

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-II, CHENNAI**

IA(IBC)/1729(CHE)/2023

In

IBA/889/2019

*(filed under Section 30(6) and 31(1) of IBC, 2016 r/w Regulation 39 of CIRP
Regulation 2016 and Rule 11 of NCLT Rules 2016)*

Mr.N. Kumar

Resolution Professional of
M/s. Sheltrex Developers Private Limited,
Old No. 8, New No. 3, Third Street,
Race View Colony Guindy,
Chennai – 600 032.

... Applicant

And

IA(IBC)/2189(CHE)/2023

In

IBA/889/2019

(filed under Section 60(5) of IBC, 2016 r/w Rule 11 of NCLT Rules, 2016)

Religare Finvest Limited,

No.1407, 14th Floor,
Chiranjiv Tower, 43,
Nehru Palace,
New Delhi – 110 019.

... Applicant

Vs.

1. Mr.N. Kumar

Resolution Professional of
M/s. Sheltrex Developers Private Limited,
Old No. 8, New No. 3, Third Street,
Race View Colony Guindy,
Chennai – 600 032.

2. M/s BMC Brass LLP,

Through its designated partner Mr.Arun Khanna
A-90, Nizamuddin East,
Delhi – 110 013.

3. Chennai Sheltrex Homebuyers Welfare Association,

H-35/H, 8th Avenue, Manthope Colony,
Ashok Nagar, Chennai – 600 083.

... Respondents

Order Pronounced on 16th July 2024

CORAM

SHRI JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)

SHRI RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

Present:

*For Applicant : Mr. Gajendran Ravi, Advocate
Mr.B.Ramana Kumar, Advocate
Mr.Srinath Sridevan, Sr, Advocate for (land Owner)
Rathi Devi, Advocate (for IA/2189/2023)
Sanjeev Singh, Advocate (for IA/2189/2023)*

*For Respondents : Mr.Kaushik Sharma, Advocate (R3 in IA/2189/2023)
Mr.Varun Srinivasan, Advocate (R2 in IA/2189/2023)*

ORDER

IA(IBC)/1729(CHE)/2023

1. This Application has been filed under Sections 30(6) and 31(1) of IBC, 2016 r/w Regulation 39 of CIRP Regulation 2016 and Rule 11 of NCLT Rules 2016 60(5) of IBC, 2016 by **Mr.N.Kumar** Resolution Professional (hereinafter referred to as 'RP') of M/s. Sheltrex Developers Private Limited (hereinafter referred to as 'The Corporate Debtor') seeking

- a) *To approve the Resolution Plan of BMC Brass LLP as approved by 96.66% of the COC of the Corporate Debtor for Coimbatore Project called Namma Veedu; and*
- b) *To Approve the Resolution plan of Chennal Sheltrex Home Buyers Welfare Association (CSHBA) as approved by 96.66% of the COC of the Corporate Debtor for Chennai Project at Appur Village, Oragadam and*
- c) *To dissolve the CD after implementation of the plan which will be updated to the tribunal by way of progress report by RP.*

2. The Corporate Debtor is a Private Limited Company incorporated on 24.03.2014 under the Companies Act having its registered office at Namma Veedu Project, Kaliyapuram Cross, Rottigoundanoor Road, Ettimadai Pirivu, Coimbatore Tamil Nadu - 641105. The Corporate Debtor was engaged in the business of construction and development of real estate projects.

3. CIR PROCESS:

3.1. The Corporate Debtor was admitted into CIRP on 10.12.2019 and the Applicant herein was appointed as the Interim Resolution Professional. The public announcement to invite claims was issued on 14.12.2019, subsequently, the CoC was constituted. Pursuant to that the RP made an application MA/151/2020 regarding appointment of

Authorized Representative of Home Buyers wherein this Tribunal vide order dated 18.12.2020 confirmed the appointment of Authorized Representative.

3.2. Thereafter, in the 1st meeting of the CoC held on 09.01.2020, the Applicant has been confirmed as RP. 2nd, 3rd and 4th meeting of the CoC were held on 27.01.2020, 03.02.2020 and 06.03.2020. In the 4th CoC the RP informed the CoC members that the books of accounts of the Corporate Debtor were taken from Sheltrex Oragadam and kept in safe custody at the RP Office.

3.3. Due to COVID-19 pandemic lockdowns there was no progress in the CIRP after March 2020. Since the liabilities of the Corporate Debtor were very high the CoC with 83% of voting resolved to attempt to reverse CIRP and moved an application before this Tribunal which was rejected by this Tribunal vide order dated 25.04.2022.

3.4. The 1st Expression of Interest (EoI) was issued on 12.05.2022. After the 7th and 8th CoC meetings the CIRP period was extended till 11.08.2022 by this Tribunal vide order dated 28.06.2022 in IA/535/2022. In the meeting of the 9th CoC held on 18.08.2022 the RP informed the CoC that a Plan was received. Thereafter, due to personal exigencies of

the RP this Tribunal had granted further extension of CIRP period till 11.08.2022.

3.5. In the 9th CoC held on 12.08.2022 RP informed that the plan was received however, the plan was only for the Coimbatore Project not for the entire Corporate Debtor. In the 10th meeting of the CoC held on 12.09.2022, homebuyers who are part of the CoC sent a communication to the RP that they have working on a solution with respect to the project located in Chennai.

3.6. The 11th meeting of the CoC was held on 06.10.2022, wherein the CoC received a draft resolution plan from Mr.G.Palaniswamy one of the Financial creditors/Home Buyers. He stated that an association in the name of Chennai Sheltrex Home Buyers Welfare Association (CSHBA) was formed and it is in the process of registration. The RP informed the members that as per IBC the above-mentioned draft plan shall not be accepted because it is not as per the timeline specified in this connection. However, the homebuyers stated that the association would complete the project in the interest of homebuyers and they wanted the plan to be presented before the CoC. Thereafter, Mr.G.Palanyswamy was invited to present the plan before the CoC.

3.7. In the 12th meeting of the CoC held on 11.11.2022 plan received with respect to the Chennai location was also discussed. In the 13th CoC meeting held on 16.11.2022 the plan given by BMC Brass LLP and CSHBA for Coimbatore and Chennai projects respectively were approved by the CoC with a Voting of 68.58%.

3.8. Meanwhile, this Tribunal vide order dated 28.04.2023 in IA/520/2021 and IA/521/2021 directed the RP to admit the claims of Catalyst Trusteeship Limited to the tune of Rs.115,33,42,322/- and ARCEL to the tune of Rs.109,07,51,018/. Consequently, the above plan approved by the CoC was withdrawn and the period involved in this litigation has been excluded by this Tribunal vide order dated 17.07.2023 and the CIRP expiry date was fixed as 23.08.2023.

3.9. The 15th and 16th meeting of the CoC was conducted on 29.05.2023 and 16.06.2023 wherein a resolution plan regarding the Coimbatore project was discussed.

3.10. Pursuant to that RP filed an application IA/52/2022 seeking permission to accept the Plan of Chennai Buyers through their association which was received belatedly after the due date set in EoI. Vide application IA/1077/2023 the RP sought permission to accept the

Plan submitted by CSHBA to revive the Chennai Oragadam project as there were no takers for the Chennai project which was allowed by this Tribunal.

3.11. In the 17th and 18th meetings of the CoC, the CSHBA was informed to submit a plan with complete details. In the 19th meeting of the CoC held on 07.08.2023, the plan was discussed. Since the CIRP expiry was set on 23.08.2023 the RP moved an application for exclusion of 41 days which was allowed and the CIRP period expiry was set on 02.10.2023.

3.12. In the 20th meeting of the CoC held on 29.08.2023 the resolution plan for the Coimbatore Project and the Chennai Project was approved by the CoC with a vote of 96.66%. However, Tata Capital Housing Finance Limited and Religare Finvest dissented to the extent of 3.34%.

4. IA(IBC)/2189(CHE)/2023

4.1. This Application has been filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 by **Religare Finvest Limited** which is one of the dissenting Financial Creditor voted against the resolution plan regarding the Coimbatore Project as well as the Chennai Project seeking to reject the resolution plans of Chennai

Sheltrex Home Buyers Association and BMC Brass LLP approved by the CoC in respect of Chennai Project and Coimbatore Project of the Corporate Debtor respectively.

4.2. It is stated by the Applicant that, the treatment of the Applicant, being a dissenting Financial Creditor is not in accordance with the provisions of the Code as the Resolution Applicants have failed to provide a minimum liquidation value of the Applicant as per section 30(2)(b)(ii) of IBC, 2016.

4.3. It is stated that the Applicant along with TCHFL are dissenting Financial Creditors of the Corporate Debtor having charged over 8.87 acres of land of the Corporate Debtor in its Chennai Project. Therefore, the Applicant had a right to be paid minimum liquidation value under the resolution plan. In this regard, the Applicant relied on the judgment of the Hon'ble Supreme Court in the case of *India Resurgence ARC Private Limited Vs. Amit Metaliks Limited* (2021 SCC OnLine SC 409). It is stated that the settled position of law is to allow the dissenting Financial Creditor could be paid either in cash or allowing it to enforce its security interest.

4.4. It is stated that the combined liquidation value of the Corporate Debtor as per Form-H is Rs.29,77,08,136/- whereas the liquidation

value of the Chennai Project of the Corporate Debtor is Rs.21,31,22,036/- . There are 3 secured creditors in the Corporate Debtor viz. the Applicant with the claim of Rs.3,84,51,260/-, TCHFL with the claim of Rs.4,53,36,313/- and Brickeagle India Affordable Housing Fund (related party) with a claim of Rs.5,50,00,000/- . The Total cost of CIRP is Rs.73 lakhs and there are no workmen dues. In such case, in the event of liquidation, the liquidation value due to the Applicant is the entire amount of Rs.3,84,51,260/- . However, the resolution plan of CSHBA paying only Rs.88,000/- which is in violation of Section 30(2) of the Code.

4.5. It is stated that the secured creditors have been given differential treatment and the payouts to the secured creditors are as under:

Secured Creditor	Claim amount	Amount offered in the resolution plan	Resolution Applicant	Amount received to amount claimed
Religare Finvest Limited (Applicant)	Rs. 3,84,51,260/-	Rs. 88,000/-	CSHBA (Chennai Project)	0.22%
TATA Capital Housing Finance Limited	Rs. 4,53,36,313/-	Rs. 2,20,00,000/-	BMC Brass LLP (Coimbatore Project)	48.52%

Referring the above, it is stated that the other similarly placed creditor has been given 48.52% of the admitted claim whereas the Applicant is paid only 0.22%. It is further argued that similarly placed creditors

should not be given differential or discriminatory treatment and also relied on the judgment of Hon'ble Supreme Court in the case of *CoC of Essar Steels India Ltd Vs. Sathish Kumar Gupta* (2020) 8 SCC 531).

4.6. It is stated that CSHBA has failed to deposit a performance security along with the resolution plan which is violative of Regulation 36B(4A) of the CIRP Regulation.

4.7. It is stated that there cannot be two separate resolution plans in any event, the provisions of the code do not permit accepting more than one resolution plan for different projects of Corporate Debtor. In this contention the Applicant relied on the discussion paper of IBBI dated 18.01.2023 and stated that the current law on the subject, the said discussion paper categorically observes that at present during the CIRP, only one resolution plan can be approved by the CoC and the CoC has no power to approve two or more resolution plans, either providing for the sale of the assets of the Corporate Debtor or its insolvency resolution as a going concern.

4.8. It is further stated that the members of the CSHBA are also members of the CoC of the Corporate Debtor has proposed to take possession of 8.87 acres of land which is currently mortgaged to the

Applicant and will undertake plotted development of the land in two phases. To execute this proposal, the CSHBA has preconditioned its resolution plan upon release of charge by the Applicant on the entire land. Against such release, the CSHBA is offering only Rs.88,000 to the Applicant which shows the arbitrariness of the resolution applicant. Further, it is stated that the resolution applicants are trying to illegally extinguish admitted claims under the resolution plan and are trying to unjustly enrich themselves.

4.9. Against the submissions of the Applicant the Respondents submitted as under:

4.9.1. 1st Respondent herein submitted that in the portion 8.87 acres of land which is mortgaged to the Applicant, 65 homebuyers had already registered their UDS. The status of the land belonging to Chennai Project is tabulated below:

Location Chennai oragadam	Details	Remarks
JDA	25 .77 acres of land	JD Consideration is profit sharing basis , it also varies
Mortgage	Out of above JD partner agreed for mortgage of 8.87 acres with Religare Finvest Limited	Initial tranche of land
	Out of above in 3.57 acres of land UDS was registered to home buyers and 0.75 acres gifted as open space reserve	
Percentage of development	DTCP approval was taken for development of 4 blocks , however only one block with incomplete construction developed	

4.9.2. Further, submitted that in respect of Chennai Property valuation of development rights was carried out for the entire 25.77 acres of land during May based on discounted cash flow method (DCF). However, as there were no takers Home Buyers formed the association and gave a plan for that 8.87 acres. As the plan is only for 8.87 acres in which the CD already received money from Financial Creditors class Home Buyers and the Applicant there is no cash flow to Corporate Debtor.

4.9.3. It is submitted that the Corporate Debtor availed secured loan from the Applicant to the extent of Rs.10 crores out of which the Corporate Debtor had paid Rs.7.27 crores as Principal and Rs.2.12 crore as interest.

4.9.4. The 2nd Respondent herein submitted that it is one of the Resolution Applicants of the Corporate Debtor. The Plan which is submitted is approved by 96.66% of the CoC. The Plan submitted by the 2nd Respondent is for the Coimbatore Project alone. The claim of the Applicant is related to the Chennai Project alone and there can be no grievance against the Resolution Plan submitted by Respondent No.2.

4.9.5. It is submitted that the decision taken by the CoC in the exercise of Commercial Wisdom cannot be subject to judicial review. In this

aspect, the 2nd Respondent relied on the judgment of the Hon'ble Supreme Court in the case of *K. Sashidhar v. Indian Overseas Bank, MANU/SC/0189/2019*. It is submitted that the Applicant has no security interest in the Coimbatore Project and hence has no locus to contest under Section 30(4) r/w Section 53(1) of IBC, 2016.

4.9.6. Regarding the submission of 2 resolution plans the Respondent - 2 relied on the decision of Hon'ble NCLAT in the case of *Flats Buyers Association Winter Hills – 77, Gurgaon Vs Umang Realtech Pvt Ltd, MANU/NL/0077/2020* wherein the concept of project wise resolution was permitted. Similarly, in the case of *India Bulls Asset Reconstruction Company Ltd Vs Ram Kishore Arora and Ors., MANU/SC/0563/2023BI* Hon'ble Supreme Court upheld the project-wise resolution. The Respondent further relied on Regulation 36B(6A) and 37(m) of CIRP Regulation which permits the submission of multiple resolution plans for the same Corporate Debtor.

4.9.7. The 3rd Respondent herein had submitted that there were no takers / Resolution Applicants for the Chennai Project. The CSHBA was formed thereby, and a draft resolution plan was submitted in the 11th CoC meeting held on 06.10.2022. The Resolution Plan of the Chennai Project offers an amount of Rs.88,000/- to the Applicant which

is rightly proportionate to the share/amount provided by the Applicant.

4.9.8. It is submitted that the Applicant was treated well in accordance with Section 30(2) of IBC, 2016. Further, it relied on the case of ***Maharashtra Seamless Limited*** (2020 SCC OnLine SC 67) wherein the Hon'ble Supreme Court held that there is no mandate in IBC that the liquidation value has to match with the liquidation value of the Corporate Debtor and the Court ought to cede ground to the commercial wisdom of the creditors rather than assess the resolution plan on the basis of quantitative analysis. Further relied on the case of ***Naresh Kumar Sharma and Ors Vs. Shekhar Resorts Ltd and Ors*** wherein Hon'ble NCLAT held that there is no requirement in the code that the Resolution Applicant should match with the liquidation value.

4.9.9. Regarding performance security it is submitted that as there were no takers for the Chennai Project, the 3rd Respondent was formed. Subsequently, the 3rd Respondent has pooled funds and submitted the Resolution Plan for the Chennai Project. In such case, it is beyond the scope of the Association to submit performance security, however, a letter of confirmation from the Bank was received for Rs.25 lakhs held

as balance, which is also mentioned in Form-H. It is further stated that the resolution plan is in consistence with provision of the Code.

4.9.10. The 3rd Respondent further relied on the following cases of Hon'ble NCLAT and the Supreme Court:

- a) Indiabulls Asset Reconstruction Company Limited Vs.Ram Kishore Arora.
- b) SVA Family Welfare Trust and Ors. Vs. Ujaas Energy Ltd. and Ors.
- c) Puro Naturals JV and Ors Vs. Warana Sahakari Bank and Ors.

5. DISPOSITIVE REASONING OF THIS TRIBUNAL:

5.1. Heard the submission of Ld. Counsels of all the parties and perused the documents on record. It is seen from the records that CIRP in respect of the Corporate Debtor viz. Sheltrex Developers Private Limited was initiated on 10.12.2019. The Corporate Debtor is developing two projects one in Coimbatore and another in Chennai. The CoC of the Corporate Debtor has approved two separate Resolution Plans, one from M/s BMC Brass LLP for Project in Coimbatore and the other from Chennai Sheltrex Homebuyers Welfare Association (CSHBA) for Chennai Project in the 20th meeting of the CoC held on 31.08.2023 with the voting of 96.66% in both the plans.

5.2. The case of the Applicant/Dissenting Financial Creditor herein is in the resolution plan submitted by the CSHBA, only Rs.88,000/- has been proposed as a settlement against its admitted claim of Rs.3,84,51,260/-. According to the Applicant, it is entitled to the entire claim of Rs.3,84,51,260/- as per Section 30(2)(b)(ii) of IBC, 2016 r/w Section 53 of IBC, 2016.

5.3. In this backdrop now we turn to the relevant provisions of IBC and the Regulations thereto:

"30. Submission of resolution plan.

...

(2) The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan -

...

(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 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.

...

53. Distribution of assets. -

(1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or any State Legislature for the time being in force, the proceeds from the sale of the liquidation assets shall be distributed in the following order of priority and within such period and in such manner as may be specified, namely: -

- (a) the insolvency resolution process costs and the liquidation costs paid in full;
- (b) the following debts which shall rank equally between and among the following:
 - (i) workmen's dues for the period of twenty-four months preceding the liquidation commencement date; and
 - (ii) debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 52;

Regulation 38: Mandatory contents of the resolution plan.

(1) The amount payable under a resolution plan -

- (a) to the operational creditors shall be paid in priority over financial creditors; and
- (b) to the financial creditors, who have a right to vote under sub-section (2) of section 21 and did not vote in favour of the resolution plan, shall be paid in priority over financial creditors who voted in favour of the plan."

5.4. Conjoint reading of the provision clarifies that the payment to the Dissenting Financial Creditor in the Resolution Plan 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. Further, Section 53 r/w Regulation 38(b) stipulates

Dissenting Financial Creditor shall be paid in priority over the Financial Creditor who approved the plan.

5.5. In the instant case the claim of the Applicant is Rs.3,84,51,260/- the liquidation value of the Chennai Project is mentioned as Rs.21,31,22,036/- but the total plan value in respect of the Chennai Project itself is Rs.1,56,00,000/-. Hon'ble Supreme Court in the case of *Maharashtra Seamless Limited Vs. Padmanabhan Venkatesh and Ors.* 2020 SCC OnLine SC 67 had held that,

"28. No provision in the Code or Regulations has been brought to our notice under which the bid of any resolution applicant has to match liquidation value arrived at in the manner provided in Regulation 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. This point has been dealt with in Essar Steel. We have quoted above the relevant passages from this judgment.

29. It appears to us that the object behind prescribing such valuation process is to assist the CoC to take decision on a resolution plan properly. Once, a resolution plan is approved by the CoC, the statutory mandate on the adjudicating authority under Section 31(1) of the Code is to ascertain that a resolution plan meets the requirement of sub-sections (2) and (4) of Section 30 thereof. We, per se, do not find any breach of the said provisions in the order of the adjudicating authority in approving the resolution plan."

Further in the case of *Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta and Ors.* (2020) 8 SCC 531) It was held as under:

"73. There is no doubt whatsoever that the ultimate discretion of what to pay and how much to pay each class or sub-class of creditors is with the Committee of Creditors, but, the decision of such Committee must reflect the fact that it has taken into account maximising the value of the assets of the corporate debtor and the fact that it has adequately balanced the interests of all stakeholders including operational creditors. This being the case, judicial review of the Adjudicating Authority that the resolution plan as approved by the Committee of Creditors has met the requirements referred to in Section 30(2) would include judicial review that is mentioned in Section 30(2)(e), as the provisions of the Code are also provisions of law for the time being in force. Thus, while the Adjudicating Authority cannot interfere on merits with the commercial decision taken by the Committee of Creditors, the limited judicial review available is to see that the Committee of Creditors has taken into account the fact that the corporate debtor needs to keep going as a going concern during the insolvency resolution process; that it needs to maximise the value of its assets; and that the interests of all stakeholders including operational creditors has been taken care of. If the Adjudicating Authority finds, on a given set of facts, that the aforesaid parameters have not been kept in view, it may send a resolution plan back to the Committee of Creditors to re-submit such plan after satisfying the aforesaid parameters. The reasons given by the Committee of Creditors while approving a resolution plan may thus be looked at by the Adjudicating Authority only from this point of view, and once it is satisfied that the Committee of Creditors has paid attention to these key features, it must then pass the resolution plan, other things being equal."

5.6. From the above judgments it is clear that there is no mandate for a resolution plan that it should match the liquidation value arrived during the process. That being the case, it is highly improbable for the Resolution Applicant regarding the Chennai Project to propose the settlement amount that matches the claim of the Applicant arrived upon the liquidation value of the Corporate Debtor. The settlement of

Rs.88,000/- proposed in the plan for the Applicant and other proportion of settlement to other creditors is arrived based on the proposed plan value. 96.66% of the CoC has accorded their consent to the proposed resolution plan with respect to the Chennai Project. It is also noticed that 84 home buyers who have submitted their claim unanimously voted in favor of the proposed Resolution Plan. Further, the judgment *supra* clarifies that in the resolution of the Corporate Debtor, the considered decision of the CoC is ultimate and this Adjudicating Authority has only limited role only to the extent of provisions of the IBC, 2016.

5.7. It is also noticed from the records that the Applicant had disbursed a loan of Rs.10 crore to the Corporate Debtor. It is not denied by the Applicant that the Corporate Debtor had paid around Rs.9.39 crore as principal and interest and the break-up of the claim of Rs.3,84,51,260/- of the Applicant as per the written submission of the 1st Respondent is as follows:

Break up	Rs
Principal	27313125
Interest	2715276
Chq Bounce charges	11800
Late payment charges	6906240
Other charges	1304819

5.8. Another plea of the Applicant is that it is not treated on par with other secured Financial Creditors viz. Tata Capital Housing Finance Limited to which 48.52% of admitted claims in proposed as a settlement. It is apparent from the resolution plans that the claim regarding Tata Capital Housing Finance is dealt in the plan proposed for the Coimbatore project by the different resolution Applicant. Therefore, the proposal to pay higher amount to the Tata capital Housing Finance cannot be amount discrimination against the Applicant.

5.9. In so far as the contention regarding submission of two resolution plan for two different project of the Corporate Debtor, it is relevant to refer to Regulation 36B (6A) and 37(m) IBBI CIRP Regulation 2016,

"Regulation 36B (6A)

...

If the resolution professional, does not receive a resolution plan in response to the request under this regulation, he may, with the approval of the committee, issue request for resolution plan for sale of one or more of assets of the corporate debtor."

Regulation 37: Resolution plan.

...

(m) sale of one or more assets of corporate debtor to one or more successful resolution applicants submitting resolution plans for such assets; and manner of dealing with remaining assets."

Reading these provisions clarifies that submission of one or more Resolution plan is permissible. The above provision was added vide IBBI (CIRP) (Fourth Amendment) Regulations, 2022 vide Notification No. IBBI/2022-23/GN/REG093 dated 16th September, 2022, w.e.f. 16.09.2022. The resolution plans in this instant application were discussed in the CoC from its 15th meeting held on 29.05.2023 approved on 20th meeting of the CoC held on 31.08.2023. Therefore, the above provisions are applicable to these resolution plans.

5.10. It is also relevant to refer to the judgment of Hon'ble Supreme Court in the case of *India Bulls Asset Reconstruction Company Ltd Vs Ram Kishore Arora and Ors.* (2023 SCC OnLine 612) held as under:

"21. In the light of the principles aforesaid, in our view, as at present, we should adopt the course which appears to carry lower risk of injustice, even if ultimately in the appeals, this Court may find otherwise or choose any other course. In that regard, the element of balance of convenience shall have its own significance. On one hand is the position that the Appellate Tribunal has adopted a particular course (which it had adopted in another matter too) while observing that the project-wise resolution may be started as a test to find out the success of such resolution. The result of the directions of the impugned order dated 10.06.2022 is that except Eco Village-II project, all other projects of the corporate debtor are to be kept as ongoing projects and the construction of all other projects is to be continued under the supervision of the IRP with the ex-management, its employees and workmen. Infusion of funds by the promoter in different projects is to be treated as interim finance, regarding which total account is to be maintained by

IRP. If at the present stage, on the submissions of the appellants, CoC is ordered to be constituted for the corporate debtor as a whole in displacement of the directions of the Appellate Tribunal, it is likely to affect those ongoing projects and thereby cause immense hardship to the home buyers while throwing every project into a state of uncertainty. On the other hand, as indicated before us, the other projects are being continued by the IRP and efforts are being made for infusion of funds with the active assistance of the ex-management but without creating any additional right in the ex-management. In our view, greater inconvenience is likely to be caused by passing any interim order of constitution of CoC in relation to the corporate debtor as a whole; and may cause irreparable injury to the home buyers. In this view of the matter, we are not inclined to alter the directions in the order impugned as regards the projects other than Eco Village-II."

The above, provisions and the judgement *supra* clearly show that the project wise resolution in real-estate projects can be permitted. Accordingly the contention of the Applicant regarding multiple resolution plans is negated.

5.11. The other contention of the Applicant is that the CSHBA has not provided performance security which is mandated by Regulation 36B(4A). For reference, the said Regulation is extracted below:

Regulation 36B. Request for resolution plans.

...

(4A) The request for resolution plans shall require the resolution applicant, in case its resolution plan is approved under subsection (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.

5.12. The object behind this Regulation is to put a check on the Resolution Applicant whether is it is real intention and capability to implement the plan that it has submitted. In the instant case the Resolution Applicant regarding Chennai Project is Association of the Homebuyers. The entire plan amount will be collected from the homebuyers of the Chennai Project. The Homebuyers will be settled by allotment of plots in respect of their claim. It is also noticed from the records that there were no resolution applicant had proposed any plan regarding Chennai Project therefore the Applicant formed an association and has submitted this plan. In such circumstances, this Tribunal finds it is plausible to consider resolution plan of the Chennai Sheltrex Homebuyers Welfare Association.

5.13. In view of above detailed discussions and considering all the facts and circumstances of this case, and core object of the IBC which is nothing but the revival of the Corporate Debtor we did not inclined to accept the plea of the Applicant. Accordingly, this application IA(IBC)/2189(CHE)/2023 is **dismissed** and disposed of.

6. ANALYSIS ON PLAN REGARDING COIMBATORE PROJECT:

6.1. **About Coimbatore Project:** Digiflex India Limited is the owner of the land at Coimbatore Project which has been offered to the Corporate Debtor under a Joint Development Agreement dated 02.12.2024, where in lands aggregating to 18.22 acres in Thirumalayam Palayam Village in Coimbatore were offered to the Corporate Debtor for development and sale.

6.2. It is stated in the Resolution Plan that Digiflex has not been involved with the management or operations of the Corporate Debtor. Further, Digiflex or their promoters are not related party under Sec 5(24), 5(244) of the IB code and are not ineligible or disqualified under Sec 29A of the IBCode. The role of Digiflex is limited to ownership of Land in Coimbatore under the IDA which was proposed to be developed by the CD

6.3. **About BMC Brass LLP:** BMC Brass LLP which has become the Successful Resolution Applicant for Coimbatore Project (herein after referred to as 'SRA-1') is a Limited Liability Partnership entity which was established in 2019. The LLPIN number is AAO-7410 and the registered office of the Company is at Delhi. The shareholders of the

SRA-1 are Mr.Arun Khanna and Mrs.Suman Khanna, who are also directors in Digiflex India Private Limited and hold 60% of the Share Capital of Digiflex India Limited. BMC Brass LLP has sufficient financial capability to settle the claims and execute the Coimbatore Project of the Corporate Debtor.

6.4. Eligibility: In the S.No.9 of the Form-H submitted by the Resolution Professional at page 308 it is recorded that the Resolution Applicant had submitted Eligibility Affidavit as per Section 29A of IBC.

6.5. Rationale of the Resolution Plan

6.5.1. The Resolution Plan is proposed and limited to the assets and liabilities of the Coimbatore project only. As per the Regulation 36 (a) of the CIRP regulations, a resolution plan may provide for transfer of all or part of the assets of the corporate debtor to one or more persons: (emphasis supplied) and this Resolution is proposed for a distinct set of assets of the CD representing only the Coimbatore project and more specifically the rights under the JDA as well as the limited value of development which has taken place on the land.

6.5.2. The Resolution Plan proposes an amount of Rs 4.59 Crores which is offered to be settled to the claimants pertaining to the Coimbatore project and certain common claims as discussed further in this Resolution plan

6.5.3. Upon approval of the Resolution Plan, the JDA of Digiflex with Sheltrex shall stand cancelled and such cancellation will be co-terminus with the settlement of liabilities which are agreed to be settled in this Resolution Plan

6.5.4. The entire amount as proposed under the Resolution plan is committed to be paid co-terminus with the handover of the total land parcel of 18.22 acres, the subject property of the JDA, free of all encumbrances and with clear title restored back in the name of Digiflex India Limited except to the extent of 527.63 Sq.m. of land which has been surrendered to Thirumalapalayam Panchayat (EC reference in 4526/2017 in Survey Number 158/1 and 158 /3).

6.5.5. Further, the RA shall be entitled to enter into a JDA with Digiflex with free and unencumbered possession of the land parcels of 4.96 acres which has been mortgaged to Tata Capital Housing Finance Limited and 13.26 acres which has been mortgaged to Milestone Trustees under the Debenture Trust Deed as security for Debentures issued to M/s Brickeagle India Affordable Housing Fund.

6.5.6. The RP shall also ensure that all encumbrances / charges as created with the Land registration authorities (except to the extent of land surrendered to the Panchayat stated supra) as well as with the Ministry of Corporate Affairs are cancelled.

7. Claims and Proposed in the Plan:

7.1. CIRP Cost: As per the proposed Resolution Plan the CIRP cost as on date is Rs.48 lakhs. It is stated that the CIRP cost will be settled in full within 30 days of approval of the Resolution Plan.

7.2. Settlement regarding all the creditors in the proposed Resolution Plan is summarised as under:

Descriptions	Numbers	Sum of Claimed	Admitted.	R.Plan Amount
				In Crores
1. Coimbatore Project -				
- Home Buyers	28	1.52	1.52	0.76
- Operational Creditor	1	0.02	0.02	Nil
- Secured Financial - Tata Capital Housing Finance	1	4.53	4.53	2.20
- Secured Financial Creditor - Related - Brick Eagle Fund	1	5.50	5.50	Nil
- 1A. Coimbatore Project - HB not filed claims	83		0.80	0.40
1B. CIRP Costs - CBE Project				0.48
2. Orogaddam Project -	89	22.06	22.06	Nil
3. Common to Both projects -				
- Employee	21	0.46	0.46	Nil
- Others	1	0.01	0.01	Nil
- Unsecured Financial Creditors - Related & Chennai Project - Casilla	1	2.06	2.06	Nil
4. Guarantors - Not Admitted -				
- Unsecured Financial Creditors	2	224.41	0.00	Nil
Total (1+2+3+4)	228	260.58	36.97	3.84
UNSECURED CORD CREDITROS (ACRE & CATALYST)	2			0.75
Grand Total	230	260.58	36.97	4.59

7.3. In clause 9.10 of the plan clearly states that the Present Resolution Plan deals with only the assets of and liabilities pertaining to the Coimbatore Project claims pertaining to Chennai project and assets pertaining thereto are not considered in this Resolution Plan.

7.4. Regarding dissenting Financial Creditors, it is stated that dissenting Financial Creditors pertains to Coimbatore Project alone will be paid in priority in this resolution plan.

7.5. Term of Resolution Plan and Implementation Schedule:

It is stated in the application that the plan will be implemented within 120 days from the date of approval by this Tribunal. The time line proposed in the plan is extracted hereunder:

11. Term of Resolution Plan and Implementation Schedule		
Sr. No.	Activity	Timeline (days)
Part I - Approval Process of the Proposed Plan		
1.	Approval of plan by Committee of Creditors	X
2.	Application to NCLT for approval of plan	X+15
3.	Approval of plan by NCLT	X+45 or such other later date when the Resolution Plan may be approved by the Hon'ble NCLT (hereinafter referred to as Y)
Part II - Implementation of Plan & Settlement of Creditors		
4.	Extinguishment of all liabilities of the Corporate Debtor, abatement of all legal proceedings, etc, i.e. coming into effect of all the terms of the Resolution Plan as enshrined in Clause 3.3.3(iii) & 4.(ii) of this Resolution Plan	Y
5.	Payment of CIRP costs apportioned to Coimbatore project, which is admitted to be settled under this Resolution Plan	Y + 30 Days
6.	Payment to operational creditors including Employees and government creditors , if any , who are admitted to be settled under this Resolution Plan	
7.	Payment to dissenting financial creditors who are admitted to be settled under this Resolution Plan	Y + 75 Days
8.	Payment of 1 st tranche to secured financial creditors who are admitted to be settled under this Resolution Plan	Y + 75 Days

Sr. No.	Activity	Timeline (days)
9.	Re-Commencement of the project and infusion of working capital	Y + 120 to 180 Days
10.	Hiring Plan to ensure adequate availability of human resources for monitoring of construction, obtaining plan and other approvals, marketing of the project and identification of contractors and consultants to enable the project to be revived as a Going concern	Y + 120 to 180 Days
11.	Overall completion of the project	Y + 3 years

7.6. **Source of Funds:** It is stated in the plan that the SRA-1 have sufficient financials to infuse Rs.5.59 crore in the project including Rs.4.59 crore required to settle the claims of all creditors and Rs.1 crore to recommence the development activity of the Coimbatore Project.

7.7. It has also filed the viability of the project and detailed operation plan describing the budget of project revenues and costs and profitability in annexure-3 of the plan.

7.8. It is stated in the plan that availability of funds has been ensured by the partners of the LLP who have provided their comfort letters in this regard.

7.9. **Bank Guarantee:** The SRA-1 filed the bank guarantee issued by the HDFC Bank for Rs.25 lakhs as additional document bearing SR.No.756 on 13.02.2024.

7.10. **Monitoring Committee:** Regarding monitoring and supervision of the plan it is stated that the responsibility of management of the affairs of the

Coimbatore project of the Company and implementation and supervision of the Resolution Plan after the Date of approval by NCLT, shall be of the Monitoring Committee, assisted by the Monitoring Agent

7.11. Duties and Responsibilities- The responsibilities of the Monitoring Committee shall include the following:

- a) To ensure implementation of the Resolution Plan as approved by the NCLT;
- b) Provide relevant Support for all applications for regulatory and third-party approvals required for implementation of the transactions contemplated in the Resolution Plan in a form and manner agreed with the Resolution Applicant, and for this purpose, to authorize such persons as proposed by the Resolution Applicants;
- c) Provide support on litigations, if any, which may be revived on the expiry of the moratorium period after the Approval Date, and any fresh litigation which may be filed against the affairs and operations of the Coimbatore Project by any person. It is clarified that the Resolution Applicants will not be liable for any claims that may be adjudicated in such Proceedings, except to the extent explicitly admitted and addressed in this Resolution Plan;
- d) Contest any litigation challenging the approved Resolution Plan on matters of fact or law;

- e) Provide regular updates to the lenders, if any, and the Resolution Applicant;
- f) To issue notices, and correspond with contractual counterparties (including any lessees and sub lessees] as may be necessary;
- g) To provide updates to the NCLT, IBBI and any other body as required under law;
- h) To ensure utilization of Purchase consideration paid by the Resolution Applicant for payment of dues in accordance with the terms of this Resolution Plan;
- i) Seek legal advice that it may need in relation to this Resolution Plan or the transactions contemplated herein;
- j) At all times, be empowered to do all such reasonable acts, deeds or things and exercise all rights and privileges and perform all duties, which now or hereafter, may be requested by the Resolution Applicant in order to accomplish the objectives and purpose of the Resolution Plan;

8. TABULATION OF VARIOUS MANDATORY COMPLIANCES REQUIRED UNDER THE PROVISIONS OF IBC, 2016:

From the averments as well as in the Form-H filed by the Resolution Professional the details of various compliances as envisaged within the provisions of IBC, 2016 and CIRP Regulations, which requires a Resolution Plan to adhere to, which are reproduced hereunder:

MANDATORY COMPLIANCE UNDER IBC, 2016	COMPLIANCE UNDER RESOLUTION PLAN
S. 30(1) - Resolution Applicant to submit an affidavit stating that he is eligible under Sec.29A of the Code, 2016.	In the Form-H submitted by the RP confirms that the Resolution Applicant had submitted Eligibility Affidavit as per Sec. 29A of IBC.
S.30(2)(a)- Payment of Insolvency and Resolution cost in the manner specified by the Board	In Clause 9.1 of the Resolution Plan and the application describes the payment of CIRP cost.
S.30(2)(b) -Payment of debts of Operational Creditors in such manner as may be specified by the Board, which shall not be less than the amount to be paid to the Operational Creditors in the event of a liquidation of the Corporate Debtor under Sec. 53.	Clause 9.2 of the Resolution Plan provides for the payment of Operational Creditors.
S. 30(2)(c)- Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	Clause 15 of the plan provides the details of the management who deals with the affairs of the Corporate Debtor after approval of the Resolution Plan.
S.30(2)(d)- Implementation and Supervision of the Resolution Plan.	Clause 17 of the Resolution Plan prescribes the constitution of Supervising/Monitoring committee and its functions.
S. 30(2)(e)- The plan does not contravene any of the provisions of the law for the time being in force.	Clause 18 shows that the plan does not contravene any other law for time being in force.
S.30(2)(f)- Conforms to such other requirements as may be specified.	In Clause 28 of the Plan it is stated that the Resolution Plan is devised in strict compliance of all applicable laws and regulations.

<p>S. 30(4) - Committee of Creditors approve the Resolution Plan by not less than 66% of the voting share of Financial Creditors, after considering its feasibility, viability and such other requirement as specified by the Board</p>	<p>The CoC, in its 20th meeting, has approved the Resolution Plan with 96.66% voting and the same is given below;</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width: 10%;">S.No</th><th style="width: 40%;">Name of Creditor</th><th style="width: 15%;">Assent (%)</th><th style="width: 15%;">Dissent (%)</th></tr> </thead> <tbody> <tr> <td>1.</td><td>Catalyst Trusteeship Limited</td><td>45.94</td><td>-</td></tr> <tr> <td>2</td><td>Asset care and Reconstruction Enterprise Limited</td><td>43.44</td><td>-</td></tr> <tr> <td>3</td><td>111 Home buyers</td><td>7.28</td><td>-</td></tr> <tr> <td>4</td><td>Tata Capital Housing Finance Limited</td><td>-</td><td>1.81</td></tr> <tr> <td>5</td><td>Religare Finvest Limited</td><td>-</td><td>1.53</td></tr> <tr> <td></td><td>TOTAL</td><td>96.66</td><td>3.34</td></tr> </tbody> </table>	S.No	Name of Creditor	Assent (%)	Dissent (%)	1.	Catalyst Trusteeship Limited	45.94	-	2	Asset care and Reconstruction Enterprise Limited	43.44	-	3	111 Home buyers	7.28	-	4	Tata Capital Housing Finance Limited	-	1.81	5	Religare Finvest Limited	-	1.53		TOTAL	96.66	3.34
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5	Religare Finvest Limited	-	1.53																										
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9. MEASURES REQUIRED FOR IMPLEMENTATION OF THE RESOLUTION PLAN IN TERMS OF REGULATION 37 OF CIRP REGULATIONS.

MANDATORY COMPLIANCE UNDER CIRP REGULATION	COMPLIANCE UNDER RESOLUTION PLAN
<i>A Resolution Plan shall provide for the measures, as may be necessary, for insolvency resolution of the Corporate Debtor for maximisation of the value of its assets, including by not limited to the following:-</i>	
(a) transfer of all or part of the assets of the Corporate Debtor to one or more persons;	The Resolution Plan does not envisage transfer or sale of any of the assets of the Corporate Debtor.
(b) sale of all or part of the assets whether subject to any security interest or not;	
(ba) restructuring of the Corporate Debtor, by way of merger, amalgamation and demerger;	Not Applicable
(c) the substantial acquisition of shares of the Corporate Debtor, or the merger or consolidation of the Corporate Debtor with one or more persons;	Not Applicable

(ca)cancellation or delisting of any shares of the Corporate Debtor, if applicable;	Not Applicable
(d)satisfaction or modification of any security interest;	It is stated that on full payment of resolution amount as proposed in the plan, the entire charge on the assets of the Corporate Debtor would be deemed to be satisfied and vacated by the financial creditors therein.
(e) curing or waving of any breach of the terms of any debt due from the Corporate Debtor;	The debts of various parties due from the Corporate Debtor are proposed to be settled / restructured / waived as provided under this Resolution Plan.
(f) reduction in the amount payable to the creditors;	Clause 10 of the Resolution Plan.
(g) Extension of maturity date or a change in interest rate or other terms of a debt due from the Corporate Debtor.	All the claims and liabilities whatsoever of any nature from any class of creditors shall be deemed to be absolutely crystallized on approval of the resolution plan and further shall be deemed to be satisfied and settled on full payment of the resolution amount as proposed in this resolution plan.
(h) amendment of the constitutional documents of the Corporate Debtor;	No amendment of the constitutional documents of the Corporate Debtor is proposed under the Resolution Plan
(i) Issuance of Securities of The Corporate Debtor, for cash property, securities, or in exchange for claims or interests, or other appropriate purpose;	Not Applicable
(j) change in portfolio of goods or services produced or rendered by the Corporate Debtor;	Not Applicable

(k) change in technology used by the Corporate Debtor; and	Not Applicable
(n) Obtaining necessary approvals from Central and State Governments and other Authorities.	Necessary approvals of the Central and State Governments State Governments are already in place, if required it will be proceeded in accordance with law.

10. MANDATORY CONTENTS OF THE RESOLUTION PLAN IN TERMS OF REGULATION 38 OF CIRP REGULATIONS.

	MANDATORY COMPLIANCE UNDER CIRP REGULATION	COMPLIANCE UNDER RESOLUTION PLAN
38(1)	The amount due to the Operational Creditor under Resolution Plan shall be given priority in payment over Financial Creditor.	No amount proposed to the Operational Creditors
38(1A)	A Resolution Plan shall include a statements as to how it has dealt with the interest of all stakeholders, including Financial Creditors and Operational Creditors of the Corporate Debtor.	Resolution Applicant proposes to make payment to various creditors (financial & operational) as per provisions of clause 9 of the resolution plan.
38(1B)	A Resolution Plan shall include a statement giving details if the Resolution Applicant or any of its related parties has 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.	Clause 19 of the plan
38(2)	a) term of the plan and its implementation schedule	Clause 11 of the resolution plan.

	b) management and control of the business of the Corporate Debtor during its term; c) adequate means for supervising its implementation	Clause 15, 16 and 17 of the resolution plan
38(3)	a) it address the cause of default;	Clause 4 of the Plan.
	b) it is feasible and viable	Clause 12 of the Plan
	c) it has provisions for effective implementation	Clause 17 of the Plan
	d) it has provisions for approval required and the timeline for the same; and	Clause 11 of the Plan
	e) the resolution applicant has the capability to implement the Resolution Plan.	Clause 6 of the Plan shows that the Resolution Applicant is capable to implement the Plan.

11. RELIEF AND CONCESSIONS:

In respect of additional relief and concessions prayed in Clause 14 of the

Resolution Plan, this Tribunal directs as follows,

SL. No.	RELIEF / CONCESSIONS SOUGHT FOR	ORDERS THEREON
1	All Governmental authorities including FEMA, FERA, RBI, AML, ROC, RERA Income Tax and other statutory authorities shall waive the non-compliances of the corporate debtor prior to the approval date. The relevant governmental authorities shall also not initiate any investigations, actions or proceedings in relation to any	It is for Appropriate Authorities to consider.

	<p>noncompliance with applicable law by the corporate debtor during the period prior to the approval date. Neither shall be resolution applicant, nor the corporate debtor, nor their respective directors, officers and employees appointed on and as of the approval date be liable for any violations, liabilities, penalties or fines with respect to or pursuant to the corporate debtor not having in place the requisite licenses and approvals required to undertake its business as per applicable law, or any non-compliances of applicable law by the corporate debtor. Further, wherever necessary, the relevant governmental authorities will provide a reasonable period of time after the approval date, for the resolution applicant to assess the status of any non-compliances under the applicable law and to procure that the company regularizes such non compliances under the applicable law existing prior to the approval date.</p>	
2	<p>Certain Business permits (including but not limited to permission for supply of water, electricity) of the corporate debtor which would be required for the corporate debtor to operate as a going concern may have lapsed, expired, suspended, cancelled, revoked or terminated or the corporate debtor has non compliances in relation thereto. Accordingly, all governmental authorities to provide reasonable time period after the Approval Date to the Corporate Debtor/ Resolution Applicant to renew the business permits, licensises, sanctions and approvals and to ensure that the corporate debtor is compliant with the terms of such business permits and applicable law without initiating any</p>	<p>It is for Appropriate Authorities to consider.</p>

	investigations, penalty, actions or proceedings in relation to such non compliances:	
3	All assets (including properties, whether freehold, leasehold or license basis) of the corporate debtor to be vested with RA with free and clear of all encumbrances.	Granted subject to the provisions of IBC and other applicable laws.
4	The Resolution Applicant shall be allowed to terminate / renegotiate material contracts including but not limited to agency agreements, if any, entered by the corporate debtor before the insolvency commencement date without any penalty or interest at its own discretion.	Granted subject to the provisions of IBC and other applicable laws.
5	The CBDT shall grant exemption/waiver from: (a) treating any transaction contemplated in this plan as being void or non-compliant with any provisions of the Income-tax Act, 1961; and (b) all Tax Liabilities (including interest and penalty) and tax proceedings arising in respect of periods up to the Approval Date, including such liabilities/proceedings for periods up to the Approval Date in respect of on-going or potential income tax litigations at all levels.	It is for Appropriate Authorities to consider.
6	All designated authorised dealer category !Banks/RBI to approve or dispense such actions as may be required for actions contemplated under the plan in accordance with its terms and conditions.	It is for Appropriate Authorities to consider.
7	All creditors of the corporate debtor to withdraw all legal proceedings commenced against the corporate debtor in relation to claims, including without limitation all criminal proceedings,	It is for Appropriate Authorities to consider in consonance with the provisions of IBC.

	proceedings under section 138 of the Negotiable Instruments Act, 1881 and proceedings under SARFAESI and RDDBFI, within 30 (thirty) days of the approval date and undertake to not take any action which precipitates the proceedings against the corporate debtor.	
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12. ANALYSIS ON THE RESOLUTION PLAN REGARDING CHENNAI

PROJECT:

12.1. About Chennai Project: The Chennai Project of the Corporate Debtor is located at Oragadam. This project has 2 phases, phased in manner in the entire extent of 8.87 acres. Phase I constitutes 3.57 acres and Phase II constitutes 5.30 acres.

12.2. About SRA and Source of Funds: The Resolution Applicant regarding the Chennai Project is an Association of Persons under the name and style of “Chennai Sheltrex Home Buyers Association” (CSHBA) (hereinafter referred to as SRA-2). Currently, about 65 homebuyers have enrolled as members of the SRA-2. Regarding the financial strength of the SRA-2, the homebuyers agreed to pool in funds to the tune of Rs.1.56 crore which will work about Rs.1.85 lakhs per person wherein 84 of them have already filed their claims. The homebuyers expect to collect the entire funds within 90 days from the date of approval of this plan.

12.3. Features and operation of the Plan:

- a) About 75 home buyers are presently holding undivided share of land in an extent of 3.57 acres excluding Open Space Reservation already gifted to the Local Body As the Sale Deed is registered, they are the Owners of the said lands and the Corporate Debtor namely Sheltrex Developers Pvt Ltd.. does not have any right over the said lands.
- b) The total extent of undivided share of land presently owned by the Home Buyers is about 0.93 acres (or) 40,800 Sqft out of total extent of 3.57 acres which has been earmarked for construction of buildings after providing Open Space Reservation [OSR] of about 0.75 acres.
- c) The Home Buyers have agreed to do a plotted development in phased manner in the entire extent of 8.87 acres. Phase 1 will constitute 3.57 acres and Phase 2 will constitute balance extent of 5.30 acres. This will accommodate all the Home Buyers of the Chennai Project.
- d) The Home Buyers will take possession of the entire extent of 8.87 Acres and create a plotted development in phased manner, in which Phase 1 will constitute approximately 107 plots [32 Plots

of 1000 sq ft size and 75 plots of 600 sq.ft size] can be developed after leaving space for road and other common areas. The Home Buyers already holding UDS will agree for allotment of individual plots and the other category of home buyers will be given an option to pay the market price for allotment of plots.

- e) The proposed Phase 2 shall be developed with approximately 69 plots [25 Plots of 1200 sq.ft., 25 Plots of 1800 sq.ft and 19 plots of 2000 sq.ft.] after leaving space for road and other common areas. The CHSBA shall sell the above said plots in open market. The CHSBA will be entitled to engage professional organizations, consultants or any other agency for the purpose of getting approvals, drawing, plotting, marketing and sales of the individual plots.
- f) There are three categories of Home Buyers, first group holding UDS Sale. Deed (46 Nos), second group holding Agreement for Sale and third group who have just paid advances (38 Nos) Depending on the category of the home buyer, they shall be accommodated in the developed plots upon payment of the agreed price as may be decided by CHSBA in the interest of the Home Buyers. The Home Buyers who are not holding UDS will

be given an option to purchase the individual plots by payment of additional sum as may be applicable or the amounts paid by them to the Corporate Debtor will be refunded after completion of the entire process of allotment and sale, not later than 12 months from the date of approval of the resolution plan.

- g) The Home Buyers have already paid Rs.9.15 crs to the Corporate Debtor towards development of residential project. For the purpose of taking over entire extent of 8.87 acres, the Home Buyers are willing to contribute a sum of Rs. 1.56 crore.
- h) The Religare being one of the financial creditor has charge on the total extent of land measuring 8.87 acres and they would have already received a considerable amount from the Corporate Debtor while granting NOC for registration of UDS. Upon receipt of the amounts mentioned in the table below, the financial creditor Religare shall execute a Receipt confirming discharge of mortgage over 8.87 acres The Home Buyers shall also explore the possibility of development of the balance lands which is subject matter of the Joint Development Agreement with Corporate Debtor.

- i) The precondition of this Resolution Plan will be that the Financial Creditor Religare will release the charge on the entire extent in 8.87 Acres and the Corporate Debtor shall gift the 18 meters proposed road.

12.3. Claims and Settlement: The total value of the Resolution Plan is Rs.1.56 crore wherein is CIRP cost is mentioned as Rs.25 lakhs which shall be paid in priority. The detailed settlement of claims to the stakeholders under the plan is extracted below:

Sl.No.	Name of the Creditor	Claims Made	Amount Admitted	Proposed Settlement Amount
1	111 Home Buyers – Financial Creditors Class being Home Buyers (The total 111 Home Buyers includes Chennai – 84 and Coimbatore - 27)	18,82,82,930	18,82,82,930	Settlement by way of Plots to be allotted to the Home Buyers who have filed their claim – 84 Nos. for Chennai Project
2	Tata Capital Housing Finance Limited	4,53,36,313	4,53,36,313	Coimbatore Project forms part of Coimbatore Resolution Plan
3	Religare Finvest Limited	38,451,260	38,251,260	88,000/- (In lieu of releasing charge 8.87 Acres)

4	ACRE Trust	109,00,00,000	109,00,00,000	23,92,000/-
5	Catalyst Trustee	115,00,00,000	115,00,00,000	25,20,000/-
6	Operational Creditors (Employees)	46,04,456	46,04,456	Operational Creditors as Employees forms part of Coimbatore Resolution Plan
7	Operational Creditors (Other than Employees)	9,79,059	9,79,059	20% of Operational Creditors fees to be paid- Rs.1,95,811.8/-
8	CIRP Cost			

12.4. Payment term and implementation: It is stated in the plan that the implementation of the plan shall be for a period of 300 days from the date of approval of the plan by this Adjudicating Authority. The detailed implementation schedule is tabulated as below:

Sl.No	Description	Timeline	Remarks
1	Collection of funds from the Home Buyers	0 to 90 days	
2	Payment of CIRP Cost	90 to 120 days	
3	Payments of sums to Financial Creditor as per Resolution Plan and release of charge	120 to 150 days	
4	Execution of Sale Deed by Corporate Debtor in favour of Association of Persons	150 to 180 days	
5	Filing of application and obtaining layout approval.	150 to 270 days	
6	Execution and Registration of approved plots in favour of Home Buyers by the AOP	270 to 300 days	

12.5. Monitoring Committee: The Resolution Professional Mr. Kumar shall be made the Chairman of Monitoring Committee and a Monitoring Committee shall consist of about 4 Members 2 Nominated Members from Home Buyers, 1 Representative of Financial Creditor and Mr. Kumar being the Chairman shall conduct and ensure implementation of the Resolution Plan as per the agreed timelines. The

Monitoring Committee represented by Mr.Kumar shall be authorized to file appropriate applications/ reports before the Adjudicating Authority.

13. TABULATION OF VARIOUS MANDATORY COMPLIANCES REQUIRED UNDER THE PROVISIONS OF IBC, 2016:

From the averments as well as in the Form-H filed by the Resolution Professional the details of various compliances as envisaged within the provisions of IBC, 2016 and CIRP Regulations, which requires a Resolution Plan to adhere to, which are reproduced hereunder:

MANDATORY COMPLIANCE UNDER IBC, 2016	COMPLIANCE UNDER RESOLUTION PLAN
S. 30(1) - Resolution Applicant to submit an affidavit stating that is eligible under Sec.29A of the Code, 2016	Form-H submitted by the Resolution Professional confirms that the Resolution Applicant had submitted an Eligibility Affidavit as per Section 29A of IBC.
S.30(2)(a)- Payment of Insolvency and Resolution cost in the manner specified by the Board	Clause 1(k) of the Resolution Plan.
S.30(2)(b) -Payment of debts of Operational Creditors in such manner as may be specified by the Board, which shall not be less than the amount to be paid to the Operational Creditors in the event of a liquidation of the Corporate Debtor under Sec. 53.	Clause 1(k) of the Resolution Plan.
S. 30(2)(c)- Management of the affairs of the Corporate Debtor after approval of the Resolution Plan.	It is stated in the Plan that the Monitoring Committee will manage and supervise the implementation of the Plan.
S.30(2)(d)- Implementation and	At Page No.286 of the Application

Supervision of the Resolution Plan.	explains the implementation and supervision of the plan.																												
S. 30(2)(e) – The plan does not contravene any of the provisions of the law for the time being in force.	The RA submitted that the plan is not in contravention of any provisions of the law for the time being in force.																												
S.30(2)(f) – Conforms to such other requirements as may be specified.	Annexure-2 of the Plan records that the Religare Finvest limited to release the charge over the 8.87 acre land upon receipt of Rs.88000/-																												
S. 30(4) - Committee of Creditors approve the Resolution Plan by not less than 66% of the voting share of Financial Creditors, after considering its feasibility, viability and such other requirement as specified by the Board	<p>The CoC, in its 20th meeting, has approved the Resolution Plan, the corresponding voting is given below;</p> <table border="1"> <thead> <tr> <th>S.No</th> <th>Name of Creditor</th> <th>Assent (%)</th> <th>Dissent (%)</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Catalyst Trusteeship Limited</td> <td>45.94</td> <td>-</td> </tr> <tr> <td>2</td> <td>Asset care and Reconstruction Enterprise Limited</td> <td>43.44</td> <td>-</td> </tr> <tr> <td>3</td> <td>111 Home buyers</td> <td>7.28</td> <td>-</td> </tr> <tr> <td>4</td> <td>Tata Capital Housing Finance Limited</td> <td>-</td> <td>1.81</td> </tr> <tr> <td>5</td> <td>Religare Finvest Limited</td> <td>-</td> <td>1.53</td> </tr> <tr> <td></td> <td>TOTAL</td> <td>96.66</td> <td>3.34</td> </tr> </tbody> </table>	S.No	Name of Creditor	Assent (%)	Dissent (%)	1.	Catalyst Trusteeship Limited	45.94	-	2	Asset care and Reconstruction Enterprise Limited	43.44	-	3	111 Home buyers	7.28	-	4	Tata Capital Housing Finance Limited	-	1.81	5	Religare Finvest Limited	-	1.53		TOTAL	96.66	3.34
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14. MEASURES REQUIRED FOR IMPLEMENTATION OF THE RESOLUTION PLAN IN TERMS OF REGULATION 37 OF CIRP REGULATIONS.

MANDATORY COMPLIANCE UNDER CIRP REGULATION	COMPLIANCE UNDER RESOLUTION PLAN
<i>A Resolution Plan shall provide for the measures, as may be necessary, for insolvency resolution of the Corporate Debtor for maximisation of the value of its assets, including by not limited to the following:-</i>	
(a) transfer of all or part of the assets of the Corporate Debtor to one or more persons;	The Resolution Plan does not immediately envisage transfer or sale of any of the assets of the Corporate Debtor.
(b) sale of all or part of the assets whether subject to any security interest or not;	

(ba) restructuring of the Corporate Debtor, by way of merger, amalgamation and demerger;	Not Applicable
(c) the substantial acquisition of shares of the Corporate Debtor, or the merger or consolidation of the Corporate Debtor with one or more persons;	Not Applicable
(ca)cancellation or delisting of any shares of the Corporate Debtor, if applicable;	Not Applicable.
(d)satisfaction or modification of any security interest;	As per Annexure-2 of the Plan the Religare Finvenst Limited to release its charge which is holding on the Corporate Debtor.
(e) curing or waving of any breach of the terms of any debt due from the Corporate Debtor;	Not Applicable
(f) reduction in the amount payable to the creditors;	Annexure 1 of the resolution plan
(g) Extension of maturity date or a change in interest rate or other terms of a debt due from the Corporate Debtor.	Not Applicable
(h) amendment of the constitutional documents of the Corporate Debtor;	No amendment of the constitutional documents of the Corporate Debtor is proposed under the Resolution Plan
(i) Issuance of Securities of The Corporate Debtor, for cash property, securities, or in exchange for claims or interests, or other appropriate purpose;	Not Applicable
(j) change in portfolio of goods or services produced or rendered by the Corporate Debtor;	Not Applicable
(k) change in technology used by the Corporate Debtor; and	Not Applicable
(n) Obtaining necessary approvals from Central and State Governments and other Authorities.	Approvals of the appropriate Authority are already in place, if required it will be proceeded as per law.

**15. MANDATORY CONTENTS OF THE RESOLUTION PLAN IN TERMS OF
REGULATION 38 OF CIRP REGULATIONS.**

	MANDATORY COMPLIANCE UNDER CIRP REGULATION	COMPLIANCE UNDER RESOLUTION PLAN
38(1)	The amount due to the Operational Creditor under Resolution Plan shall be given priority in payment over Financial Creditor.	Operational creditors' dues are proposed to be paid Rs.2.00 lakhs towards their dues.
38(1A)	A Resolution Plan shall include a statements as to how it has dealt with the interest of all stakeholders, including Financial Creditors and Operational Creditors of the Corporate Debtor.	Implementation Schedule is tabulated at page 286 of the Application.
38(1B)	A Resolution Plan shall include a statement giving details if the Resolution Applicant or any of its related parties has 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.	Resolution Applicant or related parties has any of its related parties hasn't failed to implement or contributed to the failure of implementation of any resolution plan approved under the IBC.
38(2)	a) term of the plan and its implementation schedule b) management and control of the business of the Corporate Debtor during its term; c) adequate means for supervising its implementation	Implementation Schedule is tabulated at page 286 of the Application. Discussed at page 286 of the Application.
38(3)	a) it address the cause of default; b) it is feasible and viable	yes yes

	c) it has provisions for effective implementation	Yes at page 286 of the Application
	d) it has provisions for approval required and the timeline for the same; and	Discussed at page 286 of the Application.
	e) the resolution applicant has the capability to implement the Resolution Plan.	Discussed at page 286 of the Application.

16. Fair Value and Liquidation Value for both projects of the Corporate Debtor as per Form-H submitted by the RP is as follows:

Particular	Amount in Rs.
Coimbatore Project	
Fair Value	11,66,08,000
Liquidation Value	8,45,86,100
Plan Value	4.59 crores
Chennai Project	
Fair Value	28,41,62,547
Liquidation Value	21,31,22,036
Plan Value	1,56,00,000

17. It is seen that the resolution plan value is lesser than the liquidation value. In the case of *Maharashtra Seamless ed supra* it was held that there is no provision in IBC, 2016 to mandate the resolution plan to match with the liquidation value of the Corporate Debtor.

18. **Voting of the CoC:** In Form-H submitted by the Resolution Professional extracted the voting of the CoC regarding approval of both the resolution plans as follows:

5. The list of financial creditors of the CD [state the name of CD] being members of the CoC 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	Financial Creditor unsecured – Catalyst Trusteeship Limited	45.95	Voted for
2	Financial Creditor unsecured – Asset Care and Reconstruction Enterprises Limited (ARCEL)	43.44	Voted for
3	Financial Creditors – Home Buyers 111	7.28	Voted for
4	Tata Capital Housing Finance Limited	1.81	Dissented
5	Religare Finvest Limited	1.53	Dissented

6. The Resolution Plan includes a statement under regulation 38(1A) of the CIRP Regulations as to how it has dealt with the interests of all stakeholders in compliance with the Code and regulations made hereunder.

19. In so far as the approval of the Resolution Plan is concerned, this Authority, along with considering the decision of the Committee of Creditors, is duty-bound to follow the precedents of the Supreme Court in the matter of **K. Sashidhar –Vs– Indian Overseas Bank (2019) 12 SCC 150**, wherein in para 19 and 62 it is held as follows;

"19.....In the present case, however, our focus must be on the dispensation governing the process of approval or rejection of the resolution plan by the CoC. The CoC is called upon to consider the resolution plan under Section 30(4) of the I&B Code after it is verified and vetted by the resolution professional as being compliant with all the statutory requirements specified in Section 30(2)."

*62.In the present case, however, we are concerned with the provisions of I&B Code dealing with the resolution process. The dispensation provided in the I&B Code is entirely different. In terms of Section 30 of the I&B Code, the decision is taken collectively after due negotiations between the financial creditors who are constituents of the CoC and they express their opinion on the proposed resolution plan in the form of votes, as per their voting share. In the meeting of the CoC, the proposed resolution plan is placed for discussion and after full interaction in the presence of all concerned and the Resolution Professional, the constituents of the CoC finally proceed to exercise their option (business/commercial decision) to approve or not to approve the proposed resolution plan. In such a case, non-recording of reasons would not per-se vitiate the collective decision of the financial creditors**. The legislature has not envisaged challenge to the "commercial/business*

decision" of the financial creditors taken collectively or for that matter their individual opinion, as the case may be, on this count."

Further, the Hon'ble Supreme Court of India in the matter of **Committee of Creditors of Essar Steels –Vs– Satish Kumar Gupta & Ors. in Civil Appeal**

No. 8766 – 67 of 2019 at para 42 has held as follows;

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

Further the Supreme Court in the matter of **K. Sashidhar v. Indian Overseas Bank and Ors.** (2019) 12 SCC 150 has lucidly delineated the scope and interference of the Adjudicating Authority in the process of approval of the Resolution Plan and held as follows;

"55. 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 per cent 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 of insolvency resolution process costs in a specified manner in priority to the repayment of other debts of the corporate debtor, (ii) the repayment of the debts of operational 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 ought not to exercise their commercial wisdom during the 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 the opinion 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.

58. Indubitably, the inquiry in such an appeal would be limited to the power exercisable by the resolution professional under Section 30(2) of the I&B Code or, at best, by the adjudicating authority (NCLT) under Section 31(2) read with Section 31(1) of the I&B Code. No other inquiry would be permissible. Further, the jurisdiction bestowed upon the appellate authority (NCLAT) is also expressly circumscribed. It can examine the challenge only in relation to the grounds specified in Section 61(3) of the I&B Code, which is limited to matters "other than" enquiry into the autonomy or commercial wisdom of the dissenting financial creditors. Thus, the prescribed authorities (NCLT/NCLAT) have been endowed with limited jurisdiction as specified in the I&B Code and not to act as a court of equity or exercise plenary powers."

(emphasis supplied)

Also, the Supreme Court of India in the matter of **Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta and Ors.** (2020) 8 SCC 531 after referring to the decision in **K. Sashidhar (supra)** has held as follows;

"73. There is no doubt whatsoever that the ultimate discretion of what to pay and how much to pay each class or sub-class of creditors is with the Committee of Creditors, but, the decision of such Committee must reflect the fact that it has taken into account maximising the value of the assets of the corporate debtor and the fact that it has adequately balanced the interests of all stakeholders including operational creditors. This being the case, judicial review of the Adjudicating Authority that the resolution plan as approved by the Committee of Creditors has met the requirements referred to in Section 30(2) would include judicial review that is mentioned in Section 30(2)(e), as the provisions of the Code are also provisions of law for the time being in force. Thus, while the Adjudicating Authority cannot interfere on merits with the commercial decision taken by the Committee of Creditors, the limited judicial review available is to see that the Committee of Creditors has taken into account the fact that the corporate debtor needs to keep going as a going concern during the insolvency resolution process; that it needs to maximise the value of its assets; and that the interests of all stakeholders including operational creditors has been taken care of. If the Adjudicating Authority finds, on a given set of facts, that the aforesaid parameters have not been kept in view, it may send a resolution plan back to the Committee of Creditors to re-submit such plan after satisfying the aforesaid parameters. The reasons given by the Committee of Creditors while approving a resolution plan may thus be looked at by the Adjudicating Authority only from this point of view, and once it is satisfied that the Committee of Creditors

has paid attention to these key features, it must then pass the resolution plan, other things being equal."

(emphasis supplied)

20. The Supreme Court in its recent decision in **Jaypee Kensington Boulevard Apartments Welfare Association &ors. v. NBCC (India) Ltd. &Ors** in Civil Appeal no. 3395 of 2020 dated 24.03.2021 has held as follows;

"76. The expositions aforesaid make it clear that the decision as to whether corporate debtor should continue as a going concern or should be liquidated is essentially a business decision; and in the scheme of IBC, this decision has been left to the Committee of Creditors, comprising of the financial creditors. Differently put, in regard to the insolvency resolution, the decision as to whether a particular resolution plan is to be accepted or not is ultimately in the hands of the Committee of Creditors; and even in such a decision making process, a resolution plan cannot be taken as approved if the same is not approved by votes of at least 66% of the voting share of financial creditors. Thus, broadly put, a resolution plan is approved only when the collective commercial wisdom of the financial creditors, having at least 2/3rd majority of voting share in the Committee of Creditors, stands in its favour.

77. In the scheme of IBC, where approval of resolution plan is exclusively in the domain of the commercial wisdom of CoC, the scope of judicial review is correspondingly circumscribed by the provisions contained in Section 31 as regards approval of the Adjudicating Authority and in Section 32 read with Section 61 as regards the scope of appeal against the order of approval.

77.1. Such limitations on judicial review have been duly underscored by this Court in the decisions above-referred, where it has been laid down in explicit terms that the powers of the Adjudicating Authority dealing with the resolution plan do not extend to examine the correctness or otherwise of the commercial wisdom exercised by the CoC. The limited judicial review available to Adjudicating Authority lies within the four corners of Section 30(2) of the Code, which would essentially be to examine that the resolution plan does not contravene any of the provisions of law for the time being in force, it conforms to such other requirements as may be specified by the Board, and it provides for: (a) payment of insolvency resolution process costs in priority; (b) payment of debts of operational creditors; (c) payment of debts of dissenting financial creditors; (d) for management of affairs of corporate debtor after approval of the resolution plan; and (e) implementation and supervision of the resolution plan.

77.2. The limitations on the scope of judicial review are reinforced by the limited ground provided for an appeal against an order approving a resolution plan, namely, if the plan is in contravention of the provisions of any law for the time being

in force; or there has been material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period; or the debts owed to the operational creditors have not been provided for; or the insolvency resolution process costs have not been provided for repayment in priority; or the resolution plan does not comply with any other criteria specified by the Board

77.6.1. The assessment about maximisation of the value of assets, in the scheme of the Code, would always be subjective in nature and the question, as to whether a particular resolution plan and its propositions are leading to maximisation of value of assets or not, would be the matter of enquiry and assessment of the Committee of Creditors alone. When the Committee of Creditors takes the decision in its commercial wisdom and by the requisite majority; and there is no valid reason in law to question the decision so taken by the Committee of Creditors, the adjudicatory process, whether by the Adjudicating Authority or the Appellate Authority, cannot enter into any quantitative analysis to adjudge as to whether the prescription of the resolution plan results in maximisation of the value of assets or not. The generalised submissions and objections made in relation to this aspect of value maximisation do not, by themselves, make out a case of interference in the decision taken by the Committee of Creditors in its commercial wisdom

78. To put in a nutshell, the Adjudicating Authority has limited jurisdiction in the matter of approval of a resolution plan, which is well defined and circumscribed by Sections 30(2) and 31 of the Code read with the parameters delineated by this Court in the decisions above referred. The jurisdiction of the Appellate Authority is also circumscribed by the limited grounds of appeal provided in Section 61 of the Code. In the adjudicatory process concerning a resolution plan under IBC, there is no scope for interference with the commercial aspects of the decision of the CoC; and there is no scope for substituting any commercial term of the resolution plan approved by the CoC. Within its limited jurisdiction, if the Adjudicating Authority or the Appellate Authority, as the case may be, would find any shortcoming in the resolution plan vis-à-vis the specified parameters, it would only send the resolution plan back to the Committee of Creditors, for re-submission after satisfying the parameters delineated by Code and expounded by this Court."

(emphasis supplied)

21. Thus, from the catena of judgments rendered by the Supreme Court on the scope of approval of the Resolution Plan, it is amply made clear that only limited judicial review is available for the Adjudicating Authority under Section 30(2) and Section 31 of IBC, 2016 and this Adjudicating Authority cannot venture into the commercial aspects of the decisions taken by the Committee of Creditors.

22. Thus, the Resolution Plans are hereby **approved** and is binding on the Corporate Debtor and other stakeholders, shareholders and all creditors involved so that the revival of the Debtor Company shall come into force with immediate effect and the "Moratorium" under section 14 of IBC, 2016 shall cease to have any effect henceforth.

23. The Resolution Professional shall submit all the records, documents, belongings and assets of the Corporate Debtor processed during the commencement of the Proceedings and also return to the Resolution Applicant.

24. A certified copy of this Order be issued on demand to the concerned parties, upon due compliance. Liberty is hereby granted for moving any Interlocutory Application, if required, in connection with the implementation of this Resolution Plan.

25. That in respect of stepping in by the Resolution Applicant/Promoters into the shoes of the Corporate Debtor and taking over the business, the provisions of the Companies Act, 2013 shall be applicable.

26. Copy of this Order is to be submitted to the Office of the Registrar of Companies, Chennai, for updating the master data of the Corporate Debtor and to the IBBI for records.

27. The Resolution Professional is further directed to hand over all records, premises/documents to Resolution Applicant to finalise the further

line of action required for starting the operation as contemplated under the Resolution Plan. The Resolution Applicants shall have access to all the records premises/documents through Resolution Professional to finalise the further line of action required for starting the operation.

28. The Resolution Professional shall stand discharged from his duties with effect from the date of this order.

29. Accordingly, IA(IBC)/1729(CHE)/2023 shall stands **allowed** and **disposed of**.

30. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Learned Counsel for information and for taking necessary steps. Files are consigned to the record.

Sd/-

RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

Sd/-

JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)