. 602,90,40,000/- (58.99% of the amount claimed)
3.	Statutory Liabilities	No claim has been filed by any government authority, but the plan provides for payment of Rs. 13,35,91,000 against statutory liabilities of Rs. 53,43,63,000/- appearing in the books of accounts of Boulevard.
4.	Employees	Amount Claimed – Rs. 1,37,55,000/- Amount Admitted- Rs. 73,22,000/- Amount provided under the Plan- Rs. 29,29,000/- (21% of the amount claimed)
5.	Workmen	No workmen of the corporate debtor
6.	Operational Creditors	Amount Claimed – Rs.12,05,89,000/- Amount Admitted- Rs. 3,61,63,000/- Amount provided under the Plan- Rs. 1,44,65,000/- (11.99% of the amount claimed) (40% of the amount admitted)

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Sl. No.	Stakeholders	Treatment under the plan
7.	NOIDA Authority (treated as secured Operational Creditor)	Amount Claimed – Rs.945,01,58,000/- Amount provided under the Plan- Rs. 325,52,43,000/- The plan has sought waiver of the extension charges claimed which extend to Rs. 160,61,98,071 and thus payment is being made against the remaining amount due of Rs. 784,39,60,155 as admitted claim (41% of amount claimed (adjusted for extension charges payable to NOIDA Authority)- 10% upfront, 90% in 17 equated quarterly instalments)
8.	Claims rejected by the RP; claims yet to be admitted by the RP ; unfiled claims; claims in relation to pending litigation etc.	Capped at Rs. 10,00,00,000/-; as and when payable under the Plan
9.	IRP Cost	Rs. 7,00,00,000/- (to be paid in full)
10.	As per Schedule 2 , Max will infuse Rs. 235,00,00,000/- by way of subscription to the equity shares, preference shares, other capital instruments or any other debt like securities, which would be utilised by the corporate debtor towards fulfilment of Max's obligations under the Plan. As per Para 1.7 of Schedule 2, Max will also infuse or arrange for a third party to infuse an amount of up to Rs. 150,00,00,000/- into the corporate debtor by way of financial indebtedness.	

5. Executive Summary of the Resolution Plan

i. The Resolution Plan proposes the following changes for the value

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maximization for all stakeholders:

Towers	Proposed Plan
Service Residential Tower 1 Service Residential Tower 2 Service Residential Tower 3	<ul style="list-style-type: none"> • Existing residential customers to be consolidated into service Residential Tower 1 • Convert Service Residential Tower 2 and Tower 3 into commercial Office space <p>Will help reduce market risk associated with monetization of unsold residential inventory.</p>
Office Tower B	No change with respect to use. It will be delivered as an office commercial tower as per guidelines in Schedule 7
Tower H	Conversion into commercial office tower is proposed
Retail Spaces	<ul style="list-style-type: none"> • A large proportion of retail space in the Towers has been strata sold, which will be a bottle neck in creating high end retail destination commanding premium rentals. • Therefore, it is proposed that without diluting the value, to reallocate retail customers into service Residential Tower 2 or 3 (converted to commercial) with adjusted areas such that retail customers are value neutral. • Propose to provide commercial office space approx 1.4.x of the retail area allotted to the customers on a super area basis.

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6. Key Financial Proposal of the Resolution Plan:

Sl. No.	Stakeholders	Particulars	Settlement
1.	IRP Cost	Payable in priority to all other creditors of the corporate debtor. <i>(To be paid out of the internal accruals of the Corporate debtor , where such accruals are insufficient, the outstanding amount to be paid by the Resolution applicant)</i>	Rs. 7,00,00,000/-
2.	Axis Bank limited(Lender) (Secured FC)	Upfront payment (Including Principal and interest) Deferred Payment (Including Principal and Interest) <i>(Upfront payments to be paid on the payment date after payment of IRP cost and OC Settlement amount; Deferred payment to be made as per the terms and conditions set forth in part I of Schedule 3)</i>	Rs. 7,57,55,680/- Rs. 42,92,82,191/-
3.	Piramal Enterprises Ltd.(Lender) (Secured FC)	Upfront payment (Including Principal and interest) Deferred Payment (Including Principal and Interest)	Rs. 16,10,37,997/- Rs. 91,25,48,652/-

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4.	Allottees(FC) Settlement of total claims of allottees admitted by the Resolution Professional (principal amount) by way of such allotment of units= Rs. 602,90,40,022/-	Treatment of allottees whose claims have been admitted by the RP	Units to be allotted as contemplated in Schedule 6 (allotted units) subject to fulfilment by the allottees of their obligations under the allotment terms and conditions and Paragraph 7 of Part III (settlement proposal)
		Unverified Allotees	Units to be allotted as contemplated in Schedule 6 (allotted units) within 6 months of closing date, however such allotments are subject to providing proof of allotment and must fulfil their obligations under the terms and conditions of allotment.
		Unfiled Allottees	Units to be allotted within 6 months from closing date as contemplated in Schedule 6 (Allotted units) within 6 months of closing date, however such allotment are subject to providing proof of allotment and must fulfil their obligations under the terms and conditions of allotment.
5.	NOIDA Authority	Upfront Payment	Rs. 32,55,24,346

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	(Secured OC) [Sole Secured OC and the lessor under the lease deed by virtue of which the lease hold rights have been granted to the Corporate debtor to develop the project and consequently is crucial to the real estate development activities of the Corporate debtor. Accordingly it belongs to a different class and is not similarly placed, when compared to other OC's.	(including principal and interest) Deferred Payment (including principal and interest)	Rs. 2,92,97,19,118/-
6.	Employees	Upfront Payment	Rs. 29,28,844/-
7.	Other Operational Creditors	Upfront Payment	Rs. 1,44,65,460/-
8.	Government Authorities	Upfront Payment	Rs.13,35,90,834/-
9.	Promoter Group and claims in relation to avoidance transactions	NA	No amount payable.
10.	Non allottee identified claims (eg. claims rejected by the Resolution professional, claims yet to be admitted by the Resolution	Simultaneous settlement, upon all non allottee identified claims being finally determined as payable by the Resolution Professional and /or competent court/ tribunal	Capped at Rs. 10,00,00,000/-

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	Professional, unfiled claims, claims in relation to pending litigation etc)		
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6.3. It is stated in the Resolution Plan that the financial projections are based on the assumption that each of the allottees shall discharge its existing obligation to pay the amount outstanding in relation to the unit allotted to it, in accordance with para 7 of Part III of the Resolution plan.

7. Compliance of the successful Resolution Plan with various provisions:

7.1. The Applicant has submitted the details of various compliances as envisaged by the Code and the CIRP Regulations which a Resolution Plan is required to adhere to, as follows:

Sections/ Regulations	Requirement	How dealt with in the Plan	Compliance (Yes/ No)
Sec 25 (2)(h)	Whether the Resolution Applicant meets the criteria approved by the COC having regard to the complexity and scale of operation of business of the Corporate debtor	Part I	Yes
Sec 29 A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of RP or order, if any, of the Adjudicating Authority	Para 7, Part II	Yes
Section	Whether the Resolution	Para 7.1.1, Part II	Yes

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Sections/ Regulations	Requirement	How dealt with in the Plan	Compliance (Yes/ No)
30(1)	Applicant has submitted an affidavit stating that it is eligible		
Section 30(2)	Whether the Resolution Plan:		
(a)	Provides for the payment of Insolvency Resolution Process Cost.	Para 1, Part II	Yes
(b)	Plan provide for payment to the debts of Operational Creditors	Para 2, Part II	Yes
(c)	Provides for the Management of the affairs of the Corporate Debtor.	Para 4, Part II	Yes
(d)	Provides for the Implementation and Supervision of Resolution Plan.	Para 4, Part II	Yes
(e)	Plan does not contravene any of the provisions of the law for the time being in force.	Para 6, Part II	Yes
Section 30(4)	Whether the Resolution Plan (a) Is feasible and viable, according to the COC? (b) Has been approved by		Yes Yes

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Sections/ Regulations	Requirement	How dealt with in the Plan	Compliance (Yes/ No)
	the COC with 66% voting share		
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation, according to COC	Para 9, Part I	Yes

***Mandatory contents of Resolution Plan in terms of Regulation 38 and
Regulation 39 of CIRP Regulations:***

Regulation	Requirement	How dealt with in the Plan	Compliance (Yes/ No)
38(1)	(a) The amount payable to the operational creditors under a resolution plan shall be paid in priority over financial creditor.	Para 5.1.2, Para 5.2.2 and Para 5.2.3 Part III	Yes
38(1A)	A resolution plan shall include a statement as to how it has dealt with the interests of all stakeholders, including financial creditors and operational creditors of the corporate debtor.	Para 5, Part II	Yes
38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to	Para 9, Part II	No

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Regulation	Requirement	How dealt with in the Plan	Compliance (Yes/ No)
	<p>implement or contributed to the failure of implementation of any resolution plan approved under the Code.</p> <p>(ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non implementation?</p>		NA
38(2)	A resolution plan shall provide:		
	(a) the term of the plan and its implementation schedule;	Para 4, part II	Yes
	(b) the management and control of the business of the corporate debtor during its term; and		Yes
	(b) Adequate means for supervising its implementation		Yes
38(3)	A resolution plan shall demonstrate that-		
	(a) it addresses the cause of default;	Para 10, Part II	Yes
	(b) it is feasible and viable;		Yes
	(c) it has provisions for its effective		Yes

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Regulation	Requirement	How dealt with in the Plan	Compliance (Yes/ No)
	implementation;		
	(d) it has provisions for approvals required and the timeline for the same; and		Yes
	(e) the Resolution Applicant has the capability to implement the resolution plan.		Yes

7.2. The Applicant submits that the successful resolution applicant has submitted an affidavit in regard to the eligibility under section 29A of the Code, as required by Regulation 39(1)(a) of the CIRP Regulations. An undertaking has also been submitted by the successful Resolution Applicant, as mandated in terms of regulation 39(1)(c) of the CIRP Regulations.

7.3. The Applicant has filed a Compliance Certificate in prescribed Form, i.e Form 'H' in compliance with Regulation 39(4) of the CIRP Regulations¹. The RP has issued the Letter of Intent to the Successful Resolution Applicant and it is stated that the Successful Resolution Applicant has provided the Performance Bank Guarantee of Rs. 50,00,00,000/- (Rupees Fifty Crores Only) as required under Regulation 36B (4A) of CIRP Regulations, 2016 but Evidence of receipt of performance Security is not annexed with the present application. Thus, the RP is hereby directed to report compliance and submit a copy of the duly renewed PBG, coterminous with the tenure of Resolution Plan, within one week from

¹ Page 458-468 of the Application

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the date of this order.

8. Details of Resolution Plan/ Payment Schedule

8.1. The Applicant submits the relevant information about the amount claimed, amount admitted, and the amount proposed to be paid by the Successful Resolution Applicant, *i.e.*, Max Estates; under the said Resolution Plan is tabulated as under:

Amount in Rs. Lakhs

Sl. No.	Category of Stakeholder	Amount Claimed	Amount Admitted	Amount provided under the plan	Amount Provided to the amount claimed(%)	Amount Provided to the Amount Admitted (%)
1.	Secured Financial Creditors	₹39,465.61	₹39,465.61	15,786.24	40%	40%
2.	Unsecured Financial Creditors	₹1,02,195.35	₹ 84,141.92	₹60,290.40	58.99%	71.65%
3.	Operational Creditors					
	Government	NA	NA	₹1,335.91	NA	NA
	Workmen	NA	NA	NA	NA	NA
	Employees	₹137.55	₹73.22	₹29.29	21.29%	40.00%
	Others	₹1205.89	₹361.63	₹144.65	11.99%	40.00%
3.	Others Debts and dues					

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4.	New Okhla Industrial Development	₹94,501.58	NA	₹325,52.43	41.50%	NA%
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8.2. The Resolution plan size is approximately ₹1,118,38,93,145/- (Rupees One Thousand One Hundred Eighteen Crores Thirty Eight Lakhs And Ninty Three Thousand One Hundred And Forty Five Only) . The Resolution Plan defines **“Effective Date”** as unless extended by the Monitoring Committee, the date falling 2 (two) business days after the receipt of the last of the NOIDA NOC, UP RERA NOC and other NOC’s as specified in Paragraph 13 of Part I of the Resolution Plan, being the date on which the provisions for implementation of the plan shall be operative.

9. Monitoring Commitee

9.1. The monitoring Committee shall comprise of :

- a. 1(one) designated representative of the lenders;
- b. 2(Two) designated representatives of the allottees
- c. 3(three) designated representatives of the Resolution Applicant

10. Details on payment plan and its implementation and Delivery schedule as per the Resolution Plan:

10.1. Project timelines:

It is stated that the successful Resolution Applicant will provide timely and high quality spaces to all the allottees. The details of which is provided as follows:

Description	Completion timelines
Office tower B	22 months
Service Residential Tower 1	40 months
Commercial Tower (for retail customers)	42 months

10.2. The implementation shall commence and be operative from the effective date. All stakeholders including the Managing Agency, monitoring committee and the resolution applicant shall commence taking all actions required to implement from the effective date.

11. Details on fraudulent and avoidance transaction

11.1. The Resolution Plan provides that any amount received by the corporate debtor in pursuance to the avoidance transactions shall be vested in the corporate debtor, subject to any order passed by this Adjudicating Authority.

11.2. It is directed that the avoidable transactions applications, if any, shall be continued to be pursued by the Monitoring Committee/RP even after the approval of the Resolution Plan as the proceeds of the same shall be vested to the corporate debtor.

12. Reliefs and concessions from NOIDA Authority

12.1. In the resolution plan the SRA has sought certain reliefs and concessions from NOIDA as regard to conversion of service residential towers 2 & 3 and Tower H into commercial office towers, further the SRA also seeks waiver from transfer charges and extension charges and a construction period of 5 years.

- 12.2. In reply to the above relief and concessions as sought by SRA, the NOIDA stated that prior to any concessions, approval of NOIDA have to be taken and any deemed waiver from transfer and extension charges would be contrary to the decision of Hon'ble Supreme Court in Jaypee Kensington Case.
- 12.3. In regard to the above, this Adjudicating Authority is of the opinion that grant of any waivers and concessions from the NOIDA would require the approval of NOIDA Authority and the SRA needs to approach them and they will take the decision accordingly.
- 12.4. As the project has been languishing since long time, we are sanguine that the decision taken by NOIDA would be in the bright side for completion of project and for implementation of plan.

13. Other Waivers, Reliefs and Exemptions

The SRA has prayed for the reliefs, waivers and concessions as enumerated under the Resolution Plan approved by the CoC , namely, that from the plan approval date all inquiries, investigation and proceedings, whether civil or criminal, suits, claims, disputes, interests and damages in connection with the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future in relation to any period prior to the plan approval date, or arising on account of implementation of this Resolution Plan, shall stand withdrawn, satisfied and discharged. From the date of approval of the 'Resolution Plan', the Resolution Applicant shall be legally authorized to seek

appropriate orders from respective authorities/courts/tribunals for renewal of licenses/withdrawal/dismissal or abetment of the proceedings as the case may be.

14. Findings

- 14.1. On hearing the submissions made by the Ld. Counsel for the Resolution Professional and perusing the record, we find that the Resolution Plan has been approved by the CoC with 86% of the members voting in favour of the Resolution Plan. As per the CoC, the Plan meets the requirement of being a viable and feasible revival of the Corporate Debtor. By and large, there are provisions for making the Plan effective after approval by this Bench.
- 14.2. On perusal of the documents on record, we are satisfied that the Resolution Plan is in accordance with Sections 30 and 31 of the IBC and also complies with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- 14.3. The reliefs, concessions and waivers sought by the Successful Resolution Applicant will be dealt with strictly as per law.
- 14.4. Further for any approvals that may be required from Govt Authorities (including tax authorities) in connection with the implementation of the Resolution Plan necessary applications in this regard shall be made before the appropriate authorities, who shall consider the same keeping in view the letter and spirit of the Insolvency and Bankruptcy Code, 2016 which is to enable a fresh start for the corporate debtor.
- 14.5. As far as the question of granting time to comply with the statutory obligations/seeking sanctions from governmental authorities is concerned,

the Resolution Applicant is directed to do the same within one year as prescribed under section 31(4) of the Code. However, the SRA has stated in the Resolution Plan that the same will be complied with within 180 days of approval of the plan by this Adjudicating Authority.

- 14.6. In case of non-compliance of this order or withdrawal of Resolution Plan within the stipulated time, in addition to other consequences which follow under law, the CoC shall forfeit the EMD amount already paid by the Resolution Applicant as well as the Performance Bank Guarantee.

15. Orders

- 15.1. Subject to the observations made in this Order, the Resolution Plan of ₹1,118,38,93,145/- (Rupees One Thousand One Hundred Eighteen Crores Thirty Eight Lakhs And Ninety Three Thousand One Hundred And Forty Five Only) is hereby **approved. The Resolution Plan shall form part of this Order.**
- 15.2. The Resolution Plan is binding on the Corporate Debtor and other stakeholders involved so that revival of the Debtor Company shall come into force with immediate effect.
- 15.3. The Moratorium imposed under section 14 of the Code shall cease to have effect from the date of this order.
- 15.4. The RP is also directed to submit the details in regard to the CIRP cost which is stated to be Rs. 7,00,00,000/- occurred during the CIR Process and also to report compliance and submit a copy of the duly renewed PBG, coterminous with the tenure of Resolution Plan within one week from the date of this order.

- 15.5. In addition to the above, during the perusal of the Resolution Plan our attention was attracted towards Pg 363 of the application (pg 48 of the Resolution Plan) wherein at Para 4.1.2 it is stated as follows:

4.1.2. Pursuant to the approval of the Plan by the NCLT in accordance with Paragraph 12.1.1. of Part I (Business Plan of the Resolution Applicant in relation to the corporate debtor) and until the closing date , the Resolution Professional shall continue as the “Managing Agency” of the Corporate debtor in order to supervise and manage all the business and operations of the Corporate debtor, in accordance with the plan. The Managing Agency shall be paid the Managing Agency Costs.

The terms of engagement of the Managing Agency (including the amount and the manner of payment of the Managing Agency Costs) shall be mutually agreed between the Managing Agency and the Monitoring Committee within 15(fifteen) days of the date of the NCLT Order. In the event the Managing Agency and the Monitoring Committee are unable to agree on the terms of engagement of the Managing Agency within such time period, the Resolution Applicant shall have the right to, at its sole discretion; appoint any professional agency as the “Managing Agency”.

The Managing Agency Costs shall be paid out of the internal accruals of the Corporate Debtor, and in the event such accruals are insufficient, any outstanding Managing Agency Costs shall be paid by the Resolution Applicant”.

- 15.6. Therefore, in reference to the above, RP is also directed to give the details regarding whether the appointment of RP as managing agency is permissible under the law and further what is the rationale behind this provision when monitoring committee is already appointed for supervision and implementation of the resolution plan and if further any decision is taken for such appointment, it will be subject to the review by this Adjudicating Authority.

- 15.7. It is also directed that since the benefits from the avoidance applications will accrue to the corporate debtor, we deem it proper that the avoidance applications be pursued by the Monitoring Committee/ RP of the corporate debtor.
- 15.8. The Resolution Professional shall submit the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record.
- 15.9. **CA (IB) No.2778 (PB) 2019** shall stand ***disposed of*** accordingly.
- 15.10. Certified copy of this Order be issued on demand to the concerned parties, upon due compliance.
- 15.11. Liberty is hereby granted for moving any application if required in connection with implementation of this Resolution Plan.
- 15.12. A copy of this Order shall be filed by the Resolution Professional with the Registrar of Companies, NCT of Delhi & Haryana.
- 15.13. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order, save and except those duties that are enjoined upon him for implementation of the approved Resolution Plan.
- 15.14. The Resolution Professional is further directed to hand over all records, premises/ factories/documents available with it to the Resolution Applicant to finalise the further line of action required for starting of the operation. The Resolution Applicant shall have access to all the records and premises through the Resolution Professional to finalise the further course of action required for starting of operations

of the Corporate Debtor.

15.15. The Registry is directed to send copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

15.16. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

16. To summarise:

- a. CA-2778/2019 which is for approval of Resolution Plan is **allowed**.
- b. CA-1250/2019, CA 1468/2019, CA-1258/2019, CA-2777/2019, CA -1059/2020, CA -1101/2019, CA-1097/2020, IA-3514/2021 & IA-4736/2021 were disposed of vide order dated 01.06.2022.
- c. IA-2804/2022 was disposed of vide order dated 30.11.2022
- d. IA-4658/2020 was disposed of vide order dated 06.12.2022.

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RAMALINGAM SUDHAKAR
PRESIDENT

-sd-

AVINASH K. SRIVASTAVA
MEMBER (TECHNICAL)