

**NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH-I**

I.A. (Plan) No. 17 OF 2024

IN

C.P.(IB) No. 679/7/HDB/2018

Application Under Section 30(6) of The Insolvency and Bankruptcy Code 2016,
R/w. Regulation 39(4) of the Insolvency and Bankruptcy Board of India
(Insolvency Process of Corporate Persons) Regulations, 2016.

IN THE MATTER OF IDBI BANK LIMITED VS M/S NEUEON TOWERS LIMITED

Filed by

Dr. Madurai Sundaram Sankar,
Resolution Professional of
M/s. Neueon Towers Limited
A 1206, S & S Sarvam, 200 Feet Radial Road,
Pallikaranai, Chennai-600100, Tamilnadu

**..Applicant/
Resolution Professional**

Date of order: 23.10.2024

Coram:

Dr. N. Venkata Ramakrishna Badarinath, Hon'ble Member Judicial
Shri Charan Singh, Hon'ble Member Technical

Appearance:

For Applicant: Shri B. Harinath Rao, Advocate



PER: BENCH
ORDER

1. The present Application is filed by the Resolution Professional i.e. the Applicant herein (hereinafter referred to as the "Resolution Professional" or the "Applicant") under Section 30(6) read with Regulation 39 (4) of IBBI (CIRP) Regulations 2016, seeking approval of the Resolution Plan submitted jointly by M/s. Preca Solutions India Private Limited, Dr. Madala Srinivasu and Ms. Madala Anithaa, as approved by the Committee of Creditors (COC) with 95.89% of voting share.

2. FACTS AS AVERRED IN THE APPLICATION: -

2.1 **ADMISSION OF THE PETITION AND APPOINTMENT OF INTERIM RESOLUTION PROFESSIONAL / RESOLUTION PROFESSIONAL:**

M/s Neueon Towers Limited/Corporate Debtor is undergoing Corporate Insolvency Resolution Process (CIRP) by virtue of order dated 03.06.2019 passed in CP(IB) No. 679/7/HDB/2018 by this Tribunal. Mr. Dr. Madurai Sundaram Sankar the Applicant herein is appointed as the Interim Resolution Professional (IRP).

2.2 **BRIEF OVERVIEW OF THE CIRP PROCESS**

• **ISSUE OF PUBLIC ANNOUNCEMENT**

The IRP issued Public Announcement in FORM – A in Financial Express and Namasthe Telangana on 05.06.2019 as per Section 15 of Insolvency



and Bankruptcy Code, 2016 Read with Regulation 6 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, inviting claims from the creditors.

- **CONSTITUTION OF COC :**

The Committee of Creditors (COC) was constituted on 24-06-2019 with Nine Financial Creditors, having an aggregate claim amounting to Rs. 3407, 25,26,645-77 Ps. on the basis of claims received by the IRP.

- **CONDUCT OF FIRST COC MEETING AND APPOINTMENT OF REGISTERED VALUERS:**

The first COC meeting was held on 01-07-2019 and all the COC members have approved the appointment of the Applicant herein as RP in terms of Section 22 of the Code (**the Resolution Professional**).

In the second COC held on 23-07-2019, the COC resolved to appoint six valuers as per Regulation 27 of IBBI (Corporate Insolvency Resolution Process for Corporate Persons) Regulations 2016 to value the assets of the Corporate Debtor, viz., Land and Building, Plant and Machinery and Financial Assets to determine the fair value and liquidation value of the Corporate Debtor in accordance with Regulation 35 of the Regulations. Further in the said meeting the expression of interest, evaluation matrix etc., were also approved.

- **TRANSACTION AUDIT:**

The Transaction Audit was carried out by M/s. Rao & Rao, Chartered Accountants, Hyderabad, to determine if there were any transactions



falling within the purview of Section 43, 45, 50 and 66 of IBC, 2016 with a coverage period ranging from 01-04-2019 to 03-06-2019.

• **LIST OF PROVISIONAL RESOLUTION APPLICANT**

4 th COC Meeting	13-09-2019	Provisional resolution applicants were approved
5 th COC Meeting	27-09-2019	Final list of prospective resolution applicants was approved. Tax auditors were appointed for completing the tax audit of the Corporate Debtor

• **EXTENSIONS/EXCLUSIONS GRANTED BY THIS TRIBUNAL:**

Date	IA No.	Extensions/Exclusions granted
22.11.2019	IA 1047/2019	Extension of 90 days granted beyond 180 days w.e.f. 01.12.2019
02.03.2020	IA 206/2020	Extension of 60 days w.e.f. 29.02.2020
30.07.2020	IA 523/2020	Exclusion of lockdown period from CIRP
10.02.2021	IA 1045/2020	Exclusion of 37 days

• **APPROVAL OF RESOLUTION PLAN BY THE COC/ LETTER OF INTENT**

M/s. Longview Resources (HK) Limited has submitted the final plan Dated: 07.10.2020 and the Applicant herein after satisfying that the



resolution plan is in conformity with the provisions of the Code and the Regulations, circulated the same with the COC members vide E-mail Dated: 10.10.2020 and the same was placed in the 27th COC meeting held on 19.10.2020. The e-voting was held from 28.10.2020 to 04.11.2020. The said Resolution Plan was approved with 98.70% voting share.

Pursuant thereto, the Applicant herein has issued Letter of Intent dated 05.11.2020, to the Resolution Applicant and the Resolution Applicant has furnished a Bank Guarantee for Rs. 5,40,93,314/- (Rupees Five Crores Forty Lakhs Ninety-Three Thousand Three Hundred and Fourteen Only), towards Performance Bank Guarantee vide Bank Guarantee of Bank of India No. 862420110000957 dated 12.11.2020 by way of foreign remittance from its sister concern M/s. SAWP Steels Limited, Hong Kong, to be kept as guarantee deposit till the Resolution Plan Period.

In pursuance of the approval of the said Resolution Plan by the COC members under Section 30(4) of the Code, the Applicant herein filed I.A. No. 1114 of 2020 in CP(IB) No. 679/ 7/HDB/2018 for approval of the Resolution Plan submitted by Longview Resources (HK) Limited and Invent Assets Securitization & Reconstruction Private Limited, in terms of Section 31(1) of the Code and Regulation 39(4) of the CIRP Regulations.

However, this Tribunal rejected the Resolution Plan submitted by the successful SRA by Order dated 14-10-2021 and ordered liquidation in the manner laid down in Chapter III of the Code and consequently



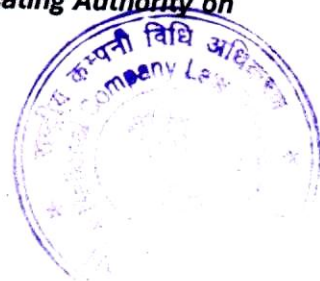
appointed one Sri. Ramchander Rao Bikumalla having Registration No. IBBI/IPA-001/IP-P00740/2017-18/11261 as Liquidator as per Section 34 (4) of the Code and to follow up the Procedure as laid down in the Code.

Sri. Ramachander Rao Bikumalla, the liquidator appointed by this Hon'ble Tribunal by Order dated 14-10-2021 in I.A. No. 1114 of 2020 in CP(IB) No. 679/7/HDB/2018 was allowed to retire on medical grounds vide order passed in I.A. No. 1313 of 2022 in CP(IB) No. 679/7/HDB/2018 dated 17-11-2022 by this Tribunal and appointed Sri. CA Sai Ramesh Kanuparthi as Liquidator of the Corporate Debtor.

2.3 APPEAL FILED BEFORE HON'BLE NCLAT, CHENNAI

The said order dated 14.10.2021 in IA No. 1114 of 2020 has been set aside by the Hon'ble NCLAT, Chennai in an Appeal filed by one of the Operational Creditors / Puissant Towers India Pvt. Limited being Company Appeal (AT) (CH)(Ins) No. 181 of 2022 vide order dated 12.06.2023. The operative portion of the Appellate Tribunal at Para No. 12 is extracted below for sake of convenience.

"For all the afore noted reasons, this Company Appeal Company Appeal (AT) (CH)(Ins) No. 181 of 2022 is allowed and the Order of the Adjudicating Authority directing "Liquidation" is set aside and the matter is remanded to the Adjudicating Authority for approval of the Resolution Plan under Section 31(1) of the IBC Code, 2016. As precious time has lapsed and the IA is of the year 2020, it is hoped and requested that the Adjudicating Authority shall decide the matter of approval of Resolution Plan with 'one week' from the date of this Order. All parties shall appear before the Adjudicating Authority on



14-06-2023. No further 'Notice' is required in this matter. Connected pending Interlocutory Applications, if any, are 'closed'.

- 2.4** Mr. CA Sai Ramesh Kanuparthi, Liquidator has informed the Applicant herein about order dated 12.06.2023 passed by the Hon'ble NCLAT, Chennai in Company Appeal (AT) (CH)(Ins) No. 181 of 2022.
- 2.5** Pursuant to the above order, Mr. Sai Ramesh Kanuparthi, Liquidator, Members of the COC have attended this Tribunal on 14.06.2023 and this Tribunal has posted IA No. 1114 of 2020 on 19.06.2023 for hearing afresh.
- 2.6** In the interregnum, consequent to rejection of the Resolution Plan vide order dated 14.10.2021 in IA No.1114 of 2020 in CP(IB) No. 679/7/HDB/2018, the Successful Resolution Applicant (SRA) filed IA No. 760 of 2021 in CP (IB) No. 679/7/HDB/2018 for refund of EMD/PBG of Rs. 5,40,93,314/- and Security Deposit of Rs. 50 lakhs. Vide order dated 03.01.2022, which the Tribunal allowed directing the Liquidator to refund the same and file compliance report. The Applicant however averred that in pursuance of order dated 03.01.2022, the Liquidator has refunded the EMD, however, security deposit of Rs. 50 lakhs, is still lying with the Corporate Debtor.
- 2.7.** In pursuance of order dated 12.06.2023 of the Hon'ble NCLAT, the Applicant herein has sent emails dated 14.06.2023, 17.06.2023, 21.06.2023 and 27.06.2023 requesting the erstwhile SRA to remit the entire amount of EMD/PBG, to enable the Resolution Plan getting approved by the Tribunal. However, the SRA did not respond.



2.9. FRESH PROCESS OF ISSUANCE OF FORM-G (EXPRESSION OF INTEREST/EOI)

- The Applicant has filed IA No.1124 of 2023 in IA No. 1114 of 2023 seeking permission to

- Withdraw IA No. 1114 of 2020
- Extend CIRP for a further period of 180 days beyond 330 days and
- To issue Fresh Form-G

This Tribunal vide order dated 24.07.2023 has allowed the said IA No. 1124 of 2023 in IA No. 1114/2020, subject to condition that valuation of assets, issuance of fresh Form-G and completion of process be done within 120 days.

- Complying the above said Order dated 24-07-2023, the Applicant herein conducted meeting on 25-07-2023 to discuss on the issuance of Fresh Form-G duly placing the calendar, for completion of CIRP within 120 days and as per the decision taken by the COC, the Fresh Form-G was published in Business Standards, Financial Express (Southern Edition) and Namasthe Telangana on 11-08-2023. The said calendar is extracted below: -

Sl. No.	Event	Dates
1.	Invitation of Eoi- Form G	26-07-2023
2.	Submission of Eoi (giving 15 full days)	11-08-2023
3.	Date of issue of provisional list of prospective resolution applicants (though RP is entitled for 10 days he reduced to facilitate the timelines)	15-08-2023



4.	Last date for submission of objections to provisional list	20-08-2023
5.	Final list of Ras by RP	25-08-2023
6.	Issue of RFRP including Evaluation Matrix and IM	25-08-2023
7.	Receipt of Resolution Plans	25-09-2023
8.	Submission of CoC approved Resolution Plan to AA	31-10-2023
9.	Approval of Resolution Plan by AA	20-11-2023

- On 15-08-2023, the Resolution Professional received three Resolution Plans from (1) M/s. Preca Solutions India Private Limited, (2) M/s. Gurupreeth Galvanising Private Limited and (3) M/s. Suguna Metals Limited along with EMD of Rs.10 Lakhs each and the Provisional list of Prospective Resolution Applicants were declared and placed in the website of the Corporate Debtor.
- The Applicant made all out efforts to adhere to the 120-day time limit given by this Tribunal, conducted COC meetings as under:-
 - **37th Meeting on 25.08.2023**
 - **38th Meeting on 22.09.2023**
 - **39th Meeting on 04.10.2023**
 - **40th Meeting on 12.10.2023**
 - **41st Meeting on 17.10.2023**
- It is further submitted that at a meeting held on 27-10-2023, the COC has appointed agency for conducting due diligence on the RAs. According to the Applicant, as the original RFRP did not pass on the



receivables to the Resolution Applicant, the COC members in the said meeting have decided to modify the RFRP (Request for Resolution Plan), and in order to modify the same as per Regulation 13(B)(5), fresh 30 days' time needs to be given to the PRAs to submit their plans. Accordingly, 90 days' time was extended from 22-11-2023 vide order passed in I.A.No.1783 on 17-11-2023, with a direction to the Resolution Professional to complete the CIRP within the extended period and directed not to seek further extension of time.

- While matter stood thus, one of the Resolution Applicants namely Suguna Metals sent a mail dated 02-12-2023 to the Applicant expressing their intention to withdraw from the fray. Further as per the Due Diligence report received on 30-12-2024 from SignalX, one of the Resolution Applicant namely Preca Solutions India Private Limited did not qualify in terms of Section 29-A of IBC since a company petition has been filed against the said Resolution Applicant by M/s. Binjusaria Ispat Private Limited in CP(IB)8/2023 and the same is pending before Court-2 Hyderabad for adjudication and the said case was listed on 19-01-2024 before the special bench and the same was adjourned to 27-02-2024 to be placed before the regular bench. It is further submitted that basing on the said report this Applicant has rejected the plan submitted by M/s. Preca Solutions India Pvt, U/s.29-A of IBC, as such the RA being aggrieved by the same has filed I.A.No.145 of 2024 and this Hon'ble Tribunal after hearing the parties concerned has passed Orders dated 27-02-2024 directing the Resolution Professional to consider the



Resolution Plan submitted by M/s. Preca Solutions India Private Limited, if it is otherwise as per the law.

- The CIRP period was further extended as under:-
 - 60 days** (beyond 210 days) which was allowed by order dated 20.02.2024 in IA No. 420 of 2024.
 - 45 days** vide order passed in I.A. No. 827 of 2024 dated 30-04-2024
 - 30 days** {beyond 315 days) vide order dated 11.06.2024 in IA No. 1186/2024,
 - 21 days** vide order dated 09.07.2024 in IA No. 1381 of 2024 as the administrative approvals of the FCs on the voting of the Resolution Plans was awaited.
- While matter stood thus, the following developments took place.
 - (a) Aggrieved by the email and letter dated 21-08-2023 issued by the Applicant/RP herein in rejecting its claim to include the outstanding Annual Listing Fee (ALF) with interest payable by the CD for the Financial Year 2020-21 to 2023-24 (4 financial years) aggregating to Rs.13,64,242/- in the CIRP Costs, the Bombay Stock Exchange (BSE) Limited, has filed an Application in I.A. No. 2026 of 2023 in CP(IB) No. 679/76/HDB/2018 against the Applicant and after hearing both sides this Tribunal partly allowed the IA vide order dated 16-04-2024, holding that the ALF is payable only for 3 financial years i.e. 2020-21, 2021-22, 2023-24 and not for 4 financial years, as claimed by BSE, without any interest and directed the BSE to raise a revised invoice of ALF for the above said 3 financial years without levying any interest



within one week from the date of order and further directed the Applicant/RP herein to include the same in CIRP costs and pay it immediately from the available funds.

(b) The Municipal Council, Bollaram Municipality has seized and locked the part of the premises {i.e. Unit IV vide Assessment Door No. 16-62 (PTIN No. 1242103625)} belonging to the Corporate Debtor (erstwhile name M/s. Sujana Steel Unit IV) situated at Bollaram Industrial Area, Bollaram Municipality, Bollaram, Sanga Reddy District, Telangana State, for non payment of property tax for the period from 2021-22 to 2023-24, as such the Applicant/RP herein has filed I.A.No.668 of 2024 in CP(IB)No.679/7/HDB/ 2018 which was allowed vide Order dated 05-04-2024 directing the RP to remit Rs. 2,00,000/- to the Revenue Officer of the Bollaram Municipality, B Sridhar, and further directing the RP to pay the balance amount of arrears of tax on approval of the Resolution Plan. It was further directed that the Municipality on receipt of the said amount shall file compliance memo. Complying the above directions, the Applicant/RP herein has handed over the said amount of Rs. 2,00,000/- by way of Demand Draft/Bankers Cheque bearing No. 030424, dated 30-03-2024 drawn on Bank of India, Kukatpally Branch.

2.10 The Resolution Applicant viz., M/s. Preca Solutions India Private Limited., having entered into a Consortium Agreement dated 09-08-2023 with Dr. Madala Srinivasu and Ms. Madala Anithaa, has submitted the



final resolution plan dated 24-05-2024 and the Applicant herein after being satisfied that the resolution plan is in conformity with the provisions of the Code and the Regulations, has circulated the same with the COC members vide E-mail dated 25-05-2024 and the same was placed in the COC meeting held on 29-05-2024. The e-voting was held from 15-06-2024 to 06-07-2024 and the results were declared on 07-07-2024, wherein the COC members have approved the Resolution Plan submitted jointly by **M/s. Preca Solutions Private Limited** Dr. Madala Srinivasu and Ms. Madala Anithaa, with 95.89% of the voting share of COC in favour of it.

2.11 It is further submitted that, the SRA as per the Letter of Intent on 07-07-2024 furnished a performance bank guarantee of ICICI Bank dated 10-07-2024 for Rs.10,15,00,000/- (Rupees Ten Crores Fifteen Lakhs Only).

3. **CONTOUR OF RESOLUTION PLAN:**

(A) The Successful Resolution Applicants (SRA) **M/s. Preca Solutions India Private Limited** (U45204TG2008PTC060318), incorporated on 28th July 2008, having its Registered Office at Plot No. 6, D.No 2-9/5/6, Greenland Colony, Gachibowli, Hyderabad TG 500019, is engaged in the business of designing, detailing, manufacturing, supplying, and erection of Prestressed Precast Concrete building structures of all ranges.

DR. Madala Srinivasu is a Medical Graduate from Govt. Medical College Guntur. He along with Ms. Madala Anitha has acquired M/s Ind Barath Power Gencom Limited (under Liquidation).



Ms. Madala Anithaa is a promoter of MSA Ventures (P) Ltd. She along with DR. Madala Srinivasu has acquired M/s Ind Barath Power Gencom Limited (under Liquidation).

(B) The COC comprised of the following Financial creditors and distribution of voting share among them is as under: -

Sl. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for / Dissented / Abstained)
1.	IDBI BANK LIMITED	27.43	Voted for
2.	CENTRAL BANK OF INDIA	25.40	Voted for
3.	PUNJAB NATIONAL BANK	20.91	Voted for
4.	UCO BANK	09.01	Voted for
5.	ANDHRA BANK	08.61	Voted for
6.	EDELWEISS ASSET RECONSTRUCTION COMPANY LIMITED	03.21	Voted for
7.	INVENT ASSETS SECURITISATION AND RECONSTRUCTION PRIVATE LIMITED	02.81	Dissented
8.	EXPORT IMPORT BANK OF INDIA	01.32	Voted for
9.	SREI EQUIPMENT FINANCE LIMITED	01.30	Did not vote
	TOTAL	100.00	95.89% Voted for

(C) The Financial Plan and proposed distribution of the Resolution Plan



approved by the CoC is mentioned below.

Amount in lakhs

Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NIL	NIL	NIL	NIL
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	14014.50	14014.50	403	2.88
		(ii) who voted in favour of the resolution plan	326710.77	326710.77	9403	2.88
		Total[(a) + (b)]	3407,25.27	3407,25.27	9806	2.88
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	NIL	NIL	NIL	NIL
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	NIL	NIL	NIL	NIL
		(ii) who voted in favour of the resolution plan	NIL	NIL	NIL	NIL



		Total[(a) + (b)]	NIL	NIL	NIL	NIL
3	Operational Creditors	(a) Related Party of Corporate Debtor	NIL	NIL	NIL	NIL
		(b) Other than (a) above:				
		(i) Government	1819.51	1819.51	10.14	0.56
		(ii) Workmen	0.00	0.00	0.00	0.00
		(iii) Employees	61.93	61.93	10.00	16.15
		(iv) OTHERS	2665.88	2665.88	14.86	0.56
		Total[(a)+ (b)]	4547.32	4647.32	35.00	0.75
4	Other debts and dues		NIL	NIL	NIL	NIL
Grand Total			3452,72.59	3452,72.59	9841.00	2.85

(D) Summary of Source of Funds

The Upfront Cash would be brought in by the Resolution Applicants and/or their Nominees from their own sources and shall be contributed to the Corporate Debtor by the Resolution Applicants and/or their Nominees as follows:

Name of contributor	Method of contribution
PRECA/MS/MA and/or SPV/LLP/QIB/QIP and/or its nominees	Equity, quasi equity, investor loans, Other debt instruments, etc.

The Deferred Cash shall be paid by the Corporate Debtor from its internal accruals/ Resolution Applicants own sources, which shall be contributed




to the Corporate Debtor as equity, quasi equity, investor loans, other debt instruments (as may be applicable in clause 4.1.1) etc.

The contribution towards working capital, capital expenditure, start-up cost and cash loss funding requirement shall be brought in by the Resolution Applicants and/or their Nominees and/or SPV/ LLP/QIB/QIP from their own sources.

The source of funds towards Total Resolution Plan Amount is as under:

(PRECA/MS/MA (equity/quasi equity/investor loan/other debt instruments as per clause 4.1.1)- INR 101,50,00,000/- (Rupees One Hundred One Crore Fifty Lacs Only).

In addition to the above, PRECA/MS/MA their Nominees shall provide working capital support for the operations of the Corporate Debtor up to an amount of Rs. 25 Crore, by way of either equity/ quasi equity/ trade credit/ investor loan/other debt instruments/by way of supply of raw materials, etc. (PRECA/MS/MA will decide as the case maybe), on a need basis, within a period of three (3) years from the 545 days of Trigger Date. On account of the intensive working capital nature of the business of the Corporate Debtor, the Resolution Applicants shall seek financial assistance from the scheduled commercial banks for providing working capital support towards implementation of the Resolution Plan.

The Resolution Applicants shall have the right to implement this



Resolution Plan through a subsidiary/ associate Company/ an SPV/LLP and/or its Nominees. For this, the Resolution Applicants shall identify or incorporate an SPV/ LLP within 30 days of Trigger Date, which shall be compliant with the requirements of Section 29A of the Code. The SPV/LLP may contribute any payments required to be made under this Resolution Plan. Further, the share holding or any other investment in the Corporate Debtor may also be acquired or done through the SPV/LLP/its Nominees.

(E) IMPLEMENTATION SCHEDULE

The Resolution Plan contemplates a total payment of Rs. 101,50,00,000/- payable in four tranches to the stakeholders payable as follows:-

Particulars	Upfront on or before 30 th day from Trigger date (1 st Tranche)	On or before 90 th day from Tigger Date (2 nd Tranche)	On or before 180 th day from Trigger Date (3 rd Tranche)	On or before 270 th day from Trigger Date (4 th Tranche)	Total
Cash instalment payment to stakeholders	25,37,50,000/-	25,37,50,000/-	25,37,50,000/-	25,37,50,000/- (25,37,50,000-10,15,00,000 performance guarantee in form of deposit, if any and inclusive of EMD-	1,01,50,00,000/-
Total payment to stakeholders	25,37,50,000/-	25,37,50,000/-	25,37,50,000/-	25,37,50,000/-	1,01,50,00,000/-

(F) MONITORING COMMITTEE




A monitoring Committee comprising of two lead members from COC and one Member from the Resolution Applicant and the Resolution Professional as Chairman shall be constituted to supervise the implementation of the resolution plan.

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

The Applicant has conducted a thorough compliance check of the Resolution Plan in terms of the Code as well as Regulations 38 & 39 of the Insolvency and Bankruptcy Board of India (Corporate Insolvency Resolution Process) Regulations, 2016 and has filed Form 'H' prescribed under Regulation 39(4) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The fair value and Liquidation value as submitted in Form-H is Rs. 135.88 Crores and Rs. 94.56 crores respectively.

4. In the above backdrop we heard Mr. B. Harinath Rao, Ld. Counsel for the Resolution Professional. He submits that the Resolution Plan meets the requirement of Section 30 (2) of the Code, as under: -

Section	Provisions of 30 (2) of the IBC	Relevant clause / page no. of Resolution Plan document
Section 30 (2) (a):	Whether the plan provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the payment of other debts of the corporate debtor;	(Clause3.2.2). The Resolution Plan considers payment of the CIRP Costs of Rs. 10,58,57,349/- for the period from 03.06.2019 to 30.06.2024 and has also approved further expenses that would be incurred from 01.07.2024 till the



		date of approval, on priority over other dues, as ratified by the COC members with 90.09% voting in the 53 rd COC meeting held on 29.05.2024.
Section 30 (2) (b)	Whether the plan provides for the payment to the Operational Creditors	(Clauses 3.3 & 3.4 of the Resolution Plan): The plan provides for payment of Rs. 35 lakhs to operational creditors (including workmen/employees/statutory dues excluding EPF authority)
Section 30 (2) (c)	Payment to Financial creditors who did not vote in favour of the resolution plan	Clause 3.6.5 of the Resolution Plan: The dissenting Financial Creditor shall be paid proportionately in priority to the Assenting Financial Creditors in every instalment of the aforesaid redemption.
Section 30 (2)(d)	Management of the affairs of the Corporate Debtor after approval of the resolution plan	Clause 5 of the Resolution Plan.
Section 30 (2)(e)	Whether the plan provides for the implementation and supervision of the resolution plan	Clause 6 of the Resolution Plan
Section 30 (2)(f)	That the plan does not contravene any of the provisions of the law for the time being in force	Clause 7.6.1 of the Resolution Plan. Declaration by the Resolution Applicant that the plan does not contravene any of the provisions of the applicable laws for the time being in force. (page 45 of the Resolution Plan)

The Resolution Plan is in compliance of Regulation 38 of the Regulations in the following manner:

CIRP	Provisions of CIRP Regulations	Relevant clause / page no. of
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Regulation		Resolution Plan document
Regulation 38(1)(a)	The amount payable under the resolution plan to the operational creditors, shall be paid in priority over financial creditors.	Yes. Clause 3.3 & 3.4 of the Resolution Plan.
Regulation 38(1A)	The resolution plan shall include a statement as to how it has dealt with interest of all stakeholders including Financial Creditors and Operational Creditors of the Corporate Debtor.	Clause 7.1 of the Resolution Plan. Declaration by the Resolution Applicant that the Resolution Plan has considered the interest of all the stakeholders of the Corporate Debtor, keeping in view the objectives of the Code. The treatment of each stakeholder has been set out in clauses 3.2 to 3.8.
Regulation 38(1B)	The 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 7.6.2 of the Resolution Plan. Declaration by the Resolution Applicant that neither the Resolution Applicant nor any of its related party has either failed or contributed to the failure of the implementation of any Resolution Plan approved under the Code. (page 45 of the Plan)

5. At the outset we refer to the following judgements: -

- (a) Hon'ble Apex Court in *re Sashidhar v. Indian Overseas Bank & Others* (in Civil Appeal No. 10673/2018) held that

"if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per Section 30 (6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority. On receipt of such proposal, the Adjudicating Authority (NCLT) is required to satisfy itself that the resolution plan as approved by CoC meets the requirements specified in Section 30(2). No more and no less".

- (b) The Hon'ble Supreme Court has further held at para 35 of the above judgement that:





the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 limited to scrutiny of the resolution plan "as approved" by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the adjudicating authority can reject the resolution plan is in reference to matters specified in Section 30(2), when the resolution plan does not conform to the stated requirements.

- (c) The Hon'ble Supreme Court in **Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors**, held that:-

"the limited judicial review available to AA has to be within the four corners of section 30(2) of the Code. Such review can in no circumstance trespass upon a business decision of the majority of the CoC. As such the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved".

- (d) The Hon'ble Supreme Court of India, in the recent ruling in re **Vallal RCK vs M/s Siva Industries and Holdings Limited & Ors**, has held as under:-

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

27. This Court has, time and again, emphasized the need for minimal judicial interference by the NCLAT and NCLT in the framework of IBC.



We may refer to the recent observation of this Court made in the case of Arun Kumar Jagatramka v. Jindal Steel and Power Limited and Another:

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

6. According to the Applicant from the date of commencement of CIRP to till date of filing this instant application a total of 53 COC meetings were convened.
7. It is further observed that when the instant IA came up for hearing on 13.09.2024 along with IA No. 433 of 2024 filed by the Applicant against the Assistant Commissioner (ST) and others, the Bench sought clarification as to when the Resolution Applicants will vacate/ remove the plant and machinery from the lease hold land admeasuring Ac 1-00 Gts situated at Bollaram, belonging to M/s Tirumala Re-rolling Mills Private Limited (over which the Assistant Commercial (ST) and other have issued notices for non-payment of commercial tax dues) over which the Corporate Debtor is in possession by way of lease, though the said land is not included in the Resolution Plan. Accordingly, the Applicant sent a mail to the Resolution Applicant on 13.09.2024. The



issue was discussed in the COC meeting on 18.09.2024 and the Resolution Applicants sought time for a period of four months from the date of approval of the Resolution Plan by this Tribunal, to vacate the leased premises.

8. It is further observed from the Form-H compliance report filed by the Resolution Professional that the total resolution amount provided by the Resolution Applicant is Rs. 101,50,00,000/- and the amount provided to the stakeholders is Rs 9141.00 lakhs as against the admitted amount of Rs. 3452,72.59 lakhs (hair cut of 97.15%).
9. Therefore, the resolution plan, when tested on the touch stone of the aforesaid facts and the rulings, we are of the view that the instant resolution plan satisfies the requirements of Section 30 (2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. We also find that the Resolution Applicant is eligible to submit the Resolution Plan under Section 29A of the Code.
10. We therefore, hereby approve the Resolution Plan submitted by M/s Preca Solutions India Private Limited, Mr Madala Srinivasu and Ms. Madala Anithaa jointly ("Successful Resolution Applicant") along with annexures, schedules forming part of the Resolution Plan annexed to the Application and order as under:-
 - (a) The Resolution Plan along with annexures and schedules forming part of the plan shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the




- payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.
- (b) All crystallized liabilities and unclaimed liabilities of the Corporate Debtor as on the date of this order shall stand extinguished on the approval of this Resolution Plan.
- (c) The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/ liabilities of the Corporate Debtor and shall be dealt with by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned as held by Hon'ble Supreme Court in the matter of ***Ghanashyam Mishra & Sons Private Limited Versus Edelweiss Asset Reconstruction Company Limited in CIVIL APPEAL NO.8129 OF 2019 dated 13.04.2021.***
- (d) It is hereby ordered that performance bank guarantee of Rs. Rs.10,15,00,000/- /- furnished by the Resolution Applicant shall remain as performance Guarantee till the amount proposed to be paid to the creditors under the plan, is fully paid off and the plan is fully implemented.
- (e) The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC) Hyderabad for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.



- (f) Henceforth, no creditors of the erstwhile Corporate Debtor can claim anything other than the liabilities referred to supra.
- (g) The moratorium under Section 14 of the Code shall cease to have effect from this date.
- (h) 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.
- (i) The Successful Resolution Applicant is hereby granted four month's time to vacate the lease hold land at the Bollaram facility belonging to M/s Tirumala Re-Rolling Private Limited situated at Jinnaram bearing Plot No. 159 B in Survey No. 172/A admeasuring Ac.1.00 IDA Bollaram Jinnaram Mandal as agreed vide their letter dated 13.09.2024.
- (j) The Resolution Professional immediately on receipt of this order of approval of the Resolution Plan is directed to remit the balance amount of arrears of tax to the Revenue Officer of the Bollaram Municipality, B Sridhar and file compliance report to the Registry.
- (k) As regards the relief of demerger of the factory units at Bollaram and Khanapur from the Corporate Debtor, we direct the SRA to approach this Tribunal, if it wish so, through a separate application giving details of the demerger plan, after making payment of the 1st Tranche payment.
- (l) The Applicant is directed to refund the Security Deposit of Rs. 50 lakhs lying in the account of Corporate Debtor, to the Unsuccessful Resolution Applicant, in compliance of the order of this Tribunal in IA No. 760/2021 dated 03.01.2022.

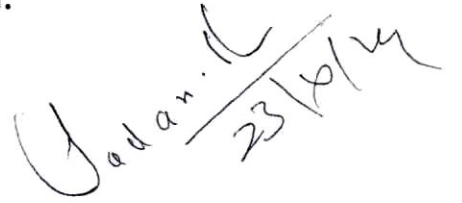


- (m) The Applicant shall forthwith send a copy of this order to the CoC and the Resolution Applicant.
- (n) The Registry is directed to furnish free copy to the parties as per Rule 50 of the NCLT Rules, 2016.
- (o) The Registry is directed to communicate this order to the Registrar of Companies, Hyderabad for updating the master data and also forward a copy to IBBI.
- (p) Accordingly, IA (plan) 17/2024 stands disposed of.


23-10-2024

(CHARAN SINGH)
Member (Technical)

(DR. N. VENKATA RAMAKRISHNA BADARINATH)
Member (Judicial)


23/10/24

Binnu




Deputy Registrar / Assistant Registrar / Court Officer
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER Cp(10) No. 679/7/HDB/2018.
निर्णय का तिथि
DATE OF JUDGMENT 23/10/24.
प्रति तैयार किया गया तिथि
COPY MADE READY ON 4.11.24.