

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH- 1**

**IA NO. 1986 OF 2023**

IN

CP No. (IB) 43/7/HDB/2020

IN THE MATTER OF

**AXIS BANK LIMITED**

VERSUS

**GVK POWER (GOINDWAL SAHIB) LTD**

Filed by

RAVI SETHIA

(IP REGISTRATION: IBBI/IPA-001/IP-P01305/2018-2019/12052)

RESOLUTION PROFESSIONAL

OF GVK POWER (GOINDWAL SAHIB) LTD

...APPLICANT

AND

PUNJAB STATE POWER CORPORATION LIMITED

...PROFORMA PARTY

**Date of Order: 22.12.2023**

**Coram:**

Dr. N. Venkata Ramakrishna Badarinath, Hon'ble Member Judicial

Shri Charan Singh, Hon'ble Member Technical

**Appearance:**

For Applicant: Shri Vivek Reddy, Senior Advocate assisted by Shri Amir Bavani, Shri Siddharth Srivastava and Mohit Kishore, Advocates

## **PER BENCH ORDER**

1. The application is filed by Mr. Ravi Sethia, Resolution Professional (“RP”/ “Applicant”) of GVK Power (Goindwal Sahib) Limited (“Corporate Debtor”/ “GVK Goindwal”) under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (“Code”) read with Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons), 2016, (“CIRP Regulations”) for approval of the resolution plan submitted by Punjab State Power Corporation Limited under Section 31(1) of the Code along with Certificate in Form H of the CIRP Regulations.
  
- 2.1 To put precisely, this Tribunal vide its order dated 10 October 2022 in CP No. 43/7/HDB/2020 (“Company Petition”) admitted the application filed by Axis Bank Limited /Financial Creditor under Section 7 of the Code and Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor commenced with effect from 10 October 2022, further to which moratorium was declared and the Applicant was appointed as the Interim Resolution Professional.

2.2 The Applicant made public announcements in Form A under Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons), 2016 (“CIRP Regulations”) on 21 October 2022 in Economic Times, Nava Telangana and Punjabi Tribune inviting claims from the creditors of the Corporate Debtor and the last date for submission of claims by the creditors was 01 Nov 2022.

2.3 During the CIRP of the Corporate Debtor, the Applicant received claims from financial creditors, operational creditors, employees, workmen and other creditors. The claims were updated from time to time. Summary of claims as on 05 September 2023 are as follows:

| S. NO. | CREDITOR CATEGORY  | COUNT | CLAIM SUBMITTED(INR) | CLAIM ADMITTED(INR) | CLAIM UNDER ADJUDICATION (INR) |
|--------|--|-------|----------------------|---------------------|--------------------------------|
| 1      | Financial Creditors  | 12    | 65,846,771,848       | 65,846,771,848      | --                             |
| 2      | Operational Creditors (other than Workmen and Employees and Government Dues) | 27    | 3,485,222,385        | 304,702,694         | 3,157,334,087                  |
| 3      | Employee and Workmen Claims  | 8     | 638,634              | 637,329             | 1,305                          |

|   |                        |    |                |                |                |
|---|------------------------|----|----------------|----------------|----------------|
| 4 | Other Creditors Claims | 1  | 9,278,267,957  | 1              | 9,278,267,956  |
|   | Total                  | 48 | 78,610,900,824 | 66,152,111,872 | 12,458,788,952 |

2.4 The Applicant was thereafter confirmed as the Resolution Professional by the members of the Committee of Creditors (“CoC”) of the Corporate Debtor in their 1st meeting held on 18 November 2022.

2.5 During the continuance of CIRP of the Corporate Debtor, the Admission Order was challenged before the National Company Law Appellate Tribunal, Chennai (“NCLAT”) by the holding company of the Corporate Debtor i.e. GVK Energy Limited and suspended director of the Corporate Debtor, Mr. Palicherla Venkata Prasanna Reddy by Company Appeal (AT) (CH) (Ins.) No 385 of 2022. The Hon’ble NCLAT vide its order dated 24 April 2023 dismissed the said appeal and upheld the Admission Order. A copy of the order of Hon’ble NCLAT dated 24 April 2023 is annexed and marked as ANNEXURE A-4.

2.6 Aggrieved by the said order of Hon’ble NCLAT, the holding company of the Corporate Debtor i.e. GVK Energy Limited has filed an appeal before the Hon’ble Supreme Court of India in Civil Appeal No. 4231 of

2023 on 19 May 2023. The Applicant herein i.e. the Resolution Professional has filed a caveat in relation to the said appeal before the Hon'ble Supreme Court, which has not yet come up for hearing till date.

2.7 The Applicant appointed two registered valuers under Regulation 27 of the CIRP Regulations namely RNC Valuecon LLP and Adroit Appraisers and Research Private Limited. Since the difference in estimate of value provided by the valuers was significant for two asset classes of the Corporate Debtor, the Applicant on the instructions of CoC appointed GTech Valuers Pvt Ltd as the third valuer as per Regulation 35(b) of the CIRP Regulations to conduct the valuation for all classes of asset of the Corporate Debtor. The said valuers gave their reports on valuation which are as follows:

| NAME OF THE VALUER                             | FAIR VALUE (INR Crores) | LIQUIDATION VALUE (INR Crores) |
|--|-------------------------|--------------------------------|
| RNC Valuecon LLP                               | 1785.93                 | 1302.22                        |
| Adroit Appraisers and Research Private Limited | 1884.75                 | 1293.06                        |
| GTech Valuers Pvt Ltd                          | 1955.42                 | 1288.52                        |

As per Regulation 35(1)(c) of the CIRP Regulations, the Applicant has calculated the average liquidation value of the Corporate Debtor which amounts to INR 1,347.97 Cr (Indian Rupees One Thousand Three Hundred Forty-Seven Crores and Ninety Seven Lakhs).

- 2.8 Thereafter, the Applicant carried out Invitation for Expression of Interest (Form G) on 16 December 2022 wherein the last date of submission for the expression of interest for submission of resolution plan (“EOI”) was kept as 09 January 2023. The timeline for submission of EOI was further extended from 09 January 2023 to 16 January 2023. In response to the invitation for EOI, the Applicant had received 12 (twelve) EOIs. The request for resolution plan (“RFRP”) including the evaluation matrix and the Information Memorandum both dated 07 February 2023 were provided to all prospective resolution applicants- (“PRAs”) who submitted the Eois. Pursuant thereto, the PRAs continued their diligence process, and their queries were duly addressed by the Applicant and his team from time to time. Further, the PRAs at different points of time sought extension for submission

of their resolution plans which were approved by the CoC of the Corporate Debtor.

2.9 Pursuant to the issuance of the RFRP, only one resolution plan was received from one of the PRAs i.e. **Punjab State Power Corporation** (“Successful Resolution Applicant/PSPCL”). The Successful Resolution Applicant has submitted its resolution plan dated 28 June 2023 on 30 June 2023 to the Applicant. Thereafter, there were multiple rounds of negotiations between the Successful Resolution Applicant and the CoC and the Successful Resolution Applicant submitted a revised and updated resolution plan on 20 November 2023 (“Resolution Plan”). The CoC has also evaluated the plans through advisors appointed by them and the queries of such advisors were addressed by the Successful Resolution Applicant in meetings facilitated by the Applicant including CoC meetings. It is stated that the Resolution Professional had conducted 17 COC meetings during CIRP.

2.10 Post examination of the resolution plan, the same was assessed by the Applicant to be compliant and was put to vote in the 17<sup>th</sup> CoC

meeting of the Corporate Debtor held on 21 November 2023. The e-voting on the resolution plan of PSPCL commenced from 12:00 pm on 24 November 2023 and continued till 8:00 pm on 15 December 2023. After the close of e-voting, the CoC approved the Resolution Plan submitted by the Successful Resolution Applicant with 100 % votes in its favour in terms of Section 30 (4) of the Code. The Resolution passed by the COC is as under:-

**Resolution no. 2**

**Resolution Plan Submitted by Punjab State Power Corporation Limited**

*RESOLVED THAT pursuant to sub-section (4) of Section 30 of the Insolvency and Bankruptcy Code, 2016, the Committee of Creditors (CoC) of GVK Power Goindwal Sahib Limited (GVK) after assessing the (a) feasibility and viability of the resolution plan submitted in the corporate insolvency resolution process of GVK (b) provisions for its effective implementation, (c) criteria as per Evaluation Matrix and (d) other requirements of applicable CIRP regulations, hereby accords its approval to the resolution plan dated 20th November 2023 (Resolution Plan) read with the annexures submitted by Punjab State Power Corporation Limited'.*

- 2.11 Thereafter, letter of intent dated 15 December 2023 was issued by the Applicant to the Successful Resolution Applicant and the same was acknowledged by the Successful Resolution Applicant.
- 2.12 The Applicant further states that the Performance Security in the form of a bank guarantee for a total amount of INR 50,00,00,000/- (Indian Rupees Fifty Crore Only) in favour of IDBI Bank Limited (Financial

Creditor) being PBG No. 05152923BG0000033 dated 16 December 2023 from State Bank of India, Patiala was received from SRA on 16 December 2023. A copy of acknowledged letter of intent dated 16 December 2023 and the copy of the performance security from the Successful Resolution Applicant is annexed and marked as ANNEXURE A-18 (Colly).

### **3. Contour of Resolution Plan**

(A) The Successful Resolution Applicant i.e. Punjab State Power Corporation Limited having its registered office at PSEB, Head Office the Mall Patiala Punjab 147001, India is engaged in the business of generation of power in Punjab, through its thermal and hydel power stations. It is responsible for the operation and maintenance of power generating stations in the state of Punjab. PSPCL is also responsible for the distribution and retail supply of power within the state of Punjab. The Successful Resolution Applicant has a cumulative experience of over 60 years in generation and distribution with deep expertise in management of the state's power demands and requirements. Total generation from the plants at Ropar & Lehra has increased by 109% in 2021-22 as compared to the previous year. In

addition to the two thermal power plants, the Successful Resolution Applicant owns six hydro generating stations. The Successful Resolution Applicant is also responsible for supplying power to the entire state of Punjab comprising of approximately 1 crore consumers. Besides its own generating stations, PSPCL also procures power from central generating stations, IPPs (including Talwandi Sabo Power Ltd, Rajpura TPS, GVK Power Goindwal Sahib Ltd), co-generation plants, banking arrangements and traders.

(B) The CoC comprises of the following financial creditors and distribution of voting share among them is as under:

| Sl. No. | Name of Creditor     | Voting Share (%) | Voting for Resolution Plan (Voted for / Dissented / Abstained) |
|---------|----------------------|------------------|--|
| 1       | IDBI Bank Limited    | 21.46            | Voted For  |
| 2       | Punjab National Bank | 11.73            | Voted For  |
| 3       | Union Bank of India  | 10.37            | Voted For  |
| 4       | Axis Bank Limited    | 8.50             | Voted For  |
| 5       | IIFCL                | 7.81             | Voted For  |
| 6       | LIC of India         | 7.66             | Voted For  |
| 7       | Bank of Baroda       | 7.40             | Voted For  |
| 8       | UCO Bank             | 6.83             | Voted For  |
| 9       | Punjab & Sind Bank   | 6.41             | Voted For  |

|    |                  |               |           |
|----|------------------|---------------|-----------|
| 10 | Aditya Birla ARC | 4.82          | Voted For |
| 11 | Bank of India    | 3.97          | Voted For |
| 12 | Indian Bank      | 3.05          | Voted For |
|    | <b>Total</b>     | <b>100.00</b> |           |

**(c) FINANCIAL PROPOSALS:** The amount provided to the stakeholders of the Corporate Debtor is tabulated below: -

| Sl. No. | Category of Stakeholder*    | Sub-Category of Stakeholder  | Amount Claimed                     | Amount Admitted                    | Amount Provided under the Plan#    | Amount Provided to the Amount Claimed (%) |
|---------|-----------------------------|--|------------------------------------|------------------------------------|------------------------------------|---|
| (1)     | (2)                         | (3)  | (4)                                | (5)                                | (6)                                | (7)                                       |
| 1       | Secured Financial Creditors | (a) Creditors not having a right to vote under sub-section (2) of section 21 | NIL                                | NIL                                | NIL                                | NIL                                       |
|         |                             | (b) Other than (a) above:  | NIL                                | NIL                                | NIL                                | NIL                                       |
|         |                             | (i) who did not vote in favour of the resolution Plan                        | NIL                                | NIL                                | NIL                                | NIL                                       |
|         |                             | (ii) who voted in favor of the resolution plan<br><b>(Note 1)</b>            | INR<br>6,584.68<br>Crores          | INR<br>6,584.68<br>Crores          | INR<br>1,077.9<br>4 Crores         | 16.37%                                    |
|         |                             | <b>Total[(a) + (b)]</b>  | <b>INR<br/>6,584.68<br/>Crores</b> | <b>INR<br/>6,584.68<br/>Crores</b> | <b>INR<br/>1,077.94<br/>Crores</b> | <b>16.37%</b>                             |

|                    |                               |  |                            |                            |                         |                |
|--------------------|-------------------------------|--|----------------------------|----------------------------|-------------------------|----------------|
| 2                  | Unsecured Financial Creditors | (a) Creditors not having a right to vote under sub-section (2) of section 21 | NIL                        | NIL                        | NIL                     | NIL            |
|                    |                               | (b) Other than (a) above:  | NIL                        | NIL                        | NIL                     | NIL            |
|                    |                               | (i) who did not vote in favour of the resolution Plan                        | NIL                        | NIL                        | NIL                     | NIL            |
|                    |                               | (ii) who voted in favour of the resolution plan                              | NIL                        | NIL                        | NIL                     | NIL            |
|                    |                               | <b>Total[(a) + (b)]</b>  | <b>NIL</b>                 | <b>NIL</b>                 | <b>NIL</b>              | <b>NIL</b>     |
| 3                  | Operational Creditors         | (a) Related Party of Corporate Debtor  | NIL                        | NIL                        | NIL                     | NIL            |
|                    |                               | (b) Other than (a) above:  | INR 348.80 Crores          | INR 30.74 Crores           | INR 2.00 Crores         | 6.51%          |
|                    |                               | <b>(Note 2)</b>  |                            |                            |                         |                |
|                    |                               | (i) Government   | NIL                        | NIL                        | NIL                     | NIL            |
|                    |                               | (ii) Workmen   | NIL                        | NIL                        | NIL                     | NIL            |
|                    |                               | (iii) Employees  | INR 0.06 Crores            | INR 0.06 Crores            | INR 0.06 Crores         | 100.00%        |
|                    |                               | (iv) Other creditors   | INR 927.83 Crores          | INR 0.00 Crores            | INR 0.00 Crores         | 0.00%          |
|                    |                               | <b>Total[(a) + (b)]</b>  | <b>INR 1,276.69 Crores</b> | <b>INR 30.80 Crores</b>    | <b>INR 2.06 Crores</b>  | <b>6.69%</b>   |
| 4                  | Other debts and dues          |  | NIL                        | NIL                        | NIL                     | NIL            |
| <b>Grand Total</b> |                               |  | <b>INR 7,861.37 Crores</b> | <b>INR 6,615.48 Crores</b> | <b>INR 1,080 Crores</b> | <b>16.33 %</b> |

Note 1 :

As per clause 1A.4 of revised resolution plan dated 20 November 2023, apart from the total resolution amount following component will also be shared with assenting financial creditors lenders:

| S.no | Particulars  | Clause reference   |
|------|--|--|
| I    | Surplus cash to assenting Financial Creditors                  | To be paid as per the provisions set out in Clause 7.15 (xviii) of resolution plan                 |
| II   | Recoveries of the company from avoidance applications          | To be paid as per the provisions set out in Clause 7.15 (xi) of resolution plan                    |
| III  | Recoveries made by the company from Coal Compensation Disputes | To be paid as per the provisions set out Clause 7.14A(v) and Clause 7.15(xxvii) of resolution plan |

Note 2:

As per sub-regulation 1(B) and 1(C) of Regulation 13 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2023 ('CIRP Regulations') (amendments dated 18 September 2023):

- In the event that claims are received after the date of issue of request for resolution plans under regulation 36B or ninety days from the insolvency commencement date, whichever is later, and up to seven days before the date of meeting of creditors for voting on the resolution plan or the initiation of liquidation, the Resolution Professional is required to verify all such claims and categorize them as acceptable or non-acceptable for collation.

After the amendment in the regulation as above, the Applicant has received the below three claims which have been verified and accepted:

| Sr. no. | Category of Creditors                                    | Date of receipt | Vendor Name                          | Form No | Amount claimed (INR) | Amount Accepted (INR) |
|---------|--|-----------------|--------------------------------------|---------|----------------------|-----------------------|
| 1       | Operational Creditors (other than Workmen and Employees) | 12-Oct-23       | Walsons Facility Solutions Pvt. Ltd. | Form B  | 6,38,777             | 6,38,777              |
| 2       | Operational Creditors (other than Workmen and Employees) | 6-Nov-23        | Geocoal Engineering Pvt. Ltd.        | Form B  | 8,94,259             | 8,94,259              |
| 3       | Operational Creditors (other than Workmen and Employees) | 15-Nov-23       | Swift Securitas Pvt. Ltd             | Form B  | 12,07,260            | 12,07,260             |
|         | <b>Total</b>   |                 |                                      |         | <b>27,40,296</b>     | <b>27,40,296</b>      |

*Further, in reference to sub-regulation 1(B) and 1(C) of Regulation 13 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 the claims submitted as per the above list of creditors have been accepted by the Resolution Professional and the Committee of Creditors for inclusion in the list of creditors of the Corporate Debtor. Further, the Resolution Professional has taken all actions necessary towards inclusion of the above mentioned creditors including filing of the application before the Adjudicating Authority. The aforesaid claims have been put forth before this Tribunal for condonation of delay and the same has been allowed on 20.12.2023 in IA No.1985/2023.*

**(D) MONITORING COMMITTEE**

On approval of the resolution plan, a Monitoring Committee will be constituted comprising of two nominees of the COC, two nominees of Resolution Applicant and the erstwhile Resolution Professional or an

Independent Insolvency Professional. The Monitoring Committee shall supervise the implementation of the Resolution Plan. On and from the Transfer Date, the Monitoring Committee shall be dissolved and all its members shall cease to have any powers, duties or obligations under this Plan and the suspended Board of Directors shall be replaced by the re-constituted Board of Directors as reconstituted by the Resolution Applicant.

**(E) Compliance of mandatory contents of Resolution Plan under the Code and Regulations.**

The Applicant has conducted a thorough compliance check of the Resolution Plan in terms of the Code as well as Regulations 38 & 39 of the Insolvency and Bankruptcy Board of India (Corporate Insolvency Resolution Process) Regulations, 2016 and has filed Form 'H' prescribed under Regulation 39(4) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The fair value and Liquidation value as submitted in Form-H is Rs. 2,030.15 crores and Rs.1,347.97 crores respectively.

4. In the above backdrop we heard Shri Vivek Reddy, Ld. Senior Counsel assisted by Shri Amir Bavani, Learned Counsel for the Resolution Professional. He submits that the Resolution Plan meets the requirement of Section 30 (2) of the Code, as under: -

- a. **Compliance of Section 30 (2) (a):** Upon the resolution plan becoming effective, the CIRP costs will be paid in full and in priority to any other creditor of the Company, out of the internal accruals of the Company. If the internal accruals of the Company are not sufficient to meet the CIRP costs, the Resolution Applicant will make the payment towards the balance or excess portion of the CIRP costs out of the surplus cash on the Transfer Date. If the surplus cash is not sufficient to meet the excess CIRP costs, then the unpaid or balance portion of the excess CIRP costs shall be paid out of the upfront payment on the Transfer Date **(Clause 7.1 page 33 of the Resolution Plan).**
- b. **Compliance of Section 30 (2) (b):** The Resolution Plan provides for payment of Rs. 2.06 crores towards full and final settlement amount towards the claim of Operational Creditor (Clauses 2 & 3 under financial proposal). **(Clauses 7.3, 7.4 & 7.5 page-34, 35 & 36 of the resolution plan).**

- c. Compliance of Section 30 (2) (c):** There are no dissenting Financial Creditors as the resolution plan is approved with 100% voting share. **(Clause 7.6 page 37).**
- d. Compliance of Section 30 (2) (f):** Declaration by the Resolution Applicant that the plan does not contravene any of the provisions of the applicable laws for the time being in force. **(Clause 10.13 page 64 of the plan).**
5. The Resolution Plan is in compliance of Regulation 38 of the Regulations in the following manner:
- a. Compliance of Regulation 38(1)(a) of the CIRP Regulations 2016:**  
The Plan provides for payment to Operational Creditors to be paid in priority to other creditors and the CIRP Cost will be paid in priority to all other creditors. **Clauses 7.3, 7.4 & 7.5 page-34, 35 & 36 of the resolution plan).**
- b. Compliance of Regulation 38 (1A):** Declaration by the Resolution Applicant that the Resolution Plan has considered the interest of all the stakeholders of the Corporate Debtor, keeping in view the objectives of the Code. **(Clause IA.2)**

- c. **Compliance of Regulation 38 (1) (B):** Declaration by the Resolution Applicant that neither the Resolution Applicant nor any of its related party has either failed or contributed to the failure of the implementation of any Resolution Plan approved under the Code. **(Clause 7.17 page 50).**
6. Clause 7.15 (xi) page 45 of the plan provides that post approval of the resolution plan, any avoidance applications shall be continued by the Assenting Financial Creditors or the erstwhile Resolution Professional and the Assenting Financial Creditors shall bear the costs for such applications, if any.
7. ***In K. Sashidhar v. Indian Overseas Bank & Others (in Civil Appeal No. 10673/2018) the Hon'ble Apex Court*** held that, *“if the CoC had approved the Resolution Plan by requisite 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. On receipt of such proposal, the Adjudicating Authority (NCLT) is required to satisfy itself that the resolution plan as approved by CoC meets the requirements specified in Section 30(2). No more and no less”.*

8. The Hon'ble Supreme Court has further held at para 35 of the above judgement that ***the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 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.***
9. The Hon'ble Supreme Court in **Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors**, held that "*the limited judicial review available to AA has to be within the four corners of section 30(2) of the Code. Such review can in no circumstance trespass upon a business decision of the majority of the CoC. As such the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved*".
10. The Hon'ble Supreme Court of India, in the recent ruling in re **Vallal RCK vs M/s Siva Industries and Holdings Limited & Ors**, has held as under:-

21. This Court has consistently held that the commercial wisdom of the CoC has been given paramount status without any judicial intervention for ensuring completion of the stated processes within the timelines prescribed by the IBC. It has been held that there is an intrinsic assumption, that financial creditors are fully informed about the viability of the corporate debtor and feasibility of the proposed resolution plan. They act on the basis of thorough examination of the proposed resolution plan and assessment made by their team of experts. A reference in this respect could be made to the judgments of this Court in the cases of **K. Sashidhar v. Indian Overseas Bank and Others, Committee of Creditors of Essar Steel India Limited through Authorised Signatory v. Satish Kumar Gupta and Others, Maharashtra Seamless Limited v. Padmanabhan Venkatesh and Others, Kalpraj Dharamshi and Another v. Kotak Investment Advisors Limited and Another, and Jaypee Kensington Boulevard Apartments Welfare Association and Others v. NBCC (India) Limited and Others.**

27. This Court has, time and again, emphasized the need for minimal judicial interference by the NCLAT and NCLT in the framework of IBC. We may refer to the recent observation of this Court made in the case of **Arun Kumar Jagatramka v. Jindal Steel and Power Limited and Another:**

“95. ....However, we do take this opportunity to offer a note of caution for NCLT and NCLAT, functioning as the adjudicatory authority and appellate authority under the IBC respectively, from judicially interfering in the framework envisaged under the IBC. As we have noted earlier in the judgment, the IBC was introduced in order to overhaul the insolvency and bankruptcy regime in India. As such, it is a carefully considered and well thought out piece of legislation which sought to shed away the practices of the past. The legislature has also been working hard to ensure that the efficacy of this legislation remains robust by constantly amending it based on its experience. Consequently, the need for judicial intervention or innovation from NCLT and NCLAT should be kept at its bare minimum and should not disturb the foundational principles of the IBC.....”

11. Therefore, the resolution plan, when tested on the touch stone of the aforesaid facts and the rulings, we are of the view that the instant resolution plan satisfies the requirements of Section 30 (2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. We also found that the Resolution Applicant is eligible to submit the Resolution Plan under Section 29A of the Code.
12. On perusal of Form-H, we find that few of the clauses and page nos. mentioned in Form-H do not tally with page nos. against the clauses/page nos. mentioned in Resolution Plan. This inconsistency in the Form-H was brought to the attention of the Resolution Professional. Ld. Counsel for the Resolution Professional has submitted the revised Form-H with corrections. However, the Resolution Professional being engaged in a medical exigency, could not submit it through an Affidavit under his signature and sought one week's time for submitting the same. We therefore, hereby approve the revised Resolution Plan (dated 20.11.2023) submitted by **Punjab State Power Corporation Limited** ("Successful Resolution Applicant") alongwith annexure, schedules forming part of the Resolution Plan annexed to the Application and

order as under, subject to the above said compliance of submission of revised Form-H.

- (i) The Resolution Plan along with annexures and schedules forming part of the plan 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.
- (ii) All crystallized liabilities and unclaimed liabilities of the Corporate Debtor as on the date of this order shall stand extinguished on the approval of this Resolution Plan.
- (iii) The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/ liabilities of the Corporate Debtor and shall be dealt with by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned as held by Hon'ble Supreme Court in the matter of ***Ghanashyam Mishra And Sons Private***

***Limited Versus Edelweiss Asset Reconstruction Company***

***Limited in CIVIL APPEAL NO.8129 OF 2019 dated 13.04.2021.***

- (iv) Post approval of the resolution plan, any pending avoidance applications shall be continued by the Assenting Financial Creditors or the erstwhile Resolution Professional as provided under Clause 7.15 (xi) of the plan.
  
- (iv) It is hereby ordered that the Performance Bank Guarantee of 50,00,00,000/- made by the Resolution Applicant shall remain as performance Guarantee till the amount proposed to be paid to the creditors under the plan is fully paid off and the plan is fully implemented.
  
- (v) The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC) Hyderabad 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.

- (vi) Henceforth, no creditors of the erstwhile Corporate Debtor can claim anything other than the liabilities referred to supra.
- (vii) The moratorium under Section 14 of the Code shall cease to have effect from this date.
- (viii) 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.
- (ix). The Applicant shall forthwith send a copy of this order to the CoC and the Resolution Applicant.
- (x). The Registry is directed to furnish free copy to the parties as per Rule 50 of the NCLT Rules, 2016.
- (xi) The Registry is directed to communicate this order to the Registrar of Companies, Hyderabad for updating the master data and also forward a copy to IBBI.
- (xii). Accordingly, IA 1986/2023 stands disposed of.

SD/-

Charan Singh  
Member Technical

SD/-

Dr. Venkata Ramakrishna Badarinath Nandula  
Member Judicial

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