IN THE NATIONAL COMPANY LAW TRIBUNAL NEW DELHI BENCH COURT-IV

IA-459/2024

IN

Company Petition No. IB- 67 (ND)/2022

| IN THE MATTER OF: | |
|--------------------------------------|---------------------|
| YADUBIR SINGH SAJWAN AND ORS. | |
| | FINANCIAL CREDITORS |
| VERSUS | |
| SOM RESORTS PVT. LTD. | |
| | CORPORATE DEBTOR |
| | |
| AND IN THE MATTER OF: | |
| ANUJ GAUR | |
| | APPLICANT |
| VERSUS | |
| | |
| RABINDRA KUMAR MINTRI, RP & ANR. | |
| | RESPONDENT |
| | |
| CORAM: | |
| SH. MANNI SANKARIAH SHANMIIGA SIINDA | RAM |

Order Delivered on: 03.12.2024

HON'BLE MEMBER (JUDICIAL)

HON'BLE MEMBER (TECHNICAL)

DR. SANJEEV RANJAN,

PRESENT:

For the Applicant : Adv. Abhishek Anand,

: Adv. Arjun Mahajan,

: Adv. Davesh Bhatia,

: Adv. Piyush Gautam

For the SRA : Adv. Alok Dhir

: Adv. Udita Singh

For the RP : Mr. Sandeep Bajaj,

: Mr. Mayank Biyani, Advs.

ORDER

PER: MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (JUDICIAL)

 The present Interlocutory Application for objections against the resolution plan has been filed by the erstwhile/suspended directors of M/s SOM Resort Pvt. Ltd. ('the Corporate Debtor') seeking an order to:

i. Set Aside the Resolution Plan filed by the Resolution Professional for approval of Resolution Plan.

ii. Pass any other order as this Hon'ble Tribunal deem fit in the light of justice, equity and good conscience.

- 2. Briefly stated, the facts of this case leading to filing of this present interlocutory application, as averred by the applicant are as follows:
 - a) That M/s. Som Resorts Pvt. Ltd. (the Corporate Debtor) was is engaged in the business of development and sale of Residential cum Commercial units in Group Housing Projects situated in Vasundhara,

Ghaziabad and was constructing the Project "Casa Italia" situated at

Vasundhara, Ghaziabad.

b) M/s. Som Resorts Pvt. Ltd. (Corporate Debtor) signed a marketing

agreement on 10.10.2013 with Cosmic Structure Ltd. for the "Casa

Italia" project. Cosmic Structure Ltd. promised a 10% commission on

sales, with all payments stipulated to be made by cheque in the

Corporate Debtor's name. However, Cosmic Structure Ltd. allegedly

sold units in "Casa Italia" directly to buyers without the Corporate

Debtor's knowledge or consent, prompting an FIR filed by former

Director Shri Rahul Bharadwaj on 15.06.2017 against Cosmic Group

Directors under sections 406/420 IPC.

c) On 28.04.2016, the Delhi High Court appointed an Official Liquidator

for Cosmic Group in a winding-up petition (CO.PET 152 of 2016). The

petition was filed by allottees of Cosmic Group due to its failure to

complete and deliver possession of a project named "Cosmic Corporate

Park".

d) A FIR was filed by the Applicants and other allottees who were

wrongfully allotted units in the Casa Italia project by Cosmic Group.

Money was taken by Cosmic Group from these allottees, which was

never transferred to the Corporate Debtor. In this FIR, the directors of

the Corporate Debtor were also implicated wrongly.

e) To resolve the matter and with the intention to either provide the unit

or return the money, a Memorandum of Settlement was entered into

on 14.09.2018. The agreement involved the Association of the Home

Buyers, the Corporate Debtor, and Shri Sushant Muttreja, Ex-Director

of Cosmic, wherein certain terms and conditions were mutually agreed

upon.

f) Following the settlement, it was agreed that Rs. 4,38,35,462 obtained

by Cosmic Group from Casa Italia allotments would be transferred

from the Official Liquidator of Cosmic Group to the Corporate Debtor.

The allottees of Corporate Debtor were also supposed to make

remaining payments to the Corporate Debtor for project completion

activities. However, these payments were never received, leading to

delays in project construction.

g) Subsequently, a group of 26 Homebuyers, acting as Financial

Creditors of the Corporate Debtor, filed an application under Section 7

of the IBC, 2016 before the National Company Law Tribunal, New

Delhi (NCLT). The application sought initiation of Corporate Insolvency

Resolution Process (CIRP) for the Corporate Debtor, which was

admitted by the NCLT, New Delhi, via order dated 02.08.2022.

OBJECTIONS TO RESOLUTION PLAN

h) The Resolution Plan filed before this Adjudicating Authority has been

filed and approved by the "Casa Italia Social Welfare Association" with

100% voting by the Committee of Creditors (COC), of which the

association itself constitutes the COC in entirety. This situation,

where the plan is approved by the same entity that proposed it, raises

concerns under the code.

i) The Applicant has submitted that the association namely "Casa Italia

Social Welfare Association" rejected the cogent plans filed by every

other applicant and proceeded to only affirm its own plan. The COC

constitutes of 100% of the association members. It is stated that the

plan submission and approved is by the same members only without

any due diligence and resistance.

That the plan that has been filed by the constituents of the COC and

approved by the same persons is at best a conditional plan. The plan

does not bring forward any person having expertise in developing real

estate project and the amount that has been sought to be brough in

by the SRA, is Rs. 90 lakhs out of which 70 lakhs will be paid as CIRP

cost. There is no future plan that has been brought forward in the

plan for infusion of money and only plan for infusion is through sale

of assets of the Corporate Debtor. The conditional plan does not bring

forward any cogent time frame for completion nor provides any relief

to the allotees. Moreover, the plan does not specify what would be the

ramification if the allotee has to sell its share and elects to move out of

the property.

k) The Applicant has alleged that Plan Sought for approval before this

Adjudicating Authority does not even include the erstwhile directors in

the array of parties, and thus no notice was issued to the applicant

and no opportunity for filing objections was provided. To support its

contention, it has relied upon Hon'ble NCLT Kolkata Bench in the

matter of Jain Constructions Private Limited versus Kariwala

Designers Private Limited (IA NO. 15/KB/2021 IN CP(IB) NO.

533/KB/2018) had recognized that suspended board of Director can

approach the Tribunal if the act of the RP is prejudicial to the interest

of the CD or in violation of the procedure.

"6.3. But this limited function does not bar the suspended

Board of Directors to object the act of the Resolution

Professional if the act of the Resolution Professional is

prejudicial to the Corporate Debtor, or is in violation of any law

or procedural requirement."

1) It is contended that the Resolution Professional (RP) did not verify

claims from the Official Liquidator appointed by the Delhi High Court

and acted merely as a facilitator in admitting claims without verifying

the authenticity of documents from any credible source. Further it has

stated that certain claims which have been admitted by the RP, were

for the agreement prior to the marketing agreement between Cosmic

and the corporate debtor. Thus, the issue of verification of claims, and

constitution of the COC, remains in doubt especially in the

circumstances when the same COC approved its own plan. The RP

has carried out the CIRP process without verification of the claims,

which casts doubt on the veracity of whole CIRP process.

m) The Applicant has alleged that that the Resolution Professional

appears to be in a rush to approve the Resolution Plan, potentially

facilitating the wrongful transaction of usurping the land belonging to

the Corporate Debtor for ulterior motives. It is pertinent to state

herein that no effort was made to revive the Corporate Debtor during

the CIRP process and only haste was to get the approval for the

Resolution Plan filed by the association. The timeline indicates that

the Resolution Plan was hastily approved by the CoC, controlled by

the sole financial creditor. Additionally, the Applicant has submitted

that the sole purpose of this Resolution Plan is to acquire the land at

a distressed price, and the COC and the resolution professional have

been acting in coordination for such results.

n) The Applicant submitted that the Resolution Plan that has been filed

by the RA, is a contingent plan wherein no solid plan is being

elaborated by the Resolution Applicant. It is submitted that the plan

submitted by the Resolution Applicant and approved by the CoC offers

four options, wherein the approval any one of the four offered options

depends on the failure of the other three. It has further submitted that

the Fair value of the project as estimated by the valuers amounts

merely to approximately to Rs. 14 crores. It is pertinent to point out

that the valuation of the project has been downgraded by more than

40% from the prevailing market rates, thereby majorly undervaluing

the property of the Corporate Debtor.

o) The Corporate Debtor has submitted that the plan solely is depending

upon sale of unsold assets of the corporate debtor. It is submitted that

the none of the constituents of the corporate debtors have any

experience in sale of real estate and approving the present plan would

only render the property being again re sold to a third party, wherein

the constituents of the Resolution Applicant would encash their

investment, while leaving the corporate debtor to ruins. Therefore, the

plan which has been filed by the COC, and approved by the COC

without any resistance, deserves to be rejected.

3. SUBMISSIONS ON BEHALF OF RP

a) The Respondent/RP submitted that the Application is a mala fide

attempt, on part of the Applicant, to only delay and frustrate the

entire CIRP Process. The RP has submitted that the Respondent

provided all CoC meeting notices, agendas, minutes, Information

Memorandum, Virtual Data Room access, and Resolution Plans to the

Applicant during the CIRP. The Applicant did not raise any objections

or suggestions regarding the CoC constitution or Resolution Plan

approval. Therefore, the Applicant absolutely has no locus,

challenging the CIRP process or Resolution Plan approval.

b) The Respondent / RP has submitted that despite being obligated to

attend the meetings of the Committee of Creditors in his capacity as

the suspended director of the Corporate Debtor, the Applicant has

failed to attend even a single CoC meeting, including the meeting

wherein the Resolution Plan of the SRA was deliberated upon and put

to voting by the Respondent herein. In fact, even after approval of the

Resolution Plan by the CoC and filing of the Application before this

Hon'ble Tribunal, the Applicant herein, despite being well-aware of the

said Application, raised no objections whatsoever. Pertinently, it was

only after the arguments with respect to Plan approval were finally

heard by this Hon'ble Tribunal on 04.01.2024, the Applicant herein

preferred the captioned Application, which in itself evident of the mala

fide intent of the Applicant to derail and delay the entire resolution

process.

c) The respondent has submitted that the right of the suspended director

to challenge the resolution plan approved by the CoC is not an

unfettered and an absolute right, and thus, in cases where the

suspended director has deliberately failed to participate in the CoC

meetings or raise objections before the CoC, at the time of approval of

the Resolution Plan, despite being fully aware, cannot be permitted to

thwart the entire resolution process at such a belated stage, which is

nothing but an attempt to delay and derail the entire resolution

process.

d) it is a settled position of law, as has been laid down by the Hon'ble

NCLAT, Chennai Bench in the matter of Dr. Ravi Shankar Vedam

versus Tiffins Barytes Asbestos and Paints Ltd. and Ors.

(Company Appeal (AT)(Ins) No. 653/2019) that if no objection is

raised by the suspended director during the CoC meeting, no

objection can be raised before the Hon'ble NCLT. In this regard,

reliance is also placed on the order dated 17.02.2022 passed by the

Kolkata Bench of this Hon'ble Tribunal, in the matter of Jain

Constructions Private Limited versus Kariwala Designers Pvt. Ltd.

(IA No. 15/KB/2021 in CP(IB) No. 533/KB/2018) wherein it was

held that:

"when a Resolution Plan has been submitted to revive the

Corporate Debtor as a going concern and is in compliance of the

Code, there is no reason to reject the same, and certainly it

cannot be done on the basis of a perceived grievance by a

member of the Suspended Board who has not taken any positive

step to participate in the meetings of the CoC."

Further it has relied on the Chandigarh Bench of Hon'ble Tribunal,

vide its order dated 25.04.2023 in the matter of **Central Bank of India**

K.S.M Spinning Mills Limited No. versus (CP(IB)

250/Chd/PB/2018), held that:

"the suspended director being invited to the meetings of the Coe is

expected to raise these issues in the meeting itself and it is for the

eoe to decide on the requisitions made by the Suspended director.

It is not the role of the Suspended Director to carry out a post-

martem of the activities of the RP and the Resolution Process but

to give suggestions in the Coe meetings for the smooth functioning

of the Resolution Process ... ".

e) The RP has submitted that the Applicant's objections were previously

raised during the admission of the Company Petition under Section 7

of the Code. The Hon'ble Tribunal, in its order dated 02.08.2024,

extensively addressed these issues and concluded that the Corporate

Debtor, in collusion with its agent (Cosmic Structures Ltd.), defrauded

the Allottees of the "Casa Italia" Project. This order was upheld by the

Hon'ble NCLAT (order dated 21.07.2023) and the Hon'ble Supreme

Court (order dated 11.09.2023), invoking the principle of res judicata.

Therefore, the said contentions cannot be raised by the Applicant all

over again as the same is hit by the principle of res judicata.

Furthermore, it is noted that the Corporate Debtor and its Agent are

related parties due to common directorship of Mr. Sandeep Pahwa

(powers suspended). Consequently, the Corporate Veil was lifted as

per the Hon'ble NCLT order dated 02.08.2022.

f) The RP has submitted that as per explanation to Regulation 31A (1) of

the IBBI (Insolvency Resolution Process for Corporate Persons)

Regulations, 2016 (as inserted vide Notification No. IBBI/2023-

24/GN/REG102 dated 20.07.2023) specifically recognizes

association of group of Allottees in a real estate project to be a

Resolution Applicant. Therefore, there is no prohibition on the

Allottees Welfare Association to be a Resolution Applicant, irrespective

of the fact that such Allottees are also members of the CoC of the

Corporate Debtor and have voted upon the Resolution Plan. It is

submitted that in terms of the Code, the duty of a Resolution

Professional is only limited to examining whether the PRA is eligible in

terms of Section 29A of the Code. The SRA in this case is eligible in

terms of Section 29A and thus, eligible to submit a Resolution Plan.

Hence, the contention raised by the Applicant with respect to the

eligibility of the SRA in terms of the Code, is liable to be rejected.

g) The RP has submitted with regard to contention raised by the

applicant that the sole purpose of the Resolution Plan is to grab the

land under the guise of a Resolution Plan. It is sbmittde that SRA

consists of the Allottees of the Project, who have invested their hard-

earned monies in the Project, and seeking to complete the

construction of the Project. The RP has submitted that Resolution

Plan neither transfers the land to any third party or to any other

person and the said land continues to be an asset of the Corporate

Debtor even after approval of the Resolution Plan. In fact, the plan

envisages to complete the construction of the Project which has been

left abandoned and unattended by the suspended directors, including

the Applicant herein.

4. Submission made Successful Resolution **Applicant** bv

(Respondent No. 2)

a) The Instant Notes of Submissions are being filed on behalf of Casa

Italia Social Welfare Association (Successful Resolution Applicant)

through its Authorised Signatory, Mr. Yadubir Singh Sajwan, who has

been arrayed as Respondent No. 2 in IA No. 459 of 2024, filed by

Applicant, Mr. Anuj Gaur (suspended director/Applicant).

b) The Respondent has submitted that the judgment of the Hon'ble

Supreme Court in the matter of Vijay Kumar Jain versus Standard

Chartered Bank and Ors. (2019) 20 SCC 455 is not applicable in the

present matter as the whether or not a director, who may also be a

personal guarantor of the Corporate Debtor, entitled to a copy of the

Resolution Plan in order to participate in the CoC meetings. However,

in the instant case, it is an admitted factual position that the

Applicant was duly served the copy of the Resolution Plan, much prior

to the approval of the Plan by the CoC and was also invited to the CoC

meeting wherein the Resolution Plan was to be discussed and voted

upon by the Coe. Yet, despite having a copy of the Resolution Plan, the

Applicant herein neither attended the CoC meeting, nor raised any

objections with respect to the Resolution Plan of the SRA. Therefore,

the Applicant has not participated in the CIRP process of the

Corporate Debtor and has, at such an advanced stage, sought to

challenge the Resolution Process by contending its "vested interest".

Therefore, it is submitted that the Applicant herein cannot take

shelter of the observations made in the judgment of Vijay Kumar Jain

(supra) since the Applicant has neither attended any CoC meeting, nor

has any vested interest in the resolution of the Corporate Debtor.

c) The Respondent has submitted that in cases where the suspended

directors have failed to participate in the CoC meetings, such directors

have absolutely no right to carry out post-mortem of the CIRP process

to thwart the resolution process of the Corporate Debtor. To support

its contention, it has relied upon Jain Constructions Pvt. Ltd.

versus Kariwala Designers Pvt. Ltd. (IA No. 15/KB/2021) passed

by Hon'ble NCLT Kolkata and in the matter of Central Bank of India

versus K.S.M Spinning Mills Limited (CP(IB) No. 250/PB/2018)

passed by Hon'ble NCLT Chandigarh.

d) The Applicant, in its Application, has challenged the eligibility of the

SRA to submit a Resolution Plan on the ground that the members of

the Association are also members of the CoC and have voted upon its

own Resolution Plan. However, it is submitted that the such objection

is clearly in teeth of the provisions of the Code, more particularly,

proviso to Section 31 (5), which expressly recognizes the rights of the

Resolution Applicant to vote upon its own Resolution Plan, if such

Resolution Applicant is also a member of the Committee of Creditors.

It is submitted that the determination of whether any Prospective

Resolution Applicant is eligible to submit its Resolution Plan, is to be

considered only in terms of Section 29A of the Code and the

Resolution Professional cannot place reliance on any extraneous

considerations to challenge the eligibility of the Resolution Applicant.

It is submitted that since there is absolutely no objection or

contention with respect to eligibility of the Applicant under Section

29A of the Code, the objection raised by the Applicant is meritless and

liable to be rejected.

5. We have heard Ld. Counsel for both the parties and perused the

averments made in the application and reply filed by the parties. The

relevant documents annexed with the respective submissions have

been examined in detail. The issue is whether a resolution plan which

is already approved by the Committee of Creditors and which is

pending before the Adjudicating Authority for its approval can be

rejected on the ground that the COC members and the SRA are

identical?

6. It is a settled law that the COC of the corporate debtor has the sole

right to decide on the terms of the resolution plan and the exercise of

commercial wisdom of the COC is non-justiciable. The successful

resolution applicant is deemed to be aware of the provisions of the

Insolvency and Bankruptcy Code, 2016 and its mechanisms.

7. Adverting to the facts of the present case, Corporate Insolvency

Resolution Process against SOM Resorts Private Limited ('Corporate

Debtor') had been initiated by this Hon'ble Adjudicating Authority vide

its order dated 02.08.2022 in C.P.(IB) No. 67/2022, an application

under Section 7 of the Code, 2016 filed by Mr. Yadubir Singh Sajwan

and 25 other financial creditors/ home buyers ('Financial Creditors)

8. The Invitation for Expression of Interest in Form -G was published on

two occasions i.e. (i) 28.10.2022 (ii) 29.12.2022. The Resolution

Professional had made publication for invitation of Expression of

Interest in FORM-G on 29.12.2022 in two newspapers i.e. Financial

Express (English Edition) and Jansatta (Hindi Edition), wherein the

last date for Submission of EOI was 13.01.2023. Further, Pursuant to

the above publication of Expression of Interest, the Resolution

Professional has received Expression of Interest from 11 interested

parties.

9. That, thereafter, the RP conducted the 6th CoC Meeting on 14.01.2023 in accordance with Regulation 36A (10) of the IBBI regulations, the RP issued a provisional list of PRAs dated 23.01.2023 to the members of Committee of Creditors and to all the PRAs who

had submitted the EoIs.

10. In the 10th COC Meeting, the members of the CoC after discussion, deliberation and taking into consideration the Evaluation matrix scoring, exercised their commercial wisdom and approved on 14.04.2023 with 100% votes, the Resolution Plan as submitted by M/s Casa Italia Social Welfare Association.

Welfare Association, comprising of members of the Resolution Applicant are Allottees/Financial Creditors of the Corporate Debtor and are desirous of a successful resolution of insolvency of the Corporate Debtor, completion of the construction Works in the Casa Italia Project and delivery of flats/units/spaces to the Allottees. It is in furtherance of these objectives that the Casa Italia Social Welfare Association was formed in the year 2017. The Resolution Applicant, being specifically constituted for the sole purpose of safeguarding the rights of Allottees in the Casa Italia project, is in a position to achieve the twin objectives of discharging the financial liabilities of the Corporate Debtor while ensuring that the Project is successfully completed and flats/shops are delivered to the Allottees within a reasonable time.

12. At this juncture, it is relevant to refer to the Hon'ble Supreme Court's judgement in Ebix Singapore Private Limited versus Committee of Creditors of Educomp Solutions Limited & Anr. (Civil Appeal No. 3224 of 2020) held in paragraph 153 and 154 of the said judgement as follow:-

"153.Regulation 38(3) mandates that a Resolution Plan be feasible, viable and implementable with specific timelines. A Resolution Plan whose implementation can be withdrawn at the behest of the successful Resolution Applicant, is inherently unviable, since open-ended clauses on modifications/ withdrawal would mean that the Plan could fail at an undefined stage, be uncertain, including after approval by the Adjudicating Authority. It is inconsistent to postulate, on the one hand, that no withdrawal or modification is permitted after the approval by the Adjudicating Authority under Section 31, irrespective of the terms of the Resolution Plan; and on the other hand, to argue that the terms of the Resolution Plan relating to withdrawal or modification must be respected, in spite of the CoC's approval, but prior to the approval by the Adjudicating Authority. The former position follows from the intent, object and purpose of the IBC and from Section 31, and the latter is disavowed by the IBC's structure and objective. The IBC does not envisage a dichotomy in the binding character of the Resolution Plan in relation to a Resolution Applicant between the stage of approval by the CoC and the approval of the Adjudicating Authority. The binding nature of a Resolution Plan on a Resolution Applicant, who is the proponent of the Plan which has been accepted by the CoC cannot remain indeterminate at the discretion of the Resolution Applicant. The negotiations between the Resolution Applicant and the CoC are brought to an end after the CoC's approval. The only conditionality that remains is the approval of the Adjudicating Authority, which has a limited jurisdiction to confirm or deny the legal validity of the Resolution Plan in terms of Section 30 (2) of the IBC. If the requirements of Section 30(2) are satisfied, the Adjudicating Authority shall confirm the Plan approved by the CoC under Section 31(1) of the IBC.

154.If the appellants' claim were to succeed, a clause enabling a Resolution Applicant to withdraw/ seek modification for reasons such

as a 'Material Adverse Event' could also be set up by a Resolution Applicant when it is being prosecuted under Section 74 (3). It was contended before us that Form H, which is a compliance certificate that is to be submitted by the RP to the Adjudicating Authority along with the Resolution Plan, mentions that the RP can enter details as to whether the Resolution Plan is subject to any conditionalities under Clause 12. Thus, the argument goes that this permits the Resolution Applicant to stipulate in the Resolution Plan certain contingencies under which it can withdraw the Plan, for instance if there is an occurrence of an 'Material Adverse Event'. A form is subservient to the statute. The conditionalities contemplated in Form H could be those which do not strike at the root of the IBC. They can include commercial conditions and business arrangements with the CoC. conditions for withdrawal or re-negotiation of the However, cannotResolution Plan pass the test of 'viabilitu' 'implementability' as they would make the resolution process indeterminate and unpredictable. A two judge Bench of this Court in K Sashidhar (supra), while discussing the jurisdiction of the Adjudicating Authority under Section 31 to evaluate a Resolution Plan, has observed that the Resolution Plan should "be an overall credible plan, capable of achieving timelines specified in the Code generally, assuring successful revival of the corporate debtor and disavowing endless speculation". Section 30 2(d) of the IBC and Regulation 38 of the CJRP Regulations also provide that the Resolution Plan should be implementable. In the absence of specific statutory language allowing for withdrawals or even modifications by the successful Resolution Applicant, it would be difficult to imply the existence of such an option based on the terms of the Resolution Plan, irrespective of, and especially when they do not form a part of Clause 12 in Form H, as is the case in all the three Resolution Plans that are in dispute in this present appeal."

13. Further, the Hon'ble Supreme Court, in the Ebix Singapore (Supra) held that the Adjudicating Authority have no jurisdiction to allow modification or withdrawal of the CoC approved Resolution Plan by a Successful Resolution Applicant or to give effect to any Material adverse change in any clause of the resolution plan either under Section 31 or section 60(5)f the Code, 2016. The relevant part of the

observation of the Hon'ble Supreme Court in Ebix Singapore (Supra) is

as below:-

"158. Based on the plain terms of the statute, the

Adjudicating Authority lacks the authority to allow the

withdrawal or modification of the Resolution Plan by a

successful Resolution Applicant or to give effect to any such

clauses in the Resolution Plan.******

CONCLUSION

"202.The residual powers of the Adjudicating Authority under the

IBC cannot be exercised to create procedural remedies which

have substantive outcomes on the process of insolvency. The

framework, as it stands, only enables withdrawals from the CIRP

process by following the procedure detailed in Section 12A of the

IBC and Regulation 30A of the CIRP Regulations and in the

situations recognized in those provisions. Enabling withdrawals

or modifications of the Resolution Plan at the behest of the

successful Resolution Applicant, once it has been submitted to the

Adjudicating Authority after due compliance with the procedural

requirements and timelines, would create another tier of

negotiations which will be wholly unregulated by the statute."

At this juncture, we rely upon the Judgement passed by Hon'ble 14.

Supreme Court in the matter of "Vallal RCK versus M/s Siva

Industries and Holdings Limited and Others, Civil Appeal Nos.

1811-1812 of 2022" whereby the Hon'ble Apex Court has answered

the question as to whether 'the adjudicating authority (NCLT) or the

appellate authority (NCLAT) can sit in an appeal over the commercial

wisdom of the Committee of Creditors (hereinafter referred to as the

"CoC") or not. We rely upon the following paragraphs:

"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."

15. The Resolution Plan of M/s Casa Italia Social Welfare Association

(Successful Resolution Applicant) for the Corporate Debtor has been

approved by CoC with 100 % majority and this Adjudicating Authority

cannot interfere in the same.

- 16. Accordingly, in the light of the judgment of Hon'ble Supreme Court and the facts of the present case, it appears that the application filed by the Applicants lacks substantial basis.
- In view of the aforesaid discussion, Interlocutory Application No.
 459/ND/2024 in Company Petition No. (IB)- 67/ND/2020 stands
 dismissed. No orders to cost.

Sd/- Sd/-

(DR.SANJEEV RANJAN) MEMBER (T) (MANNI SANKARIAH SHANMUGA SUNDARAM)
MEMBER (J)

IN THE NATIONAL COMPANY LAW TRIBUNAL NEW DELHI BENCH COURT-IV

IA-2552/2023

IN

Company Petition No. IB- 67 (ND)/2022

(Under Section 30 (6) and 31 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016))

| IN THE MATTER OF: | | |
|--------------------------|--------|---------------------|
| YADUBIR SINGH SAJWAN AND | ORS. | |
| | | FINANCIAL CREDITORS |
| | VERSUS | |
| SOM RESORTS PVT. LTD. | | |
| | | CORPORATE DEBTOR |
| | | |
| AND IN THE MATTER OF: | | |
| RABINDRA KUMAR MINTRI | | |

CORAM:

SH. MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)

DR. SANJEEV RANJAN,
HON'BLE MEMBER (TECHNICAL)

Order Delivered on: 03.12.2024

.... APPLICANT

PRESENT:

For the SRA : Adv. Alok Dhir

: Adv. Udita Singh

For the RP : Mr. Sandeep Bajaj,

: Mr. Mayank Biyani, Advs.

: Mr. Rabindra Kumar Mintri,

(Resolution Professional)

For the UPAVP : Adv. Ritesh Agrawal,

: Adv. Priyanshi Sharma

For the Ex-Directors : Adv. Abhishek Anand,

: Adv. Arjun Mahajan,

: Adv. Davesh Bhatia,

: Adv. Piyush Gautam

<u>ORDER</u>

PER: MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (JUDICIAL)

1. The present application has been filed under Section 30(6) read with Section 31(1) of the Insolvency & Bankruptcy Code, 2016 ('the Code') read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ('Regulations') on behalf Resolution Professional (RP) of SOM Resorts Pvt. Ltd. ('Corporate Debtor'), seeking approval of the Resolution Plan submitted by the Casa Italia Social Welfare Association ("Successful Resolution Applicant"), as approved by 100% voting in favour by the Committee of Creditors ("CoC") in the 10th meeting of the CoC held on 08.04.2023 in terms of Section 30(4) of the Code, 2016.

2. Briefly stated, the facts as averred by the applicant in the application are as

follows:

a) The Corporate Debtor was engaged in the business of development of Real Estate

Project. The Corporate Debtor had launched its sole project "Casa Italia" located

at ML-1/9, Sector- 9, Vasundhara, Gaziabad and received bookings against the

same. However, since the Corporate Debtor was unable to fulfil its commitment

towards the allottees, a group of 26 homebuyers, in the capacity of Financial

Creditors filed an Application under Section 7 of the Code, against the Corporate

Debtor.

b) The Corporate Insolvency Resolution Process against SOM Resorts Private

Limited ('Corporate Debtor') had been initiated by this Hon'ble Adjudicating

Authority vide its order dated 02.08.2022 in C.P.(IB) No. 67/2022, an application

under Section 7 of the Code, 2016 filed by Mr. Yadubir Singh Sajwan and 25

other financial creditors/ home buyers ('Financial Creditors) and Mr. Sumit

Shukla was appointed as the Interim Resolution Professional of the Corporate

Debtor.

c) The IRP in accordance with the Section 13 read with 15 of the Code and other

relevant provisions of the Code on 05.08.2022 made public announcement in

FORM A, inviting the creditors of the Corporate Debtor to submit their proof of

claims on or before 16.08.2022, which was published in Jansatta (Hindi) and

Financial Express (English) in Delhi/NCR Edition.

d) That thereafter, the IRP finalized the List of Creditors containing details of all claims received and verified by the IRP and thereafter, constituted the CoC as under:

| Type of Claimant | No of claims | Amount claimed | Amount verified | % of Voting share |
|---|--------------|----------------|-----------------|-------------------|
| Financial Creditors in a Class (Allottees of Real Estate/ Home/ Commercial Space Buyer) | 41 | 20,51,48,158 | 19,00,69,579 | 100% |
| Other Financial Creditors | - | - | ~ | - |
| Operational Creditors | - | - | - | - |
| Other Creditors | - | - | - | - |
| Total | 41 | 20,51,48,158 | 19,00,69,579 | 100% |

- e) That vide 25.08.2022, IRP constituted the Committee of Creditors of the Corporate Debtor. Accordingly, the first meeting of the CoC of the Corporate Debtor was held on 01.09.2022 and the voting process of the same got completed on 09.09.2022.
- f) The IRP informed the CoC regarding the continued non-cooperation of the suspended management of the Corporate Debtor. The IRP further informed that he could not take possession of the Project Site in view of sealing of the same by the Uttar Pradesh Awas Evam Vikas Parishad (hereinafter referred to as "UPAEVP"), which had sealed the project 'Casa Italia' of the Corporate Debtor on 13.10.2017. The First meeting of the CoC was constituted wherein the appointment of Mr. Sumit Shukla as the RP was confirmed by the CoC with 100% votes in favour.

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g) In the 4th CoC meeting dated 12.11.2022, the CoC resolved to replace the

existing RP having Registration No. IBBI/IPA003/IP-N00064/2017-2018/10550

with Mr. Rabindra Kumar Mintri (Applicant) having Registration No. IBBI/IPA-

003/IP-P00707/2017-2018/11194 with 100% votes in favour of the said

Resolution.

h) The Invitation for Expression of Interest in Form -G was published on two

occasions i.e. (i) 28.10.2022 (ii) 29.12.2022. The Resolution Professional had

made publication for invitation of Expression of Interest in FORM-G on

29.12.2022 in two newspapers i.e. Financial Express (English Edition) and

Jansatta (Hindi Edition), wherein the last date for Submission of EOI was

13.01.2023. Further, Pursuant to the above publication of Expression of

Interest, the Resolution Professional has received Expression of Interest from 11

interested parties.

That, thereafter, the RP conducted the 6th CoC Meeting on 14.01.2023 in

accordance with Regulation 36A (10) of the IBBI regulations, the RP issued a

provisional list of PRAs dated 23.01.2023 to the members of Committee of

Creditors and to all the PRAs who had submitted the EoIs.

The period of 180 days of the CIRP stood expired on 29.01.2023, therefore an

application bearing I.A. No. 746/ND/2023 was filed for an extension of 90 days

in CIRP Period of the Corporate Debtor, which was allowed by this Adjudicating

Authority vide its order dated 02.02.2023. Accordingly, the CIRP period of the

Corporate Debtor has extended till 29.04.2023.

j) The Final list of Prospective Resolution Applicants was published by the

Resolution Professional

Resolution Professional requested all the Resolution Applicants to submit

Revised Resolution Plans by 30.03.2023 till 4 P.M. The RP thereafter

received, revised Resolution Plans from the following 4 PRAs:

a. M/s Casa Italia Social Welfare

b. Consortium. of Mr. Mukesh Kumar Agarwal and Mr. Yogesh

Kumar Gupta

c. M/s One City Infrastructure Private Limited

d. Mr. Pankaj Saraogi

k) In the 10th CoC meeting dated 08.04.2023, the RP apprised he CoC members in

regard to the revised Resolution Plans submitted by the abovementioned PRAs

and thereafter the four Resolution Plans submitted by the abovementioned PRAs

were put up for e-voting simultaneously for approval of a Resolution Plan by the

CoC and accordingly, the members of the CoC after discussion, deliberation and

taking into consideration the Evaluation matrix scoring, exercised their

commercial wisdom and approved on 14.04.2023 with 100% votes, the

Resolution Plan as submitted by M/s Casa Italia Social Welfare Association.

2. The details of this Adjudicating Authority's order extending the period of the Corporate

Debtor's Corporate Insolvency Resolution Process is provided below:-

"This Adjudicating Authority, vide order dated 02.02.2023 granted an

extension of 90 days CIRP period w.e.f 30.01.2023."

3. We have heard the submissions made by the Ld. Counsel for the Applicant and have

meticulously gone through the documents produced on record. The copy of the

Resolution Plan submitted by the Successful Resolution Applicant and approved by

the CoC is annexed as Annexure A-2 (copy of Resolution Plan) to the present

application. The salient features of the Resolution Plan as submitted by M/s Casa Italia

Social Welfare ('Successful Resolution Applicant') and approved by the CoC in its 10th

CoC Meeting held on 08.04.2023 and e-voting concluded on 14.04.2023 with 100%

voting in favour are reproduced herein below:

I. BACKGROUND OF THE RESOLUTION APPLICANT:

The Resolution Applicant i.e., Casa Italia Social Welfare Association is an association

established on 10.03.2017 vide Registration No./Identification No. 1120 having its

registered office situated at 10 C/247, Vasundhara, Ghaziabad, UP 201012. The Casa

Italia Social Welfare Association is comprised of 38 Allottees of the Casa Italia Project.

an undertaking of the Corporate Debtor. The net worth of the Resolution applicant is

Rs. 93,00,000/-.

The Managing Committee/Governing Body of Casa Italia Social Welfare

Association consist of the following members:

Details of Governing Body of the Association

Dr Satyavir Singh Malik – President

2. Mr Yadubir Singh Sajwan - Secretory

3. Mr Sumit Mansinghka - Joint Secretory

Mr Parmjit Singh Gulati- Vice President

Mr. Shri Krishan –Treasurer

II.FINANCIAL OUTLAY

Since the Project was sealed at the time of commencement of CIRP, the

Resolution Professional had filed an Interim Application bearing IA No. 5225 of

2022 before this Adjudicating Authority, which is currently pending

adjudication, at the time of submission of the Resolution Plan. The Adjudicating

Authority had directed the Resolution Professional as well as UP Awas Vikas

Parishad to try for an amicable settlement of the matter. The Adjudicating

Authority vide its order dated 27.09.2023 directed UP Awas Vikas Parishad to

file its Affidavit. Therefore, in light of such contingencies, the Resolution

Applicant is proposing allotment of Units in the Project to the Allottees, in

following manner, wherein Contingency-1 depicts the first priority of the

Resolution Applicant and Contingency-4 depicts the last priority of the

Resolution Applicant. It has been further clarified that such Contingencies are

merely indicative of 4 possible situations arising out of pending application

UP Vikas against Awas and other any

litigation/settlement/compounding/approval that may be initiated by the

Resolution Applicant against/with UP Awas Vikas.

The overall estimated expenditure and proposed sources of funds, may alter,

subject to the applicability of each Contingency. The budget expenditure and its

corresponding funding plan have been envisaged as herein over-leaf for each

Contingency

CONTINGENCY 1

Estimated Budget Expenditure

| Sr. No. | Particulars | Amount (INR) |
|------------|--|---------------|
| 1. | Estimated CIRP Cost | 70,00,000/- |
| 2. | Expected Expenditure for completing the Construction – LG, UG, Floor, Second Floor | 7.84,00,000 |
| 3. | Provision for Secured Financial Creditors | NIL |
| 4. | Provision for Un-Secured Financial Creditors | NIL |
| 5. | Provision for Operational Creditors | NIL |
| 6. | Provision for Obtaining approval from UP Awas Avam Vikas Parishad | 6,00,00,000/- |
| 7. | Provision for Administrative Expenses | 1,40,00,000/- |
| 8. | Provision for Contingences | 50,00,000/- |
| 9. | Provision for Legal Cost | 40,00,000/- |
| | TOTAL | 16,84,00,000 |

Proposed Funding Plan

| Sr. | Particulars | Amount (INR) |
|-----|--|---------------|
| No. | | |
| 1. | Upfront Infusion by Resolution Applicant | 90,00,000/- |
| 2. | Estimateo Receivable from Allottees (as per the various Builder Buyer Agreements entered into between the Corporate Debtor and Allottee) | 7,51,00,000/- |

| 3. | Sale of Unsold inventory of the Corporate Debtor on | 18,01,80,000/- |
|----|---|----------------|
| | the Lower Ground Floor (Available super area 10010 | |
| | sq. ft to be sold at the minimum rate of INR 18000 per Sq. ft. | |
| 4. | Sale of Unsold inventory of the Corporate Debtor on the Upper Ground Floor (Available super area 9420 sq. ft to be sold at the rate of INR 22000 per sq. ft) | 20,72,40,000/- |
| 5. | Sale of Unsold inventory of the Corporate Debtor on the First Floor (Available super area is in negative | (12,92,500) |
| | due to excessive sale made by the Corporate Debtor, i.e., (235) Sq. ft. at the rate of INR 5500 per sq. ft) | 0. |
| 6. | Sale of Unsold inventory of the Corporate Debtor on the Second Floor (Available super area 8910 sq. ft. to be sold at the rate of INR 5500 per sq. ft) | 4,90,05,000/- |
| 7. | Sale of Unsold Inventory on third floor (Available super area is in negative due to excessive sale made by the Corporate Debtor i.e., (11815) Sq. ft. at the rate of INR 5500 per sq. ft) | (6,49,82,500) |
| | TOTAL | 45,42,50,000/- |

CONTINGENCY 2

Sub-Contingency (i)

Estimated Budget Expenditure

| Sr. No. | Particulars | Amount (INR) |
|------------|---|---------------|
| 1. | Estimated CIRP Cost | 70,00,000/- |
| 2. | Expected Expenditure for completing the construction of the Project, without demolishing the existing structure | 5,00,00,000/- |
| 3. | Provision for Secured Financial Creditors | NIL |
| 4. | Provision for Un-Secured Financial Creditors | NIL |
| 5. | Provision for Operational Creditors | NIL |
| 6. | Provision for Obtaining approval from UP Awas Avam Vikas Parishad | 6,00,00,000/- |
| 7. | Provision for Administrative Expenses | 2,40,00,000/- |

| 8. | Provision for Contingences | 50,00,000/- |
|----|----------------------------|----------------|
| 9. | Provision for Legal Cost | 50,00,000/- |
| | TOTAL | 15,10,00,000/- |

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Proposed Funding Plan

| Sr. No. | Particulars | Amount (INR) |
|------------|--|-----------------|
| 1. | Upfront Infusion by Resolution Applicant | 90,00,000/- |
| 2. | Receivable from Allottees (as per the various Builder Buyer Agreements entered into between the Corporate Debtor and Allottee) | 7,51,00,000/- |
| 3. | Sale of Unsold inventory of the Corporate Debtor on the Lower Ground Floor (Available super area 10010 sq. ft to be sold at the rate of INR 18000 per Sq ft | 18,01,80,000/- |
| 4. | Sale of Unsold inventory of the Corporate Debtor on the Upper Ground Floor (Available super area 9420 sq. ft to be sold at the rate of INR 22000 per sq. ft) | 20,72,40,000/- |
| 5. | Sale of Unsold inventory of the Corporate Debtor on the First Floor (Available super area is (5262) Sq. ft. at the rate of INR 10000 per sq. ft) | 5,26,20,000/- |
| 6. | Sale of Unsold inventory of the Corporate Debtor on the Second Floor (Available super area 7240 sq. ft. to be sold at the rate of INR 10000 per sq. ft) | 7,24,00,000/- |
| 7. | Third Floor Allottees to be accommodated in First and Second floor with the rate conversion residence to Commercial Total Area Sold (11,815) Sq. (Actual amount sold to allottees) | (4,96,00,000)/- |
| | TOTAL | 54,69,40,000/- |

Sub-Contingency (ii)

Estimated Budget Expenditure

| Sr. | Particulars | Amount |
|-----|---|---------------|
| No. | | (INR) |
| 1. | Estimated CIRP Cost | 70,00,000/- |
| 2. | Expected Expenditure for constructing the Project | 8,00,00,000/- |
| | from scratch | |

| 3. | Provision for Secured Financial Creditors | NIL |
|----|--|---------------|
| 4. | Provision for Un-Secured Financial Creditors | NIL |
| 5. | Provision for Operational Creditors | NIL |
| 6. | Provision for Obtaining approval from UP Awas Avam Vikas Parishad | 6,00,00,000/- |
| 7. | Provision for Administrative Expenses | 2,40,00,000/- |
| 8. | Provision for Contingences | 50,00,000/- |
| 9. | Provision for Legal Cost | 50,00,000/- |
| | TOTAL | 18,10,00,000 |

Proposed Funding Plan

| Sr. | Particulars | Amount (INR) |
|-----|---|-----------------|
| No. | | |
| 1. | Upfront Infusion by Resolution Applicant | 90,00,000/- |
| 2. | Receivable from Allottees (as per the various Builder Buyer Agreements entered into between the Corporate Debtor and Allottee) | 7,51,00,000/- |
| 3. | Sale of Unsold inventory of the Corporate Debtor on the Lower Ground Floor (Available super area 10010 sq. ft to be sold at the rate of INR 18000 per Sq ft | 18,01,80,000/- |
| 4. | Sale of Unsold inventory of the Corporate Debtor on the Upper Ground Floor (Available super area 9420 sq. ft to be sold at the rate of INR 22000 per sq. ft) | 20,72,40,000/- |
| 5. | Sale of Unsold inventory of the Corporate Debtor on the First Floor (Available super area is (5262) Sq. ft. at the rate of INR 10000 per sq. ft) | 5,26,20,000/- |
| 6. | Sale of Unsold inventory of the Corporate Debtor on the Second Floor (Available super area 7240 sq. ft. to be sold at the rate of INR 10000 per sq. ft) | 7,24,00,000/- |
| 7. | Third Floor Allottees to be accommodated in First and Second floor with the rate conversion residence to Commercial Total Area Sold- 11,815 Sq. ft (Actual amount sold to Allottees) | (4,96,00,000)/- |
| | TOTAL | 54,69,40,000/- |

CONTINGENCY 3

Sub-Contingency (i)

| Estimat | ed Budget Expenditure | 111 |
|---------|--|---------------|
| Sr. | Particulars | Amount |
| No. | | (INR) |
| 1. | Estimated CIRP Cost | 70,00,000/- |
| 2. | Expected Expenditure for completing the | 8,00,00,000/- |
| | construction of the Project, without demolishing the existing structure | |
| 3. | Provision for Secured Financial Creditors | NIL |
| 4. | Provision for Un-Secured Financial Creditors | NIL |
| 5. | Provision for Operational Creditors | NIL |
| 6. | Provision for Obtaining approval from UP Awas Avam Vikas Parishad | 6,00,00,000/- |
| 7. | Provision for Administrative Expenses | 2,40,00,000/- |
| 8. | Provision for Contingences | 50,00,000/- |
| 9. | Provision for Legal Cost | 50,00,000/- |
| | TOTAL | 10 10 00 000 |

Proposed Funding Plan

| Sr. No. | Particulars | Amount (INR) |
|------------|--|-----------------|
| 1. | Upfront Infusion by Resolution Applicant | 90,00,000/- |
| 2. | Receivable from Allottees (as per the various Builder Buyer Agreements entered into between the Corporate Debtor and Allottee) | 7,51,00,000/- |
| 3. | Shop Sold- There is no approval for LG Total super area (2400) sq. ft . Actual Amount paid by Allottees | (3,54,00,000)/- |
| 4. | Sale of Unsold inventory of the Corporate Debtor on the Upper Ground Floor (Available super area 9420 sq. ft to be sold at the rate of INR 22000 per sq. ft) | 20,72,40,000/- |
| 5. | Sale of Unsold inventory of the Corporate Debtor on the First Floor (Available super area is 1995 Sq. ft. at the rate of INR 5500 per sq. ft) | 1,09,72,500/- |

| | be sold at the rate of INR 5500 per sq. ft) TOTAL | 30,96,20,000/- |
|--|---|----------------|
| the Third Floor (Available super area 615 sq. ft. to | | |
| 7. | Sale of Unsold inventory of the Corporate Debtor on | 33,82,500/- |
| | to be sold at the rate of INR 5500 per sq. ft) | |
| | the Second Floor (Available super area 7150 sq. ft. | |
| 6. | Sale of Unsold inventory of the Corporate Debtor on 3,93,25,0 | |

Sub-Contingency (ii)

Estimated Budget Expenditure

| Sr. | Particulars | Amount (INR) |
|-----|--|----------------|
| No. | Estimated CIRP Cost | 70,00,000/- |
| | | |
| 2. | Expected Expenditure for completing the construction of the Project, with demolishing the existing structure | 12,00,00,000/- |
| 3. | Provision for Secured Financial Creditors | NIL |
| 4. | Provision for Un-Secured Financial Creditors | NIL |
| 5. | Provision for Operational Creditors | NIL |
| 6. | Provision for Obtaining approval from UP Awas Avam Vikas Parishad | 6,00,00,000/- |
| 7. | Provision for Administrative Expenses | 2,40,00,000/- |
| 8. | Provision for Contingences | 50,00,000/- |
| 9. | Provision for Legal Cost | 50,00,000/- |
| -0 | TOTAL | 22,10,00,000 |

Proposed Funding Plan

| Sr. No. | Particulars | Amount (INR) |
|------------|--|-----------------|
| 1. | Upfront Infusion by Resolution Applicant | 90,00,000/- |
| 2. | Receivable from Allottees (as per the various Builder Buyer Agreements entered into between the Corporate Debtor and Allottee) | 7,51,00,000/- |
| 3. | Shop Sold- There is no approval for LG Total super area (2400) sq. ft . Actual Amount paid by Allottees | (3,54,00,000)/- |

| | TOTAL | 30,96,20,000/- |
|----|--|----------------|
| | the Third Floor (Available super area 615 sq. ft. to be sold at the rate of INR 5500 per sq. ft) | |
| 7. | Sale of Unsold inventory of the Corporate Debtor on | 33,82,500/- |
| 6. | Sale of Unsold inventory of the Corporate Debtor on the Second Floor (Available super area 7150 sq. ft. to be sold at the rate of INR 5500 per sq. ft) | 3,93,25,000/- |
| 5. | Sale of Unsold inventory of the Corporate Debtor on the First Floor (Available super area is 1995 Sq. ft. at the rate of INR 5500 per sq. ft) | 1,09,72,500/- |
| 4. | Sale of Unsold inventory of the Corporate Debtor on the Upper Ground Floor (Available super area 9420 sq. ft to be sold at the rate of INR 22000 per sq. ft) | 20,72,40,000/- |

CONTINGENCY 4

Estimated Budget Expenditure

| Sr. No. | Particulars | Amount (INR) |
|------------|---|-----------------|
| 1. | Estimated CIRP Cost | 70,00,000/- |
| 2. | Expected Expenditure for completing the construction of the Project, without demolishing the existing structure | 4,00,00,000/- |
| 3. | Provision for Secured Financial Creditors | NIL |
| 4. | Provision for Un-Secured Financial Creditors | NIL |
| 5. | Provision for Operational Creditors | NIL |
| 6. | Provision for Obtaining approval from UP Awas Avam Vikas Parishad | 50,00,000/- |
| 7. | Provision for Administrative Expenses | 2,40,00,000/- |
| 8. | Provision for Contingences | 50,00,000/- |
| 9. | Provision for Legal Cost 10,00,00 | |
| | TOTAL | 8,20,00,000 |

Proposed Funding Plan

| Sr. | Particulars | Amount (INR) |
|-----|--|--------------|
| No. | | |
| 1. | Upfront Infusion by Resolution Applicant | 90,00,000/- |

| 2. | Receivable from Allottees (as per the various | 7,51,00,000/- |
|----|--|-----------------|
| | Builder Buyer Agreements entered into between | |
| | the Corporate Debtor and Allottee) | |
| 3. | Shop Sold- There is no approval for LG Total super | (3,54,00,000)/- |
| | area (2400) sq. ft . Actual Amount paid by Allottees | |
| 4. | Sale of Unsold inventory of the Corporate Debtor on | 20,72,40,000/- |
| | the Upper Ground Floor (Available super area 9420 | |
| | sq. ft to be sold at the rate of INR 22000 per sq. ft) | |
| 5. | Sale of Unsold inventory of the Corporate Debtor on | 1,09,72,500/- |
| | the First Floor (Available super area is 1995 Sq. ft. | |
| | at the rate of INR 5500 per sq. ft) | |
| 6. | Sale of Unsold inventory of the Corporate Debtor on | 3,93,25,000/- |
| | the Second Floor (Available super area 7150 sq. ft. | 7 |
| | to be sold at the rate of INR 5500 per sq. ft) | |
| 7. | Flat Sold - There is no approval for Third Floor Total | (5,90,75,000)/- |
| | Super Area Sold 11815 at the rate of INR 5500 | |
| | (Actual Amount paid by Allottees) | |
| | TOTAL | 24,71,62,500/- |
| | | |

Date of Order: 03.12.2024

In respect to the 4 options/ Contingencies, UP Awas Vikas Parishad had filed its affidavit dated 18.11.2023, wherein it has made certain observations with respect to these 4 options/contingencies available under the Resolution Plan. A gist of these 4 options under the Resolution Plan along with the observation made by UP Awas Vikas Parishad is tabulated here-below:

| Option under | Response received from UP | Conclusion |
|--------------------------|--------------------------------|------------------------------|
| Resolution Plan | Awas Vikas Parishad | |
| Option 1: | Since the maximum | As per the response of UP |
| Seeking approval of | permissible land cover on the | Awas Vikas, it is evident |
| the entire existing | plot in question is 45 percent | that some mitigation of |
| structure of Project, as | and permissible FAR can be | the FAR is possible with |
| per law | 1.25. | respect to the existing |
| | Maximum of 10% of the plot | structure. |
| | can be mitigated from the | Hence, after the approval |
| | approved maximum FAR | of Resolution Plan, SRA |
| | and construction will be | shall make endeavour to |
| | permitted only after a | apply for mitigation of |
| | minimum distance from the | FAR as permitted |
| | boundary line of the Plot. | |
| Option 2: Applying | y se promoner of a l | Evidently, UP Awas |
| for change in land use | SANJES JAIN * | Vikas Parishad has |
| from Mixed to | O (PECO MAIN) * | admitted that change in |
| Commercial as per | \$ 2500 Tocates) * | land use is possible, albeit |
| Law | OF INDIA. | after demolition of |
| Sub Option 2(i): | The Building structure | existing structure and |
| | constructed on the site is not | after making an |

| Without demolition of | as per rules and is in the | application as per the |
|------------------------|-------------------------------|-----------------------------|
| existing structure | category of unauthorised | process laid down in law. |
| | construction. Hence no | Therefore, for demolition |
| | possible | of structure and to apply |
| Sub Option 2(ii): | If the existing structure is | for change in land use, it |
| After demolition of | demolished, then land use | is important that the SRA |
| existing structure | change can be permitted by | takes over the |
| | filing an Application, and | management of the |
| | permission can be granted as | Corporate Debtor and |
| | per the process | accordingly, takes action |
| | | as per the procedure |
| | | established in law |
| Option 3: | F.A.R. cannot be provided as | UP Awas Vikas Parishad |
| Apply for fresh | per current prevalent system. | has admitted that |
| approval for change in | However, additional F.A.R | additional F.A.R can be |
| Floor Area Ratio | may be purchased under | purchased. |
| (FAR) as per current | prescribed procedure | An Application for |
| rules and regulations | | purchase of additional |
| Sub Option 3(i) | Purchasable F.A.R | F.A.R can be made only |
| Without demolishing | Application cannot be | after approval of |
| the existing structure | accepted | Resolution Plan. The |
| Sub Option 3(ii) | Same as above (contingency | SRA shall take steps post |
| After demolishing the | 3) | approval of Resolution |
| existing structure | | Plan as provided in the |
| | | Plan. |
| Option 4: | The unauthorised | This Option is least |
| To be Applicable only | construction is demolished | suitable for the SRA as it |
| where Option 1, 2 and | and construction is done as | drastically reduces the |
| 3 are not applicable. | per rules, then there is no | available area. Hence, if |
| Construction as per | objection | no approval is granted as |
| already approved maps | | per option 1, 2 and 3, only |
| | NO | then Option 4 shall be |
| | 7 300 | applicable |
| | 1 / 4/1/23 /-/ | |

III. PAYMENT OF CIRP COST

The Resolution Applicant shall infuse upfront amount of Rs. 90 Lacs in Som Resorts Private Limited within a period of 30 days from the effective date. The first tranche funding shall be utilized for payment towards CIRP Cost and setting up the requisite maintenance & administrative infrastructure on site and putting

the requisite permission in process. The upfront funding would cover the cost

over the first two months of the resolution. The Resolution Applicant has

estimated the CIRP Cost to be Rs. 70,00,000/- and accordingly provided in its

four contingency plans.

IV. TERM OF THE RESOLUTION PLAN

In view of Section 31 of the Code, the Adjudicating Authority, before approving the

Resolution Plan, is required to examine that a Resolution Plan which is approved

by the CoC under Section 30 (4) of the Code meets the requirements as referred

under Section 30 (2) of the Code.

Section 30 (2) is quoted below: -

"(2) The resolution professional shall examine each Resolution Plan received by

him to confirm that each Resolution Plan -

(a) provides for the payment of insolvency resolution process costs in a manner

specified by the Board in priority to the payment of other debts of the corporate

debtor:

(b) provides for the payment of debts of operational creditors in such manner as

may be specified by the Board which shall not be less than-

(i) the amount to be paid to such creditors in the event of a liquidation of the

corporate debtor under section 53; or

(ii) the amount that would have been paid to such creditors, if the amount to be

distributed under the Resolution Plan had been distributed in accordance with

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the order of priority in sub-section (1) of section 53, whichever is higher, and

provides for the payment of debts of financial creditors, who do not vote in favour

of the Resolution Plan, in such manner as may be specified by the Board, which

shall not be less than the amount to be paid to such creditors in accordance with

sub-section (1) of section 53 in the event of a liquidation of the corporate debtor.

Explanation 1. — For removal of doubts, it is hereby clarified that a distribution

in accordance with the provisions of this clause shall be fair and equitable to

such creditors.

Explanation 2. — For the purpose of this clause, it is hereby declared that on

and from the date of commencement of the Insolvency and Bankruptcy Code

(Amendment) Act, 2019, the provisions of this clause shall also apply to the

corporate insolvency resolution process of a corporate debtor-

(i) where a Resolution Plan has not been approved or rejected by the Adjudicating

Authority;

(ii) where an appeal has been preferred under section 61 or section 62 or such

an appeal is not time barred under any provision of law for the time being in

force; or

(iii) where a legal proceeding has been initiated in any court against the decision

of the Adjudicating Authority in respect of a Resolution Plan;

(c) provides for the management of the affairs of the Corporate debtor after

approval of the Resolution Plan;

(d) The implementation and supervision of the Resolution Plan;

(e) does not contravene any of the provisions of the law for the time being in force

(f) conforms to such other requirements as may be specified by the Board.

Explanation. — For the purposes of clause (e), if any approval of shareholders is

required under the Companies Act, 2013 (18 of 2013) or any other law for the

time being in force for the implementation of actions under the Resolution Plan,

such approval shall be deemed to have been given and it shall not be a

contravention of that Act law.]" or

4. In respect of compliance with Section 30(2)(a) of the Code, there is a provision in Clause

5.1.a (Provision for payment of insolvency Resolution Cost) at page 25 of the resolution

plan that the Applicant has assumed the CIRP cost to be Rs. 35 Lakh as on the date of

submission of this Resolution Plan. Further, as per the analysis, the estimated CIRP

cost is taken to be Rs. 70 Lakhs. The Resolution Applicant/Corporate Debtor shall pay

the entire CIRP cost, in actual, in priority over other debts payable under this Plan.

The CIRP cost shall be paid in full within a period of 30 days upon Resolution Plan

becoming effective.

5. In respect of compliance of Section 30(2)(b) of the Code, there is a provision in Clause

5.1.b (Payment of operational creditors shall not be less than liquidation value payable

to the operational creditors) at page 25 of the resolution plan that as per the

Information Memorandum, there are no Operational Creditors of the Corporate Debtor

and neither any Operational Creditor has submitted its claim before the Resolution

Professional. However, in the event of there being any operational creditor, this

Resolution Plan undertakes to provide for payment to the operational creditors the

amount to be paid to such creditors in the event of liquidation of the Corporate Debtor

under Section 53 of the Code, or the amount that would have been to such creditors,

if the amount to be distributed under the Resolution Plan had been distributed in

accordance with the order of priority in section 53(1). whichever is higher.

6. In respect of compliance of Section 30(2)(c) of the Code, there is a provision in Clause

5.1.c (Management of the affairs of the Corporate Debtor after approval of the

Resolution Plan) at page 35 of the Resolution Plan which provides that the powers of

the Board of Directors will vest with the Resolution Applicant who will be entitled to

appoint its nominees/representatives/assigns as Directors of the Corporate Debtor

within 30 days from the Effective Date. The newly constituted Board of Directors shall

be vested with the overall control and management of affairs of the Corporate Debtor

with effect from the date Resolution Plan becomes effective.

7. In respect of compliance of Section 30(2)(d) of the Code, there is a provision in Clause

5.1.d (The implementation and supervision of the Resolution Plan) at page 26 of the

Resolution plan which states that Resolution Plan provides for constitution of a

Monitoring Committee for the implementation, management and supervision from the

date Resolution Plan becomes effective.

8. In respect of compliance of Section 30(2)(e) of the Code, there is a provision in Clause

5.1.e (No contravention of any of the provisions of the law for the time being in force)

at page 26 of the resolution plan which states that Plan does not contravene any of the

provisions of the law for the time being in force. However, in case any provision is found

to be in contravention of any law for the time being in force, it shall be construed to be

severable and not affect the validity of the other contents of the Plan.

9. In respect of compliance of Section 30(2)(f) of the Code, it is seen that the information

provided in the Resolution Plan and the supporting documents provided by the

Successful Resolution Applicant, it seems that the Resolution Plan is in compliance

with the applicable laws.

10. In respect of compliance of Regulation 36B(4A): The request for resolution plans shall

require the resolution applicant, in case its resolution plan is approved under sub-section

(4) of section 30, to provide a performance security within the time specified therein and

such performance security shall stand forfeited if the resolution applicant of such plan,

after its approval by the Adjudicating Authority, fails to implement or contributes to the

failure of implementation of that plan in accordance with the terms of the plan and its

implementation schedule.

The Resolution Applicant in Clause 5.2 of the Resolution Plan at page 26

mentions that in terms with the RFRP, the Resolution Applicant undertakes

to furnish the Performance Security amounting to Rs. 25 Lakhs in form of

PBG/Bank Transfer/Fixed Deposit Lien at the time of approval of the

Resolution Plan by the CoC and another Performance Security amounting

to INR 15 Lakhs, within 7 days from the approval of the Resolution Plan by

this Adjudicating Authority.

11. In respect of compliance of Regulation 37 it can be seen that the Resolution Applicant

in Clause 5.3 of the Resolution Plan at Page 27, mentions that the Plan does not provide

for any transfer of assets nor any sale of assets of the Corporate Debtor to any person.

Additionally, The Resolution Applicant undertakes that no merger, amalgamation and

demerger of the Corporate Debtor has been provided for under this Resolution Plan.

Further, The Resolution Plan provides for extinguishment of the existing equity capital

of the Corporate Debtor and also provides for infusion of equity capital of INR

1,00,000/- (10,000 equity shares at the face value of INR 10 per share) At page 28 it is

observed that The Resolution Plan provides for change in the Builder Buyer Agreements

entered into with Financial Creditors in class/Homebuyers/Allottees.

12. In terms of compliance of Regulation 38, it is observed as follows:

a. Compliance with Regulation 38(1)(a) Upon the approval of the

Resolution Plan by this Adjudicating Authority, payments to

Operational Creditors shall be paid in priority over Financial

Creditors.

b. Compliance with Regulation 38(1)(b) Upon the approval of the

Resolution Plan by this Adjudicating Authority, payments to financial

creditors who are entitled to vote under subsection (2) of section 21

and did not vote in favor of the Resolution Plan shall be given priority

over those financial creditors who voted in favor of the plan.

c. Compliance with Regulation 38(1A) The Resolution Applicant

undertakes that it has considered the interests of all stakeholders

and has provided for payment/repayment/settlement of all

stakeholders keeping in view the objective of the Company as a going

concern, maximisation of value and adhering to the requirements set

out under the Code.

d. Compliance with Regulation 38(1B) The Resolution Applicant

hereby confirms that neither the Resolution Applicant nor any of its

related parties have ever failed to implement or contributed to the

failure of implementation of any other Resolution Plan approved by

the Adjudicating Authority at any time in the past.

e. In compliance with Reg. 38(2)(d)- The Resolution Plan provides that

after the approval of Resolution Plan, the Resolution Applicant shall

pursue the pending litigation for PUFE Transactions and any

proceeds (after deduction of the legal expenses with respect to PUFE

Transactions) shall be distributed amongst the financial creditors in

accordance with this Plan. However, in case the entire amount of

Financial Creditors is paid off in accordance with the Plan, the

balance proceeds shall be used for beautification. and overall

improvement of the Project "Casa Italia" and thereafter, if any

amount/balance is left, it shall be refunded to the Allottees in

proportion to their claims.

8. This Adjudicating Authority vide Order dated 29.07.2024 had asked a

clarification from the Resolution Professional with respect to Regulation 39(2)

of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for

Corporate Persons) Regulations, 2016 pertaining to preferential transactions

under Section 43, undervalued transactions under Section 45, extortionate

credit transactions under Section 50, and fraudulent transactions under

Section 66. The Resolution Applicant filed its Compliance Affidavit dated

03.08.2024. On perusal of Revised Form-H annexed as Annexure A-4 at page

21 of the Compliance Affidavit dated 03.08.2024, we observe that the Average

Fair Market Value of the Corporate Debtor as provided in Form- H is Rs.

14,45,66,274 and the Average Liquidation Value of the Corporate Debtor is Rs.

11,58,52,914/-. We observe that in compliance with Reg. 38(2)(d), the Clause

5.4.e.iv at pg no. 30 of the Resolution Plan provides that, "....after the approval

of Resolution Plan, the Resolution Applicant shall pursue the pending litigation

for PUFE Transactions and any proceeds (after deduction of the legal expenses

with respect to PUFE Transactions) shall be distributed amongst the financial

creditors in accordance with this Plan. However, in case the entire amount of

Financial Creditors is paid off in accordance with the Plan, the balance proceeds

shall be used for beautification, and overall improvement of the Project "Casa"

Italia" and thereafter, if any amount/balance is left, it shall be refunded to the

Allottees in proportion to their claims.

9. As to the relief and concessions sought in the Resolution Plan more specifically

set out in Part 12 (Reliefs and Concessions) at page 73 of the Resolution Plan,

taking into consideration the decision of the Hon'ble Supreme Court in the

matter of Embassy Property Development Private Limited v. State of Karnataka

& Ors. in Civil Appeal No. 9170 of 2019, this Adjudicating Authority is not

inclined to permit any such relief and direct the Successful Resolution

Applicant to file necessary application before the necessary forum/ authority in

order to avail the necessary relief and concessions, in accordance with

respective laws. The relevant part of the judgement is reproduced herein below:-

"39. Another important aspect is that under Section 25 (2) (b) of IBC, 2016,

the resolution professional is obliged to represent and act on behalf of the

corporate debtor with third parties and exercise rights for the benefit of the

corporate debtor in judicial, quasijudicial and arbitration proceedings.

Section 25(1) and 25(2)(b) reads as follows:

"25. Duties of resolution professional -

shall the resolution (1) Ιt be duty of the professional to

preserve and protect the assets of the corporate debtor, including the

continued business operations of the corporate debtor.

(2) For the purposes of subsection (1), the resolution professional shall

undertake the following actions:

(a).....

(b) represent and act on behalf of the corporate debtor with third parties,

exercise rights for the benefit of the corporate debtor in judicial, quasi

judicial and arbitration proceedings."

This shows that wherever the corporate debtor has to exercise rights

in judicial, quasi judicial proceedings, the resolution professional cannot

shortcircuit the same and bring a claim before NCLT taking advantage of

Section 60(5).

40. Therefore in the light of the statutory scheme as culled out from various

provisions of the IBC, 2016 it is clear that wherever the corporate debtor has

to exercise a right that falls outside the purview of the IBC, 2016 especially

in the realm of the public law, they cannot, through the resolution

professional, take a bypass and go before NCLT for the enforcement

of such a right."

10. In so far as the approval of the resolution plan is concerned, this

authority is not sitting on an appeal against the decision of the

Committee of Creditors and this Adjudicating Authority is duty bound to

follow the judgement of the Hon'ble Supreme Court in the matter of

K.Sashidhar v. Indian Overseas Bank (2019) 12 CC 150, wherein the

scope and interference of the Adjudicating Authority in the process of

the approval of the Resolution Plan is elaborated as follow:-

"35. Whereas, the discretion of the adjudicating authority

(NCLT) is circumscribed by Section 31 limited to scrutiny of the

resolution plan "as approved" by the requisite 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.

Reverting to Section 30(2), the enquiry to be done is in respect of

whether the resolution plan provides: (i) the payment

insolvency resolution process costs in a specified manner

in priority to the repayment of other debts of the

the repayment of the debts of operational debtor,

creditors in prescribed manner, (iii) the management of

the affairs of the corporate debtor, (iv) the implementation and supervision of the resolution plan, (v) does not contravene any of the provisions of the law for the time being in force, (vi) conforms to such other requirements as may be specified by the Board. The Board referred to is established under Section 188 of the I&B Code. The powers and functions of the Board have been delineated in Section 196 of the I&B Code. None of the specified functions of the Board, directly or indirectly, pertain to regulating the manner in which the financial creditors ought to or to exercise their commercial wisdom during the ought voting on the resolution plan under Section 30(4) of the *I&B* Code. The subjective satisfaction of the financial creditors at the time of voting is bound to be a mixed baggage of variety of factors. To wit, the feasibility and viability of the proposed resolution plan and including their perceptions about the general capability of the resolution applicant to translate the projected plan into a reality. The resolution applicant may have given projections backed by normative data but still in of the dissenting financial creditors, it would not be free from being speculative. These aspects are completely within the domain of the financial creditors who are called upon to vote on the resolution plan under Section 30(4) of the I&B Code."

11. Also, the Hon'ble Supreme Court of India in the matter of Committee of

Creditors of Essar Steel India Limited vs. Satish Kumar Gupta & Ors.,

Civil Appeal No. 8766-67 of 2019, vid its judgement dated 15.11.2019

has observed as follows:

"38. This Regulation fleshes out Section 30(4) of the Code, making it clear that

ultimately it is the commercial wisdom of the Committee of Creditors which

operates to approve what is deemed by a majority of such creditors to be

the best resolution plan, which is finally accepted after negotiation of its

terms by such Committee with prospective resolution applicants."

12. Thus, from the judgements cited supra, it is amply clear that only limited

judicial review is available to the Adjudicating Authority under Section

30(2) read with Section 31 of the Code, 2016 and this Adjudicating

Authority cannot venture into the commercial aspects of the decisions

taken by the committee of the creditors. Therefore, in our considered view,

there is no impediment in giving approval to the proposed Resolution Plan.

Further, the Applicant has stated that the four options provided under the

Resolution Plan are mere indicative of the four possibilities to complete the

construction of the Project. On the instruction from SRA, the Counsel on

behalf of SRA in its Written Submission dated 12.01.2024 has undertook

to conclude the construction of the project strictly in terms of the

applicable law/rules/regulations and as per the approvals which shall be

granted by the concerned authorities, including UP Awas Vikas Parishad.

13. Accordingly, subject to the aforesaid observations, we hereby **approve the**

Resolution Plan submitted by M/s Casa Italia Social Welfare

Association (Successful Resolution Applicant), which shall be binding

on the Corporate Debtor and its employees, shareholders of corporate

debtor, creditors including the Central Government, any State

Government or any Local Authority to whom statutory dues are owed,

guarantors, Successful Resolution Applicant and other stakeholders

involved. Resultantly, I.A.2552/ND/2023 stand allowed.

14. It is declared that the moratorium order passed by this Adjudicating

Authority under Section 14 of the Code shall cease to have effect from the

date of pronouncement of this order.

15. We further reiterate that the Approved Resolution Plan shall not construe

any waiver to any statutory obligations/liabilities arising out of the

approved resolution plan and the same shall be dealt in accordance with

the appropriate authorities concerned as per relevant laws. We are of the

considered view that if any waiver is sought in the Approved Resolution

Plan, the same shall be subject to approval by the concerned authorities.

The same view has been held by the Hon'ble Supreme Court in

Ghanshyam Mishra and Sons Private Limited vs. Edelweiss Asset

Reconstruction Company Limited and Embassy **Property**

Development case (supra).

16. Accordingly, MoA and AoA of the Corporate Debtor shall be amended and

filed with the RoC for information and record as prescribed. While

approving the Approved Resolution Plan as mentioned above, it is clarified

that the Successful Resolution Applicant shall pursuant to the Resolution

Plan approved under section 31(1) of the Code, 2016, obtain all the

necessary approvals as may be required under any law for the time being

in force within the period as provided for such in law.

17. The Resolution Professional shall forward all records relating to the

Corporate Insolvency Resolution Process of the Corporate Debtor and the

Approved Resolution Plan to IBBI to be recorded at its database in terms

of Section 31(3)(b) of the Code. The Resolution Professional is further

directed to handover all the records, premises, properties of the corporate

debtor to the Successful Resolution Applicant to ensure a smooth

implementation of the resolution plan.

18. The approved 'Resolution Plan' shall become effective from the date of

passing of this order. The Approved Resolution Plan shall be part of this

order, subject to our observations regarding concessions, reliefs and

waivers sought therein.

19. The Supervisory Committee/Monitoring Committee is directed to file the

monthly status report with regard to the implementation of the approved

plan before this Adjudicating Authority.

20. In view of the above, the I.A./2552/ND/2023 in Company Petition No. IB- 67 (ND)/2022 stands allowed in terms of aforesaid discussion.

Let the copy of the order be served to the parties

Sd/- Sd/-

(DR.SANJEEV RANJAN)
MEMBER (T)

(MANNI SANKARIAH SHANMUGA SUNDARAM)
MEMBER (J)