

Resolution Process (CIRP) in the case of Quality Rice Exports Pvt. Ltd. (hereinafter referred to as Corporate Debtor). The petition was filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as Code). The petition was admitted by order dated 28.02.2018 and moratorium in terms of Section 14(1) of the Code was declared. Vide order 08.03.2018, Ms. Mandeep Gujral, Regn. No.IBBI/IPA-001/IP-P00507/2017-18/10908 was appointed as Interim Resolution Professional (IRP). The IRP was appointed as Resolution Professional (RP) by the Committee of Creditors (COC) of the Corporate Debtor in its first meeting held on 07.04.2018.

2. The present application CA No.348/2018 is filed by the RP under Section 31 of the Code read with Regulation 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as Regulations) for approval of the resolution plan by the Adjudicating Authority as approved by the COC. It is submitted that the resolution plan approved by the COC has been given by M/s Chiman Lal Gian Chand, a partnership firm having four partners namely Shri Sanjeev Kumar, Shri Aman Deep Goyal, Shri Arun Kumar and Shri Kamaldeep. The principal place of the business of the firm is at Bye Pass Road, Nial, Patran, the Patran District, Patiala; the main object of the partnership firm is to carry on the business of rice sheller and purchase and resale of food grains, paddy and rice.

3. It is stated that after appointment, the IRP made a public announcement in Business Standard (English Edition) and Punjab Kesri (Punjabi Edition) dated 11.03.2018 and 12.03.2018 respectively for intimation of the corporate insolvency resolution process of the corporate debtor and for

calling the creditors to submit their claims alongwith proof in the prescribed form. It was stated that the COC of the corporate debtor was constituted by the IRP on 30.03.2018, comprising of State Bank of India (SBI) as the only financial creditor with 100% voting share. It is further stated that in the second meeting of the COC held on 10.04.2018, approval was given by the COC for publishing of Expression of Interest (EOI) in the newspaper for inviting potential resolution applicants to invest in the assets of the corporate debtor by presenting resolution plan and that the EOI was published vide advertisement in newspapers, Economic Times and Punjabi Jagran on 12.04.2018 and that in pursuance of EOI, three prospective resolution applicants showed their interest and the Information Memorandum was shared with them after obtaining the requisite undertaking. It is stated that reports were obtained from the registered valuers and the liquidation value of the corporate debtor was thereby estimated at ₹7.4 crores.

4. It is stated that in the third meeting of the COC held on 25.05.2018, the three resolution applicants were invited to attend the meeting for discussions with the COC members but only two applicants attended the meeting and one of the prospective applicants namely Mr. Ankush Goyal requested for further time to submit the revised terms. It is stated that after further deliberation, the COC decided to give a last opportunity to both the resolution applicants to submit summary of revised financial terms by 28.05.2018 only if the prospective applicants fulfil the conditions laid down in the evaluation matrix.

5. The fourth meeting of the COC is stated to be held on 28.05.2018 in which only one of the resolution applicant namely; Mr. Sanjeev Kumar (on

behalf of Chiman Lal Gian Chand) attended the meeting and since he was not willing to further negotiate, the COC members accepted the financial terms in principle subject to submission of detailed resolution plan. It is stated that the RP examined the resolution plan submitted by M/s Chiman Lal Gian Chand and found the same to be compliant with the requirements of Section 30(2) of the Code read with Regulation 38 of the Regulations and therefore, provided the said plan to the members of COC on 07.06.2018. It is stated that during the discussion in the fifth meeting of the COC held on 22.08.2018, the RP apprised the COC that fully compliant resolution plan was provided to the COC members for their approval; the sole financial creditor, SBI conveyed that written consent has been received from the competent authority of SBI and hence the resolution plan submitted by M/s Chiman Lal Gian Chand stands approved by COC with 100% voting share. It is submitted that since the resolution plan was approved by vote of 100% of voting share of the financial creditor, the resolution plan stands approved by the COC and therefore, the RP is making the present application to the Adjudicating Authority for the approval of the COC approved resolution plan.

6. Vide order dated 31.08.2018, it was *inter alia* observed that the Adjudicating Authority would like to hear the COC and resolution applicant on the application and that Shri Arvind Kochhar, Assistant General Manager, SBI and Mr. Krishan Vrind Jain, CA for the resolution applicant accepted the notice. It was directed that the complete copy of the application be supplied to Mr. Krishan Vrind Jain, CA and Mr. Arvind Kochhar, AGM, SBI during the course of the day and the reply/objection, if any, be filed at least three days before the date fixed and the matter was listed on 17.09.2018. On noticing

certain discrepancies in the compliance certificate and Form H filed with the application, it was also directed on 31.08.2018 that the RP shall appear in person on the next date and shall also file a fresh affidavit.

7. In compliance with the directions of 31.08.2018, compliance certificate in Form H was filed by diary No.3478 dated 14.09.2018. However, during the course of hearing on 17.09.2018, it was observed that the certificate in Form H did not provide necessary details on certain aspects for which the RP sought time to file fresh Form H. During the hearing on 17.09.2018, Shri Krishan Vrind Jain, Practising CA for the resolution applicant and Mr. Arvind Kochhar, AGM, SBI, SAMB Branch, Ludhiana were present. However, reply/objections as per the order dated 31.08.2018 were not filed either by the Resolution Applicant or by the SBI. Ms. Divya Sharma, Advocate for the Corporate Debtor was also present during the hearing on 17.09.2018. In compliance of the order dated 17.09.2018, fresh certificate in Form H was filed vide diary No.3557 dated 19.09.2018 and with regard to the suspicious transactions reference of which is made in Form H it was submitted that appropriate application will be filed by 25.09.2018.

8. During the course of the hearing it was submitted by the RP as well as the learned counsel that the resolution plan submitted by M/s Chiman Lal Gian Chand has been duly approved with 100% voting share by the COC in its meeting held on 22.08.2018 and that the resolution plan is fully compliant with the provisions of the Code and the Regulations. It is therefore, submitted by the RP and the learned counsel that the resolution plan be approved by the Adjudicating Authority under Section 31 (1) of the Code. During the course of hearing no objections were raised by SBI Ludhiana, the only financial creditor

by the Directors of the Suspended Board of Directors of the Corporate Debtor; nor by the resolution applicant. The authorized representative of the resolution applicant stated on instructions during the course of hearing on 17.09.2018 that the resolution applicant does not insist upon carrying forward of the losses to take advantage of Section 79 of the Income Tax Act, 1961 and accordingly, the resolution plan may be modified.

9. We have carefully considered the arguments of the learned counsel for the resolution professional, authorized representative for the resolution applicant, representative of SBI financial creditor COC, and have also perused the records.

10. The instant application is filed for the approval of the Adjudicating Authority for the resolution plan approved by the COC. The resolution plan under consideration is given by M/s Chiman Lal Gian Chand a partnership firm having four partners namely Shri Sanjeev Kumar, Shri Amandeep Goyal, Shri Arun Kumar and Shri Kamaldeep and the main objective of the partnership firm is stated to be carrying on the business of rice sheller and purchase and resale of food grains, paddy and rice. We may add here that as per Part C of the Information Memorandum (Annexure-O of the application), the nature of business of the corporate debtor is manufacturer of rice and additional business is stated to be processing, shelling, marketing, buy, sell, export and import of paddy, rice, wheat, maize, gram, pulses and all types of seeds.

11. As already discussed above, the compliance certificate in Form H (as finally amended) was submitted by RP as Annexure-2 of diary No.3557 dated 19.09.2018. In para 5 of the compliance certificate, the details of financial creditors of the corporate debtor being members of the COC is given

as under:-

5. The list of financial creditors of the CD [**Quality Rice Exports private Limited**] being members of the COC and distribution of voting share among them is as under:

S. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for / Dissented / Abstained)
1.	State Bank of India (SBI)	100%	Voted for

12. In para 7 of Form H the amounts provided for the stakeholders under the resolution plan are stated as under:-

(Amount in Rs. Crores)

S. No	Category of Stakeholder*	Amount Claimed	Amount Admitted	Amount Provided under the Plan #	Amount Provided to the Amount Claimed (%)
1	Dissenting Secured Financial Creditors	-	-	-	-
2	Other Secured Financial Creditors	23.88	23.88	10.86	45.47
3	Dissenting Unsecured Financial Creditors	-	-	-	-
4	Other Unsecured Financial Creditors	-	-	-	-
5	Operational Creditors	5.52	5.52	-	Nil
	Government	0.185	0.185	-	Nil
	Workmen	-	-	0.02	100.00
	Employees	-	-	-	-
.....					
6	Other Debts and Dues	-	-	-	-
Total		29.585	29.585	10.88	

Amount provided over time under the Resolution Plan and includes estimated value of non-cash components. It is not NPV.

13. SBI is the only financial creditor and the amount provided under the resolution plan is 45.47% of the amount claimed. The liquidation value of the corporate debtor is stated to be ₹7.40 crores and the fair value ₹8.63 crores (refer para 2 of Form H supra). Taking into consideration the extent of the provision under the Resolution plan for SBI, an opportunity of hearing was granted to the COC and Mr. Arvind Kochhar, AGM, SBI accepted the notice (refer order dated 31.08.2018). Reply/objections, if any, were required to be filed at least three days before the next date fixed of 17.09.2018. However, no reply/objections were received and on the date fixed of 17.09.2018 Shri Arvind Kochhar, AGM, SBI was present and did not raise any objection to the resolution plan. We may add here that the provision for payment to the operational creditors is NIL as per liquidation value. The resolution plan provides for payment of ₹0.02 crores towards dues of workmen within 30 days of approval of plan by the Adjudicating Authority. The workmen dues of 24 months prior to CIRP period is ₹0.05 crores and therefore, the payment is proposed to be made to the workmen on pro rata basis. No provision under the plan is made for Government dues. This will be considered later. The extent of payment under the resolution plan to the financial creditor SBI is a matter relating to the banking and commercial wisdom of the bank. Therefore, this decision is not being further examined.

14. Section 31(1) of the Code is as follows:-

“If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall

by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, guarantors and other stakeholders involved in the resolution plan.”

Provided that the Adjudicating Authority shall, before passing an order for approval of resolution plan under this sub-section, satisfy that the resolution plan has provisions for its effective implementation.

15. In the present case, the resolution plan is stated to be approved by the COC in its fifth meeting held on 22.08.2018. As discussed above, the COC is constituted with only one financial creditor i.e. SBI having 100% voting share. SBI is stated to have voted in favour of the resolution plan and therefore, the resolution plan has been approved by the COC with 100% voting share under sub section (4) of Section 30 of the Code. In the compliance certificate in Form H (para No.4), the RP has certified that the resolution plan complies with all the provisions of the Code and Regulations and does not contravene any of the provisions of the law for the time being in force and the resolution applicant M/s Chiman Lal Gian Chand has submitted an affidavit pursuant to Section 30(1) of the Code confirming its eligibility under Section 29A of the Code to submit the resolution plan and the contents of the said affidavit are in order.

16. Section 30(2) of the Code reads as follows:-

“The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan—

(a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the repayment of other debts of the corporate debtor;

(b) provides for the payment of the 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 section 53;

(c) provides for the management of the affairs of the Corporate debtor after approval of the resolution plan;

(d) the implementation and supervision of the resolution plan;

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

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

17. In para 9 of Form H supra, the compliance of the resolution plan is given as under:-

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance (Yes / No)
25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the COC having regard to the complexity and scale of operations of business of the CD?	Yes, as per Evaluation Matrix at Page no 211-212 and Page no 217 (minutes of the 4 th COC)	Yes
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Yes, as per affidavit on Page no. 372-379 and Evaluation Matrix at Page no 211-212	Yes
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Yes, as per affidavit at Page no 372-379	Yes
Section 30(2)	Whether the Resolution Plan: (a) provides for the payment of insolvency resolution process costs?	Yes, at Page No 256 point I Resolution applicant has proposed to pay estimated insolvency resolution process cost to the extent of Rs.0.20 Crores in priority to the repayment of other debts of the corporate debtor.	Yes

	<p><i>(b) provides for the payment of the debts of operational creditors?</i></p>	<p><i>At Page No 256 point II As per Section 30 (2) (b) of the IBC, 2016 payment of debts of operation creditors should be 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 Section 53.</i></p> <p><i>Since there is no surplus available to operational creditors (Trade Creditors, Service Providers, Employees & Other Creditors) from realizable value of assets of the Corporate Debtor as assessed by the Resolution applicant, it is not mandatory to pay any amount to operational creditors under the provisions of IBC, 2016. Hence no amount is proposed for repayment of dues of operational creditors.</i></p> <p><i>However dues of Rs.0.02 cr out of outstanding workmen dues of Rs. 0.05 cr as on date of CIRP are proposed to be paid in the resolution plan which thus conforms the provisions of IBC, 2016 for payment to the extent of liquidation value.</i></p>	
	<p><i>(c) provides for the management of the affairs of the Corporate debtor?</i></p>	<p><i>Yes, at Page No 256-257 point IV</i></p> <p><i>After approval of the Resolution Plan by the Adjudicating authority, the corporate debtor will be owned, managed and controlled by the Resolution Applicant.</i></p>	

	<p><i>(d) provides for the implementation and supervision of the resolution plan?</i></p>	<p>Yes, at Page No 257 point V</p> <p><i>The Resolution Applicant undertakes that on approval of the Resolution Plan by the Adjudicating Authority, it shall comply with all the stipulations mentioned in the Resolution Plan proposed herein.</i></p> <p><i>Further the Resolution Applicant also proposes to appoint a Monitoring and Supervising Professional as would be decided by the Secured Financial Creditor, being the only member of the Committee of Creditors.</i></p> <p>Page no 226 point 4 (minutes of the 5th COC)</p> <p>Provision for Implementation & Supervision of the Resolution Plan Section 30 (2) (d).</p> <p><i>The Resolution Plan states: The Resolution Applicant undertakes that on approval of the Resolution Plan by the Adjudicating Authority, it shall comply with all the stipulations mentioned in the Resolution Plan proposed herein. Further the Resolution Applicant also proposes to appoint a Monitoring and Supervising Professional as would be decided by the Secured Financial Creditor, being the only member of the</i></p>	
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		<p>Committee of Creditors. The matter was discussed in the COC meeting held on 22.08.2018, and the COC members have resolved to appoint Ms Mandeep Gujral (RP in the matter of Quality Rice Exports Private Limited) as the monitoring and supervising agency to ensure effective implementation of the Resolution Plan at a lump sum fee of Rs. 50,000 for the term of the plan.</p>	
	(e) contravenes any of the provisions of the law for the time being in force?	No	
Section 30(4)	<p>Whether the Resolution Plan</p> <p>(a) Is feasible and viable, according to the COC?</p> <p>(b) has been approved by the COC with 66% voting share?</p>	<p>Yes, as per Evaluation Matrix at Page no. 211-212 and Page no 217 (minutes of the 4th COC)</p> <p>Yes, at Page No 222-223 (minutes of the 5th COC)</p> <p>“RESOLVED THAT, the Resolution Plan submitted by M/s Chimam Lal Gian Chand be and hereby approved by COC with 100% voting and Resolution Professional Ms. Mandeep Gujral is hereby authorized to move an application under section 31 for approval of resolution plan from adjudicating authority.”</p>	Yes

Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the COC?	Yes, at Page No 257 point V and Page no 226 point 4 (minutes of the 5 th COC)	Yes
Regulation 35A	Where 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?	Transaction Audit report dated 15.09.2018 received on 18.09.2018. The Resolution Professional has identified certain transactions that need examination and hence is in the process of filing the application under the relevant sections of the Code. An undertaking to this effect is mentioned in the compliance affidavit.	Yes
Regulation 38 (1)	<p>Whether the Resolution Plan identifies specific sources of funds that will be used to pay the –</p> <p>(a) Insolvency resolution process costs?</p> <p>(b) Liquidation value due to operational creditors?</p>	<p>Yes at Page no 250-251(Means of finance)</p> <p>At page no 256 point II</p> <p>As per Section 30 (2) (b) of the IBC, 2016 payment of debts of operation creditors should be 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 Section 53.</p> <p>Since there is no surplus available to operational creditors (Trade Creditors,</p>	Yes

		<p><i>Service Providers, Employees & Other Creditors) from realizable value of assets of the Corporate Debtor as assessed by the Resolution applicant, it is not mandatory to pay any amount to operational creditors under the provisions of IBC, 2016. Hence no amount is proposed for repayment of dues of operational creditors.</i></p>	
	<p><i>(c) Liquidation value due to dissenting financial creditors?</i></p>	<p><i>Yes, at Page no. 256 point III</i></p> <p><i>According to the provisions of the Insolvency & Bankruptcy Code, 2016, in case the financial creditors representing a minority stake do not consent to the repayments as proposed in the Resolution Plan, then such dissenting creditors would be eligible for payment of such amount as they would get, in the event of liquidation of the Corporate Debtor and further such amount shall be paid to the dissenting creditors in priority to any payment being made to consenting creditors.</i></p> <p><i>Since in the present case, there is only one financial creditor, there shall not be any dissenting creditor to be treated separately.</i></p>	
<p><i>Regulation 38(1A)</i></p>	<p><i>Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?</i></p>	<p><i>Yes at Page No 257 point VI</i></p> <p><i>The interest of all stakeholders is being met as under:</i></p> <p><i>1. Workmen dues amounting to Rs. 0.02</i></p>	<p><i>Yes</i></p>

		<p>Crores are being paid as against lower Liquidation value available under section 53 of the Insolvency and Bankruptcy Code, 2016.</p> <p>2. The secured financial creditor namely State Bank of India is being paid 10.86 Crores</p> <p>3. Corporate Debtor will be a going concern and will generate employment in the local region.</p> <p>4. The amount proposed to be paid under the plan is insufficient to pay the dues of the secured financial creditors; hence no mandatory payment is required to be made to the Operational Creditors under the Insolvency & Bankruptcy Code, 2016.</p>	
Regulation 38(2)	<p>Whether the Resolution Plan provides:</p> <p>(a) the term of the plan and its implementation schedule?</p> <p>(b) for the management and control of the business of the corporate debtor during its term?</p>	<p>Yes at Page no 258 point VII</p> <p>Term of the resolution plan is 45 days from the date of approval of resolution plan by adjudicating authority.</p> <p>Yes at Page no 256-257 point IV</p> <p>After approval of the Resolution Plan by the Adjudicating authority, the corporate debtor will be owned, managed and</p>	Yes

		controlled by the Resolution Applicant.	
	(c) adequate means for supervising its implementation?	Yes, at Page no 257 point V and Page no. 226 point 4 (minutes of the 5 th COC)	
38(3)	<p>Whether the resolution plan demonstrates that –</p> <p>(a) it addresses the cause of default?</p> <p>(b) it is feasible and viable?</p> <p>(c) it has provisions for its effective implementation?</p> <p>it has provisions for approvals required and the timeline for the same?</p> <p>(e) the resolution applicant has the capability to implement the resolution plan?</p>	<p>The resolution plan does not specifically address the cause of default</p> <p>Yes, as per evaluation matrix at page no 211-212 and page no 217 (minutes of the 4th COC)</p> <p>Yes</p> <p>No Approval is required</p> <p>Yes, at Page no 240</p> <p>M/s Chiman Lal Gian Chand is a partnership firm having four (4) partners namely, Sh. Sanjeev Kumar, Sh. Amandeep Goyal, Sh. Arun Kumar and Sh. Kamaldeep. The Principal place of the business of the firm is Bye Pass Road, Nial, Patran, Teh. Patran Distt. Patiala. The main objective of this partnership firm is to carry on the business of Rice Sheller and purchase and resale of food grains, paddy, rice. With the target of expanding its business, the Resolution Applicant, pursuant to the</p>	Yes

		<i>advertisement published by the Resolution Professional, is submitting a Resolution Plan for participating in the Insolvency Resolution Process of the Corporate Debtor, i.e., Quality Rice Exports Private Limited.</i>	
39(2)	<i>Whether the RP has filed applications in respect of transactions observed, found or determined by him?</i>	<i>Transaction Audit report dated 15.09.2018 received on 18.09.2018. The Resolution Professional has identified certain transactions that need examination and hence is in the process of filing the application. An undertaking to this effect is mentioned in the compliance affidavit.</i>	Yes

18. The compliance of the requirements provided for in Section 30(2) of the Code are further discussed as under:-

Section 30(2)(a):- It is stated that the resolution applicant has proposed to pay the estimated insolvency resolution process cost of ₹0.20 crores in priority to the repayment of other debts of the corporate debtor.

Section 30(2)(b):- As discussed above, the liquidation value of the corporate debtor as regards operational creditors is NIL. Therefore, it is stated that there is no provision under the resolution plan for payment to operational creditors and Government dues. With reference to payment of workmen dues, ₹0.02 crores is stated to be provided under the resolution plan. It has been reported in para Q of the application that the workmen dues of 24 months prior to CIRP period is ₹0.05 crores and therefore, payment to the workmen will be made on pro rata basis.

Section 30(2)(c):- It is stated in the resolution plan (page 256 and 257 of the application) that after approval of the resolution plan by the Adjudicating Authority, the corporate debtor will be owned, managed and controlled by the resolution applicant and to enable to control and management of the corporate debtor by the resolution applicant, the resolution applicant (and his nominee) shall acquire all existing shares of the corporate debtor from the existing shareholders @ 0.10 per share and that after acquisition, the four partners of the resolution applicant will hold 25% of the shares each.

Section 30(2)(d):- It is stated in the resolution plan that on approval by the Adjudicating Authority, the resolution applicant shall comply with all the stipulations mentioned in the resolution plan. Monitoring and supervising personnel is also proposed to be appointed. It is stated that in the fifth meeting of the COC held on 22.08.2018, the COC resolved to appoint the RP Ms. Mandeep Gujral as the monitoring and supervising agency to ensure effective implementation of the resolution plan at a lump sum fee of ₹50,000/- for the term of the plan.

Section 30(2)(e):- as already noted above, the RP has certified in para No.4 of Form H that the resolution plan does not contravene any of the provisions of the law for the time being in force.

Para 30(2) (f):- As already stated above, the RP has certified in para No.4 of Form H that the resolution plan complies with all the provisions of the Regulations.

19. We now proceed to examine whether the resolution plan has provisions for its effective implementation (proviso to Section 31 (1) of the

Code). As already discussed above, the resolution plan was approved by the COC with 100% voting share in its fifth meeting held on 22.08.2018. The minutes of the meeting are at Annexure-L of the application and the main contents of the resolution plan are part of the minutes. The same are reproduced as under:-

MAIN CONTENTS OF THE RESOLUTION PLAN

1. *Insolvency resolution process costs consist of following:*

Sr. No	Particulars	Amount Rupees
1.	<i>Fees of IRP/RP</i>	<i>0.08</i>
2.	<i>Cost of Registered Valuer</i>	<i>0.01</i>
3.	<i>Publication Expenses</i>	<i>0.01</i>
4.	<i>Security & Placement Service Charges</i>	<i>0.04</i>
5	<i>Expenses incurred Under CIRP (Travelling/Stationary/Consultancy/Application</i>	<i>0.06</i>
Total		0.21

PROPOSAL:

The Resolution Applicant proposes an amount of 11.58 Crores, which shall include

Sr. No	Particulars	Amount (In Crores)
1	<i>Payment of CIRP Cost</i>	<i>0.20</i>
2	<i>Payment to secured Creditors</i>	<i>10.86</i>
3	<i>Payment to Workman/Employees dues</i>	<i>0.02</i>
4	<i>Introduction of Working Capital</i>	<i>0.50</i>

Total	11.58
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2. The Resolution Plan envisages following payments:

(Amount in Crores)

Name of the Creditor	Book Balance As on CIRP Date	Claim Admitted	Repayment under resolution Plan	Reliefs out of claims	Reliefs out of Book Balance
<i>CIRP COST</i>			0.20*		
<i>Financial Creditors - Secured</i>					
<i>State Bank of India</i>	18.52	23.88	10.86	13.02	7.66
<i>Financial Creditors- Unsecured</i>					
<i>Related Parties</i>	0.080	-	-	-	0.080
<i>Operational Creditors</i>					
<i>Workers/Employees</i>	0.094	-	0.02	-	0.074
<i>Trade Creditors</i>	9.03	5.52	-	5.52	9.03
<i>Statutory dues</i>	-	0.18	-	0.18	-
Total	27.72	29.58	11.08	18.72	16.84

*The Resolution Applicant undertakes the payment of the CIRP cost amounting to Rs 0.20 Crore in priority to other secured creditors.

3. Means of Finance

Out of the total amount of Rs.11.08Cr proposed to be paid to all creditors under the resolution plan, resolution applicant has already paid Rs.4.35 Crs to State Bank of India as stated above. The resolution applicant proposes to source the balance amount of Rs.7.23 Crs by way of raising secured loans from bank.

The Resolution Applicant proposes to introduce an amount of Rs. 0.50Crores to meet out the working capital requirements of the corporate Debtor.

(Amount in Crs)

Sr. No	Particulars	Amount
1	Amount already paid	4.35
2	Secured Loans (From Bank)	7.23
	Total	11.58

An amount of Rs.4.35 crore has already been deposited with the bank by the resolution applicant from its independent sources. Resolution applicant has submitted its ledger account duly stamped by Chartered Accountant to substantiate the independence of said payment of Rs.4.35 cr.

Balance amount of Rs.7.23 Cr, will be raised as loan from State Bank of India.

REPAYMENT SCHEDULE OF FINANCIAL CREDITOR –SBI

S. No.	Name of Financial Creditor	Book Liability	Claim Amount	Amount proposed	Remarks
1.	State Bank of India (unrelated)	18.52	23.88	10.86	Secured creditor

1. An amount of Rs. 4.35 Cr. has already been paid to SBI by the Resolution Applicant.

2. The balance amount of Rs. 6.51Crore payable to the secured financial creditor i.e. SBI, would be paid within a period of 45 days, from the date of approval of Resolution Plan by NCLT.

3. Timeline for payment to State Bank of India is summarised as under-

Particulars	Rs. In crore
<i>Amount already paid</i>	4.35
<i>Amount to be paid within 3 days from the approval of plan by Hon'ble NCLT</i>	0.65
<i>Amount payable within period of 45 days on approval of plan by NCLT</i>	5.86
Total	10.86

4. Provision for Implementation & Supervision of the Resolution Plan Section 30 (2) (d).

The Resolution Plan states:

The Resolution Applicant undertakes that on approval of the Resolution Plan by the Adjudicating Authority, it shall comply with all the stipulations mentioned in the Resolution Plan proposed herein.

Further the Resolution Applicant also proposes to appoint a Monitoring and Supervising Professional as would be decided by the Secured Financial Creditor, being the only member of the Committee of Creditors.

The matter was discussed in the COC meeting held on 22.08.2018, and the COC members have resolved to appoint Ms Mandeep Gujral (RP in the matter of Quality Rice Exports Private Limited) as the monitoring and supervising agency to ensure effective implementation of the Resolution Plan at a lump sum fee of Rs. 50,000 for the term of the plan.

20. It is therefore, seen that the working capital introduction is proposed of ₹0.5 crores and that out of the total amount of ₹11.08 crores proposed to be paid to all creditors under the resolution plan, it is stated that payment of ₹4.35 crores is already made to SBI and the balance amount of ₹7.23 crores is proposed to be sourced by raising secured loans from banks. The repayment schedule envisages payment to SBI within a period of 45 days from the date of approval of resolution plan by the Adjudicating Authority. Further, Ms. Mandeep Gujral, RP has also been appointed as monitoring and supervising agency to ensure effective implementation of resolution plan at a lump sum fee of ₹50,000/- for the term of the plan. It is therefore, stated in the application and Form H that the resolution plan has provisions for its effective implementation.

21. In the resolution plan *inter alia* it has been prayed for exempting the corporate debtor from Section 79 of the Income Tax Act, 1961. During the course of the hearing on 17.09.2018, the authorized representative of the resolution applicant stated on instructions that the applicant shall not insist upon carrying forward of the losses to take advantage of Section 79 of the Income Tax Act, 1961 and accordingly, the resolution plan be modified. The modification is accordingly allowed. Further, the other claims in the resolution plan regarding waiver of dues etc. from Income Tax Authorities/Sales Tax/VAT Authority including waiver of MAT liability under Section 115 JB of the Income Tax, 1961 will be considered by the respective authorities. The waiver of statutory dues will be for consideration by the respective authorities.

22. The resolution plan will not have the effect of discharge of personal guarantees/collaterals held by the financial creditor SBI. SBI will

have the right to enforce the personal guarantees/collaterals and make recoveries.

23. We have already discussed above that during the adjudication proceedings, no objections to the resolution plan have been raised before us. The resolution plan has been approved by 100% voting share of the financial creditor. We have already discussed above that the RP has certified that the resolution plan complies with all the provisions of the Code and the regulations and does not contravene any of the provisions of the law for the time being in force. We may add here that in para 9 of form H (Annexure-2 of diary No.3557 dated 19.09.2018), the RP has stated that the transaction audit report dated 15.09.2018 was received on 18.09.2018 and that the RP has identified certain transactions that need examination and hence is in the process of filing the application. It was stated during the hearing on 20.09.2018 that the appropriate application will be filed by 25.09.2018. It is observed that the application has been filed by diary No.3634 dated 25.09.2018 for initiating proceedings in respect of preferential/undervalued/extortionate/fraudulent or wrongful transactions, under Sections 43, 45, 47, 50 and 66 of the Code in which 8 respondents have been impleaded, that application will be heard in due course.

24. We have examined the compliance of the conditions provided for in Section 31 (1) of the Code above and in view of the discussion made in the preceding paragraphs and the provisions of Sections 31 (1) of the Code, we approve the resolution plan submitted by M/s Chiman Lal Gian Chand Enterprises in the case of the corporate debtor with the following modifications:-

- (i) That the resolution applicant shall not be entitled to carrying forward of losses to take advantage of Section 79 of the Income Tax Act, 1961 as undertaken;
- (ii) The prayer for seeking waiver of statutory dues including Income Tax, Sales Tax and VAT due including waiver of MAT Liability under Section 115 JB of the Income Tax Act, 1961 is left to be considered by respective authorities.

25. We further direct that the resolution plan would be binding on the corporate and its employees, members, creditors, guarantors and other stakeholders involved in the resolution plan. In view of Section 31(3) of the Code, we also direct as under:-

- (a) the moratorium order passed by the Adjudicating Authority under section 14 shall cease to have effect; and
- (b) the resolution professional shall forward all records relating to the conduct of the corporate insolvency resolution process and the resolution plan to the Board to be recorded on its database.

CA No.348/2018 stands disposed of.

Copy of this order be communicated to both the parties.

Pronounced in the open court.

Sd/-

(Justice R.P. Nagrath)
Member(Judicial)

Sd/-

(Pradeep R. Sethi)
Member (Technical)

October 04, 2018
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