

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH COURT III



I.A. 32/2024

IN

C.P.(IB)/481 (MB)/C-III/2023.

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

Mr. Amit Vijay Karia

Resolution Professional of Manpreet
Estates LLP. 405, Hind Rajasthan
Building, D.S. Phalke Road, Dadar
East, Mumbai-400014.

.... Applicant/ Resolution

Professional

In the matter of

VSJ Investments Private Limited

.....Applicant

Vs.

Manpreet Estates LLP

.....Respondents

Order pronounced on: 07.10.2024

Coram:

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

Hon'ble Sh. Charanjeet Singh Gulati (Technical)



Appearances:

For the Applicant

Adv.Vikram Nankani, Adv.Mitali Bhatt, Adv.AyushRajani, Adv.Mitali Bhat, Adv.Khushbo Shah i/b. AKR Legal.

For the CoC

Adv.Rohit Gupta, Adv.Astha Ojha i/b SDK Legal.

PER: SH. CHARANJEET SINGH GULATI MEMBER (TECHNICAL)

ORDER

1. I.A No.32 /2024:

This I.A. is filed by, **Mr.Amit Vijay Karia, the Resolution Professional of Manpreet Estates LLP (Applicant)** under section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("the Code"), seeking following reliefs:

- a) Consider and allow the instant IA. No 32 of 2024 seeking approval of the Resolution Plan under Section 30(6) read with Section 31.
- b) Consider and approve the Resolution Plan submitted on 30 April 2024 by Wadhwa Group Holdings Private Limited which has been approved by the Committee of Creditors (CoC) u/s 31(1) of the code;
- c) Consider closure of the corporate insolvency and resolution process of the Corporate Debtor on approval of the Resolution Plan under the Code;
- d) Consider declaring u/s 31(3)(a) of the Code the moratorium u/s 14(1) of the Code shall cease to have effect from the date of the Hon'ble NCLT passes an order approving the Resolution Plan;
- e) Pass such order(s) and or direction(s) in the interest of justice which this Hon'ble Tribunal deems fit.



Brief Facts:

2. The Corporate Insolvency Resolution Process ('CIRP') of Manpreet Estate Private Limited (Corporate Debtor) was initiated by this Tribunal vide Order dated 24.11.2023 under Section 7 of the Insolvency and Bankruptcy Code, 2016 and Mr. Amit Vijay Karia ie the Applicant was appointed as the Interim Resolution Professional ("IRP").
3. Subsequently a Public announcement for submission of claims was made on 28.11.2023 under Regulations 12 of the IBBI Regulations, 2016 which was published in The Free Press Journal-English-Mumbai Editions, Navshakti -Marathi-Mumbai Editions.
4. Pursuant to receipt of claims, the IRP constituted a Committee of Creditors ("COC") comprising of all the financial creditors in accordance with Section 21(1) of the Code in compliance with Regulation 17 and 13(1)(d) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016. Further in the first CoC meeting held on 20.12.2023 the IRP was confirmed as the Resolution Professional ("RP").
5. The Applicant states that the claims of Financial and Operational Creditors and Employees & Workmen as exist on the date of filing the present application as follows:

I. Claims of Financial Creditors:

Sr.	Name of the Secured Financial Creditor	Amount Claimed	Amount Admitted	Voting Right (%)

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1.	VSJ Investments Private Limited	282,05,55,873	282,05,55,873	100%
	Total	282,05,55,873	282,05,55,873	100%

II. Claims of Operational Creditors (Government Dues):

Sr.	Operational Creditor	Amount Claimed	Amount Admitted
1.	Income Tax Department	83,01,030	83,01,030
	Total	83,01,030	83,01,030

III. Claims of Operational Creditors (Employees & Workmen)

There are no claims received from the workmen or employees.

6. The Applicant submits that the summary of claims received and admitted from the stakeholders are as under:

Sr. No	Category of Creditors	Amount Claimed	Amount of Claim Admitted
1.	Secured Financial Creditors	282,05,55,873	282,05,55,873
2.	Operational Creditors	0	0

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	(Other than Workmen and Employees)		
3.	Workmen Claims	0	0
4.	Employee Claims	0	0
5.	Government Dues	83,01,030	83,01,030
	Grand Total	2 ,82,88,56,903	2,82,88,56,903

7. The Applicant submits that 7 (Seven) CoC meetings have been held during CIRP period, as follows:

Particulars	Date of CoC Meeting
1st CoC Meeting held on	20 December 2023
2 nd CoC Meeting held on	28 December 2023
3 rd CoC Meeting held on	14 February 2024
4 th CoC Meeting held on	19 March 2024
5 th CoC Meeting held on	28 March 2024
6 th CoC Meeting held on	24 April 2024
7 th CoC Meeting held on	02 May 2024

8. The Applicant submits that, in accordance with Regulation 27 & 35 of IBBI (CIRP), Regulations 2016, below mentioned Registered Valuers have been appointed to determine the Fair Value and Liquidation Value of the Corporate Debtor.

Sr.	Category	Details of Professional
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1.	Registered Valuer (Land and Building)	Jayesh Kamat (IBBI/RV/07/2022/115026)
2.	Registered Valuer (Securities or Financial Assets)	Jayeshkumar Shah (IBBI/RV/07/2020/113066)
3.	Registered Valuer (Land and Building) AND (Securities or Financial Assets)	RNC Valuecon LLP (IBBI/RV-E/02/2020/123)

9. The Applicant submits that the above-mentioned valuers have submitted their Valuation Reports containing Fair Market Value and Liquidation Value to the RP. Accordingly, the fair market value and Liquidation value are as under:

- i. The fair and liquidation value of land and building is NIL.

SECURITIES AND FINANCIAL ASSETS- SFA

(A) FAIR VALUE

Estimate of Fair value	Amount (INR)
a) Jayeshkumar Shah [IBBI/RV/07/2020/13066]	46,01,04,000
(b) RNC Valuecon LLP [IBBI/RVE/02/2020/123]	45.44,07.203
Average Fair Value of Securities or Financial Assets	45,72,55,601

**As the two estimates are not significantly different, the average of the two values are considered as the "Fair Value"*

B) LIQUIDATION VALUE

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Estimate of Liquidation Value	Amount (INR)
a) Jayeshkumar Shah [IBBI/RV/07/2020/13066]	34,50,04,000
a) Jayeshkumar Shah [IBBI/RV/07/2020/13066]	38,62,46,603
Average Liquidation Value of Securities or Financial Assets	36,56,25,301

**As the two estimates are not significantly different, the average of the two values are considered as the “Liquidation Value”*

TOTAL FAIR VALUE AND LIQUIDATION VALUE

A) FAIR VALUE

Average of the Fair Value of the 2 value	Amount (INR)
Fair Value of the Land and Building	NIL
Fair Value of Securities or Financial Assets	45,72,55,601
Total Fair Value of the Corporate Debtor	45,72,55,601

(B)LIQUIDATION VALUE

Average of the Fair Value of the 2 value	Amount (INR)
Liquidation Value of Land and Building	NIL
Liquidation Value of Securities or Financial Assets	36,56,25,301
Total Liquidation Value of the Corporate Debtor	36,56,25,301



10. Further the advertisement for inviting Expression of Interest (**“EoI”**) in Form G was published on 01.01.2024 wherein the last date for submission of EoI was 16.01.2024 and last date for submission of Resolution Plan was 16.03. 2024.
11. The Applicant submits that after the publication of Form G on 01.01.2024, the Applicant received interest from 1 (One) Prospective Resolution Applicant (**“PRA”**) i.e. Wadhwa Group Holdings Private Limited. The provisional list of eligible prospective resolution applicants (PRAs) was circulated to the CoC and to the prospective resolution applicant on 24.01.2024.
12. The Applicant submits that during 3rd (Third) CoC Meeting held on 14.02.2024, discussion and deliberation on approval of Evaluation Matrix and Request for Resolution Plan ("RFRP") was held, post which the CoC members approved the RFRP and Evaluation Matrix.
13. The Applicant submits that pursuant to the requirement mentioned in Regulation 36A (1) of the CIRP regulations, 2016 and in line with the Form G, the final list of eligible Prospective Resolution Applicants (PRAs) was required to be published by 10 February 2024. Accordingly, the Applicant has circulated the below mentioned final list of eligible PRAs on 09.02.2024.

Sr.	Name of the Prospective Resolution Applicant	Whether eligible to submit the Resolution Plan?
1.	WADHWA GROUP HOLDINGS PRIVATE LIMITED	Yes

14. That during 6th CoC meeting held on 24.04.24, the CoC expressly directed the Applicant and passed a resolution , to take steps to sell / dispose of the investment of the corporate debtor in its subsidiary



'Obedience Infracon Private Limited', being an unencumbered and non-core asset, in accordance with the relevant provisions of the Code and applicable regulations and also requested the sole resolution applicant to share a revised resolution plan, including revised financial proposal, if any, at the earliest.

15. During the 7th (Seventh) CoC meeting held on 02.05.2024, the revised resolution plan received from the sole Resolution Applicant i.e. WadhwaGroup Holdings Private Limited on 30.04.2024 was put to vote for approval of CoC. The Revised Resolution Plan submitted on 30.04.2024 by WadhwaGroup Holdings Private Limited stood approved by the Sole CoC Member with 100% votes in favour. Also, the revised resolution plan submitted on 30.04.2024 by WadhwaGroup Holdings Private Limited was also unanimous approved.
16. Further a Letter of Intent dated 02.05.2024 has been issued to the Successful Resolution Applicant calling upon them to furnish an unconditional and irrevocable Performance Guarantee or Direct Deposit of Rs. 2 crores (after adjusting the amount paid for EMD of Rs.3 Crores.
17. The Applicant provides a timeline of the Corporate Insolvency and Resolution Process:

Sr. No	Timeline of CIRP	No. of days	Date
1.	Insolvency commencement date and 24 November appointment of IRP	0	24.11.2023



2.	Original 180th Day of Corporate Insolvency and Resolution Process	180 days	22.05.2024
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CIRP Cost:

18. The Applicant has annexed details of CIRP Cost ratified from 24.11.2023 (Insolvency Commencement Date) till 10.05.2024. On perusal of the same We note that, the total CIRP Cost payable is 20,82,963/-

19. The Wadhwa Group i.e. the (“SRA”) is one of Mumbai’s leading real estate companies and is currently developing residential, commercial, and township projects spread across approximately 4.21 Million sq. developed, ongoing & future (45 million square feet). The SRA has 50 + years’ experience in the industry of the Corporate Debtor. The past experience of the SRA in acquisition/ turnaround of stressed assets comprises of 1 project of approximately 10L sq. ft.

20. **Sources of Fund:**

20.1 The Upfront Cash and any subsequent working capital infusion shall be brought in by the Resolution Applicant / Nominees and shall be contributed to the Corporate Debtor as a mix of Capital Contribution and loans by the Resolution Applicant / Nominees / and/or Its Affiliates who are eligible under section 29A of the Insolvency and Bankruptcy Code, 2016, in its sole discretion.

20.2 It is submitted that the Resolution Applicant has sufficient liquid funds to honour its commitment for the Capital Contribution as part of the Upfront Cash set out in the Resolution Plan.



20.3 Further the Resolution Applicant shall be entitled to raise monies from banks and / or financial institutions as it may deem fit from time to time to meet the requirement of funds for the payments to stakeholders or for raising working capital or meet the capex requirements of the Corporate Debtor, as set out in the Resolution Plan without creating the charge on any of the assets of the Corporate Debtor until the Upfront Cash is paid in full in accordance with the approved Resolution Plan.

21. **Upfront Cash:**

The Resolution Plan contemplates a total resolution Plan amount of Rs.35,02,00,000 (Rupees Thirty-Five Crore Two Lakh Only) (“Upfront Cash”) which shall be paid by the Resolution Applicant on the “**Trigger date**” the trigger date as defined in the Resolution Plan shall mean within 30 days from the NCLT approval date, subject to the terms of the Plan. The Upfront cash will be distributed in following order:

Sr. No	Use of Upfront Cash	Amount (in Rs.)
1.	Payment of Outstanding CIRP Cost	At Actuals The Outstanding CIRP Cost shall be paid by the Resolution Applicant from the upfront Cash. The Upfront cash shall be utilised for the payment of the Outstanding CIRP Cost in priority to the payment of

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		other debts of the Corporate Debtor.
2.	Payment to the Workmen towards discharge of the Workmen dues in full and final settlement thereof. This amount shall be distributed among the Workmen in proportion to their Claims	NIL
3.	Payment to the Employees towards discharge of the Employees dues in full and final settlement thereof. This amount shall be distributed among the Employees in proportion to their Claims	NIL
4.	Payment to the Other Operational Creditors towards discharge of the Operational debt in full and final settlement thereof. This amount shall be distributed among the Operational Creditors in proportion to their Claims	NIL
5.	Payments towards discharge of the Statutory Dues to the Statutory Dues Creditors in full and final settlement thereof.	Higher of the following a) Rs.2,00,000/- b) the amount to be paid to such creditors in the event of a liquidation of the Corporate Debtor under

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		<p>Section 53 of the IBC, or</p> <p>c) the amount that would have been paid to such creditors, if the amount to be distributed under this Resolution Plan has been distributed in accordance with the order of priority in sub-section (1) of Section 53 of IBC.</p>
6.	Payment towards Unsecured Financial Creditors	NIL
7.	Payment towards Related Party Creditors in full and Final Settlement thereof	NIL
8.	Payment to the Secured Financial Creditors in full and final settlement thereof.	The balance of the Upfront Rs.35 Crores i.e. after payment of amounts as contemplated above on pari passu basis to the Secured



		Financial Creditors in proportion to their admitted debt
	Total	Rs.35,02,00,000/- (Rupees Thirty- Five Crore two lakhs only)

22. **EMD:**

22.1 At the stage of submission of the Expression of Interest for the Corporate Debtor the Resolution Applicant has submitted an amount of Rupees 2,00,00,000/- two crore only as deposit. Pursuant to clarification received from the Resolution Professional on 13.03.2024 the said amount of Rs. 2,00,00,000/- is being adjusted against the earnest money deposit of Rs. 3,00,00,000 (Rupees Three crore only) (EMD") payable at the time of submission of this Resolution Plan. Accordingly, the Resolution Applicant has deposited the Incremental amount of Rs. 1,00,00,000/- (Rupees One Crore only) towards the Earnest Money Deposit. The EMD submitted by the Resolution Applicant, if declared successful, shall be adjusted towards the Performance Security to be provided by the Resolution Applicant.

23. **Performance Security:**

23.1 As per the RFRP, the Resolution Applicant is required to provide the Performance Security of Rs. 5,00,00,000/- (Rupees five crore only) in favour of Corporate Debtor. In accordance with the terms of this Resolution Plan, the EMD of Rs. 3,00,00,000/- (Rupees Three crore only) shall be adjusted towards the performance security and the Resolution Applicant shall provide the remaining amount of Rs. 2,00,00,000/- (Rupees two crore only) within 30 (thirty) days of issuance of Letter of Intent



dated 02.05.2024 by the RP, or such other extended date as may be notified by the RP.

24. **Additional Affidavit filed by the Applicant:**

The Applicant filed an additional affidavit dated 29.06.2024 stating as follows:

24.1 In view of the above the SRA has submitted the Demand Draft (DD.No 351391) dated 27.05.2024 amounting to 2 crores after adjusting the amount paid for EMD of Rs.3 crores towards performance guarantee as required to be paid by SRA.

24.2 The Demand Draft dated 27.05.2024 received from the SRA has already been encashed by the Applicant and deposited into the CIRP account of the Corporate Debtor. The Applicant has also created the fixed Deposit with regards to amount received from SRA towards the Performance Guarantee.

25. **Treatment of the Existing Partners and Capital Contribution of the Resolution Applicant.**

25.1 With the Capital Contribution by the Resolution Applicant and its Affiliates / Nominees, the entire Capital Contribution by the Existing Partners shall stand fully extinguished as a part of this Resolution Plan ("**Standalone Capital Reduction**"). No amounts shall be payable towards the extinguishment of the Capital Contribution of such Existing Partners. As an integral part of the Resolution Plan, the Capital Contribution by the Existing Partners shall stand written off and extinguished in entirety without payment of any amount to the Existing Partners.

26. **Appointment of New Partners:**



26.1 On the Trigger Date immediately upon payment of the Upfront Cash to the designated account the Resolution Applicant shall appoint new partners of the Corporate Debtor (“New Partners”). The Monitoring Committee shall cease to exist immediately once the New Partners are appointed.

26.2 Immediately after the appointment of New Partners the Corporate Debtor shall be managed by the New Partners.

27. **Compliance Certificate in Form – H**

27.1 Pursuant to Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Successful Resolution Applicant has prepared a Compliance Certificate dated 10.05.2024 in **Form H** which is annexed to the Application.

27.2 **Compliance of mandatory requirements under the Insolvency & Bankruptcy Code, 2016:**

Sr. No.	Particulars	Compliance
1	<u>Section 25:</u> Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the Corporate Debtor?	Yes.
2	<u>Section 29A:</u> Whether Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Yes.
3	<u>Section 30:</u>	

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	(1) Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Yes. The Resolution Applicant has submitted an affidavit separately along with other documents under section 29A of IBC, 2016 confirming his eligibility for submission of Resolution Plan.
	(2)(a) Whether the Resolution Plan provides for payment of insolvency resolution process costs?	Page 19 of the Plan, Clause 3.2 of the Plan read with Annexure 1 (Pg.No.65-66)
	(2)(b) Whether the Resolution Plan provides for the payment of the debts of operational creditors?	Yes. Pages 19 & 20 of the Plan Clause 3.3.1 read with Annexure 1 of the Plan.
	(2)(b) Whether the Resolution Plan provides for the payment to the financial creditors who did not vote in favor of the resolution plan?	Yes. Page 22 of the Plan Clause 3.8.1
	2(c) Whether the Resolution Plan provides for the management of the affairs of the Corporate Debtor?	Yes. Clause 5.2,5.3,5.4,5.5,and 5.6 (Pages 29 to 31) of the Plan.
	2(d) Whether the Resolution Plan Provides for implementation and supervision of the resolution plan?	Yes. Clause 6 (Pages 31-35) of the Plan.
	(2)(e) Whether the resolution plan contravenes any of the provisions of the law for the time being in force?	No. Clause 7.6.1 (Page 38) of the Resolution Plan read with Affidavit provided by the RA separately.
	(4)(a) Whether the Resolution Plan is feasible and viable, according to the CoC?	Yes. The Resolution plan is feasible and viable according to the CoC.
	(4)(b) Whether the Resolution Plan has been approved by the CoC with 66% voting share?	Yes. The Resolution Plan has been approved with 100% voting.



4	Section 31(1): Whether the Resolution Plan has provisions for its effective implementation Plan, according to CoC	Yes. Clause 7.6.3 (c) (Page 38) of the plan Clause 7.6.3(c) read with Clause 6 of the Plan
5	Section 35A: Whether the resolution professional made a determination if the corporate debtor has been subjected to any transaction of the nature covered under sections 43, 45, 50, or 66, before the one hundred and fifteenth day of the insolvency commencement date, under intimation to the Board?	No transactions covered under Sections 43,45,50 or 66.

27.3 Compliance under mandatory requirements under IBBI (Insolvency Resolution Process of Corporate Debtors) Regulations, 2016

Regulation 38		
1	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	Yes. Clause 3.3.2. (Page 19) of the Plan
1A	Whether the resolution plan includes a statement as to how it has dealt with the interest of all stakeholders?	Yes. Clause 7.1 (Page 35) Clause 3 (Pages 18-27) Read with Annexure 1 at Pages 65-66) of the Plan Refer to Clause 7.1 read with Clause 3 and Annexure 1 of the Plan.
1B	i) Whether the Resolution Applicant or any of its related parties has filed to implement or contribute to	Yes. Clause 7.6.2 (Page 38) of the Plan

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	the failure of implementation of any resolution plan approved under the Code? ii) If so, whether Resolution Applicant has submitted the statement giving details of such non-implementation?	
2(a)	Whether the Resolution Plan provides the term of the plan and its implementation schedule?	Yes. Clause 6 (Page 31) read with Schedule I (Pages 59-60) of the Plan.
2(b)	Whether the Resolution Plan provides for the management and control of the business of the corporate debtor during its term?	Yes. Clause 5 (Page 29-31) of the Plan.
2(c)	Whether the Resolution Plan provides adequate means for supervising its implementation?	Yes. Clause 6 (Page 31-35) of the plan.
3	Whether the Resolution Plan demonstrates that -	
(a)	It addresses the cause of default?	Yes. (a) Clause 7.6.3 (a) (Page 38) read with Clauses 5 & 5 of the Plan.
(b)	It is feasible and viable?	Yes. Clause 7.6.3 (b) (Page 38) of the Plan
(c)	It has provisions for its effective implementation?	Yes. Clause 7.6.3 (b) (Page 38) of the Plan
(d)	It has provisions for approvals required and the time for the same?	Yes. Clause 7.6.3 (b) (Page 38) of the plan read with timelines set out under Schedule I of the Plan.
(e)	The Resolution Applicant has the capacity to implement the Resolution Plan?	Yes. Requisites Details/ Information/Documents

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		pertaining to eligibility/capability of the Resolution Applicant has been provided by the Resolution Applicant as part of the Resolution Plan/ expression of interest and/ expression of interest and/or as part of the supporting documents with the Resolution Plan/ expression of interest.
Regulation 39		
2	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	No.
4	Provide details of performance security received as referred to in sub-regulation (4A) of Regulation 36.	Yes. As per the terms of the RFRP, Performance Security of INR 5 crores, after adjustment of the EMD already paid at the time of submission of plan shall be provided within 30 days of the issue of Letter of Intent by the RP.

27.4 **The CIRP has been conducted as per the timeline indicated as under:**

Section/ Regulation No.	Description of Activity	Latest Timeline under Regulation 40A	Dates according to Regulation 40A	Actual Date
Section 16(1)	Commencement of CIRP and Appointment of IRP	T	24 November 2023	24 November 2023

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Regulation 6(1)	Publication of Public Announcement	T+3	27 November 2023	28 November 2023- within 1 day of receipt of admission order copy)
Section 15(1)(c)/ Regulation 12(1)	Submission of Claims	T+14	08 December 2023	11 December 2023
Regulation 13(1)	Verification of Claims	T+21	15 December 2023	12 December 2023
Section 26(6A)/ Regulation 15A	Application for Appointment of Authorized Representative, if necessary	T+23	17 December 2023	-
Regulation 17(1)	Filing of Report certifying Constitution of CoC	T+23	17 December 2023	12 December 2023
Section 22(1) and Regulation 17(2)	First Meeting of CoC	T+30	24 December 2023	20 December 2023
Regulation 35A	Determination of fraudulent and other transactions	T+115	18 March 2024	No Fraudulent Transaction
Regulation 27	Appointment of two registered Valuers	T+47	10 January	23 December 2023
Regulation 36(1)	Submission of Information Memorandum to CoC	T+95	27 February 2024	21 February 2024

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Regulation 36A	Invitation of EoI	T+75	07 February 2024	01 January 2024
	Publication of Form G	T+75	07 February 2024	01 January 2024
	Provisional list of Resolution Applicants	T+100	03 March 2024	26 January 2024
	Final list of Resolution Applicants	T+115	18 March 2024	09 February 2024
Regulation 36B	Issue of RFRP including Evaluation Matrix, etc	T+105	08 March 2024	15 February 2024
Section 30(6)/ Regulation 39(4)	Submission of CoC approved Resolution Plan	T+165	07 May 2024	11 May 2024

28. On perusal of Form-H, it is seen that the Resolution Plan is in compliance with the mandatory compliances as stipulated under Section 30(2) of the Code. The Resolution Plan also meets the requirements of Regulations 37, 38, 38(1A) and 39 (4) of the IBBI Regulations, 2016. The SRA has submitted an Affidavit dated 14.03.2024 stating that Resolution Applicant nor any other person who is a connected person (as defined under the IBC) are ineligible under Section 29 A of the IBC. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law.

29. **Supervision of the Resolution Plan from the NCLT Approval date:**

29.1 A Monitoring Committee shall be appointed for the Corporate Debtor. The Monitoring Committee shall comprise of the Resolution Professional, one representative of the CoC and one member nominated by the Resolution Applicant.



30. We also note that Clause 7.17 of the Resolution Plan i.e. No actions by Persons also states that the Creditors may continue with any Proceedings initiated against the Existing Guarantors including Personal Guarantors, however, they shall file necessary applications for removing the Corporate Debtor as a party to such Proceedings.
31. In ***K Sashidhar v. Indian Overseas Bank & Others (2019) 12 SCC 150***, the Hon'ble Apex Court held that if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan, as approved by CoC, meets the requirements specified in Section 30(2). The Hon'ble Apex Court further observed that the role of the NCLT is 'no more and no less'. The Hon'ble Apex Court further held that the discretion of the Adjudicating Authority is circumscribed by Section 31 and is limited to scrutiny of the Resolution Plan "as approved" by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the Adjudicating Authority can reject the Resolution Plan is in reference to matters specified in Section 30(2) when the Resolution Plan does not conform to the stated requirements.
32. In ***Committee of Creditors of Essar Steel India Limited through Authorised Signatory Vs. Satish Kumar Gupta & Ors (2020) 8 SCC 531***, the Hon'ble Apex Court clearly laid down that the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom has approved.
33. In view of the law laid down by Hon'ble Supreme Court, the commercial wisdom of the COC is to be given paramount importance



for approval / rejection of the resolution plan. As the Resolution Plan meets the requirements of the I & B Code and the IBBI Regulations, the same needs to be approved. Accordingly, the **Resolution Plan is approved** with the following directions:

- i. The Resolution Plan submitted by M/s Wadhwa Group Holdings Private Limited is hereby approved. It shall become effective from this date and shall form part of this order. It shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.
- ii. No person will be entitled to initiate or continue any proceedings in respect to a claim prior to CIRP which a part of the Resolution Plan is not.
- iii. The Monitoring Committee shall supervise the implementation of the Resolution Plan and shall review operational performance of the Corporate Debtor.
- iv. The Resolution Professional is further directed to handover all records, premises / documents to Resolution Applicant to finalise further line of action required for starting of the operation as contemplated under the Resolution Plan. The Resolution Applicant shall have access to all the records premises / documents through Resolution Professional to finalise further line of action required for starting of the operations.



- v. As per the Resolution Plan, extinguishment of existing shares of the Corporate Debtor, allotment of shares to the Resolution Applicant and to New Investor and reduction of share capital do not require the consent of shareholders as required under the Companies Act or any other authority for implementation of the Resolution Plan.

i) **Reliefs and Concessions:**

- a) Approval of the Resolution Plan shall not be a ground for termination of any existing consents, approvals, licenses, concessions, authorizations, permits or the like that has been granted to the Corporate debtor or for which the Corporate Debtor has made an application for renewal, grant permissions, sanctions, consents, approvals, allowances, exemptions etc.
- b) Any exemption as sought for in relation to the payment of registration charges, stamp duty, taxes and fees arising out of the implementation of the Resolution Plan is not granted but the Resolution Applicant is at liberty to approach Competent Authorities for the exemptions if permitted under the law.
- c) For past non-compliances of the Corporate debtor under applicable laws the Resolution Applicant shall not be liable for any liabilities and offences committed prior to the commencement of CIRP and as stipulated under Section 32A of IBC, 2016.
- d) It is hereby clarified that in terms of the Judgement of Hon'ble Supreme Court in the matter of ***Ghanshyam Mishra and Sons Private Limited Vs. Edelweiss Asset***



Reconstruction Company Limited, on the date of approval of the Resolution Plan by the Adjudicating Authority, all such claims which are not a part of Resolution Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect of a claim which is not a part of the Resolution Plan.

- e) With regard to other concessions and reliefs, most of them are subsumed in the reliefs granted above. The relief which is not expressly granted above, shall not be construed as granted. The exemptions if any sought in violation of any law in force, it is hereby clarified that such exemptions shall be construed as not granted.
- ii) Any amount out of the action taken against other persons for Preferential/ Fraudulent Transactions u/s. 43 and 66 of the IBC, 2016 as found in the Audit Report and also Unauthorized Transaction post CIRP order, shall be appropriated towards the unsatisfied claims of Secured Financial Creditors.
- iii) The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the concerned Registrar of Companies (RoC), for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.
- iv) The moratorium under Section 14 of the Code shall cease to have effect from this date.

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT III
I.A. 32 of 2024 C.P. No. (IB) 481/MB/C-III/2023



- v) The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this Order for information.
- vi) The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.

34. Accordingly, the Resolution Plan in IA.32 of 2024 is hereby allowed and **approved**.

SD/-

Charanjeet Singh Gulati
Member (Technical)

SD/-

Lakshmi Gurung
Member (Judicial)

Apurva LRA