

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

Coram: SHRI AJAY KUMAR VATSAVAYI,
HON'BLE JUDICIAL MEMBER
SHRI RAGHU NAYYAR,
HON'BLE TECHNICAL MEMBER

IA No. 03/JPR/2020
In CP No. (IB) 707(PB)/2018

IN THE MATTER OF SECTION 7 OF IBC, 2016.

IN THE MATTER OF:

M/S INDUS CONTAINER LINES PRIVATE LIMITED

... Financial Creditor

VERSUS

M/S JADOUN INTERNATIONAL PRIVATE LIMITED

...Corporate Debtor

IA No. 03/JPR/2020

MEMO OF PARTIES

Ajit Kumar
(Resolution Professional of
M/s Jadoun International Pvt. Ltd.)
83, National Media Center,
Near Ambience Mall, Dlf Cybercity,
Gurugram- 122010

...Applicant

VERSUS

Committee of Creditors
Indus Container Lines Pvt. Ltd.
702-Vishal Bhawan, 95-Nehru Place,
New Delhi- 110019

...Respondent No. 1

IA No. 03/JPR/2020
In CP No. (IB) 707(PB)/2018

Capital First Bank
IDFC First Bank Ltd.,
Man Upsana Tower,
Sardar Patel Marg,
Jaipur- 302001

...Respondent No. 2

HDFC Bank
Branch and Lending Office,
Time Square Building,
Vidhyadhar Nagar,
Jaipur- 302039

...Respondent No. 3

INDUSIND Bank
One Indiabulls Centre,
Tower 1, 841 Senapati Bapat Marg,
Elephistone Road(w),
Mumbai- 400013

...Respondent No. 4

Tata Motors Finance Ltd.
B-53-54, 2nd Floor, Ummaid Mansion,
Gautam Marg, Hanuman Nagar-B,
Vaishali Nagar, Jaipur- 302021

...Respondent No. 5

For the Applicant	:	Shivangshu Naval, Adv. and Akanksha Noval, Adv. for RP Ajit Kumar, RP
For the Respondents	:	None-appeared

Order Pronounced on: 16.07.2021

ORDER

Per: Shri Raghu Nayyar, Technical Member

1. This Application is filed by Mr. Ajit Kumar, Resolution Professional ('RP' / 'Applicant') of M/s Jadoun International Pvt. Ltd. ('Corporate Debtor') under Sections 30(6) and 31 of the Insolvency and Bankruptcy Code, 2016 ('IBC' / 'Code') read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Process of Corporate Persons) Regulations, 2016 ('Regulations') seeking approval of resolution plan.
2. The insolvency application was filed by the Financial Creditor M/s Indus Container Lines Pvt. Ltd. under Section 7 of the Code for initiation of Corporate Insolvency Resolution Process ('CIRP') against the Corporate Debtor and the same was admitted by this Adjudicating Authority vide order dated 25.01.2019. The Applicant was appointed as the Interim Resolution Professional ('IRP') and on 29.01.2019, the IRP issued a public announcement as per Regulation 6 of the Regulations read with Sections 13 and 15 of the Code in Form A in two newspapers i.e., Economic Times (English) and Prabhat Abhinandan (Hindi) thereby inviting claims from the creditors of the Corporate Debtor as envisaged in the Code.
3. The Applicant upon receipt of claims till 08.02.2019 constituted the Committee of Creditors ('CoC') on 12.02.2019 and convened the 1st CoC meeting dated 22.02.2019 wherein the Applicant was appointed as the RP. In the 2nd CoC meeting convened on 04.04.2019, CoC appointed two registered valuers for determination of liquidation value of the Corporate Debtor. Further, in compliance of the resolution passed, the RP made

public announcement in Form G in two newspapers i.e., Economic Times (English) and Prabhat Abhinandan (Hindi) inviting Expression of Interest ('EOI') on 08.04.2019. Thereafter, the Applicant reconstituted the CoC after admitting the claims of HDFC Bank on 13.07.2019.

4. The Applicant stated that on 17.07.2019, 4th meeting of CoC was convened and resolution for extension of CIRP period for 90 days was passed. In view of this, the Applicant filed IA No. 227/JPR/2019 before this Adjudicating Authority and the same was allowed vide order dated 26.07.2019.
5. It is further stated that in the 5th CoC meeting dated 08.08.2019, the Applicant apprised the CoC regarding various applications filed against the sundry debtors of the Corporate Debtor to recover outstanding amount due for rendering freight services by the Corporate Debtor. The CoC further decided to extend the date of invitation of EOI and consequently, the Applicant vide advertisements dated 15.08.2019 in two newspapers namely, Economic Times (English) and Prabhat Abhinandan (Hindi) invited EOI, fixing the last date for submission of resolution plan at 05.10.2019.
6. The Applicant also stated that it moved an application against Tata Motors Finance Pvt. Ltd. (Respondent No. 5) for violation of the moratorium period by selling off the vehicle of the Corporate Debtor undergoing CIRP and this Authority vide order dated 19.09.2019 directed Respondent No. 5

to pay the amount of Rs. 25,10,000/- to the Applicant RP within one week. However, Respondent No. 5 did not deposit the said amount and consequently, the Applicant filed a contempt petition against it. Order dated 19.09.2019 was challenged by Respondent No. 5 wherein the Hon'ble National Company Law Appellate Tribunal ('NCLAT') dismissed the said appeal and held that upon making the said payment within 15 days Respondent No. 5 will be entitled to file its claims against the Corporate Debtor with the RP.

7. It is submitted that 6th CoC meeting was held on 22.10.2019 wherein the Applicant placed the resolution plan of Mr. Yusuf Khan and Mr. Vibhash Kumar (jointly) for consideration before the members of the CoC. However, as per due diligence report, Mr. Vibhash Kumar was disqualified to be a Resolution Applicant and thereafter, Mr. Yusuf Khan expressed his desire to be the sole Resolution Applicant and submitted the revised resolution plan on 21.10.2019. In view of this, the CoC resolved to file an application for exclusion of 60 days in completion of CIRP of the Corporate Debtor and the same was granted by this Authority vide order dated 23.10.2019.
8. It is stated that in the 7th CoC meeting dated 22.11.2019, the said resolution plan was approved by the CoC. However, in view of the directions by this Authority and the Hon'ble NCLAT in respect of the claims of Respondent No. 5, the Applicant RP admitted its claims on 10.12.2019 and

reconstituted the CoC. Accordingly, the Applicant RP requested the Resolution Applicant to submit the revised Resolution Plan by incorporating the claims and including claim of Respondent No. 5 and the same was placed for e-voting in the 8th CoC meeting dated 18.12.2019. The CoC approved the revised resolution plan by a majority of 82.2% on 19.12.2019.

9. The Applicant RP has provided brief details of the Resolution Plan, which are as follows:

S. No.	Particular	Amount (in Rs.)	Total Amount (in Rs.)
1	IRP Cost		25,00,000
2	Amount provided in Resolution Plan for secured Financial Creditors		90,00,000
	Less: Liquidation value to be paid to dissenting financial secured creditor i.e., Tata Motors Finance Ltd.	24,18,790	
	Balance Amount available for Financial Creditors who assented to the Resolution Plan:		
	a. IndusInd Bank	58,47,535	
	b. HDFC Bank	7,33,675	
	Total	65,81,210	
3	Unsecured Financial Creditors		
	a. Indus Container Lines Pvt. Ltd.	4,35,614	
	b. Capital First Bank	64,386	5,00,000
4	Operational Creditors		2,00,000
5	Workmen and Employees		-

6	Statutory dues		-
	Total		1,22,00,000

10. The Applicant RP stated that Respondent No. 5 has dissented with the Resolution Plan, therefore it will get the liquidation value of its assets i.e., Rs. 25,10,000/- (based on auction they carried out). However, Respondent No. 5 had claimed the amount of Rs. 24,18,790/- so the liquidation value being paid to the said Respondent is being restricted to their claim amount i.e., Rs. 24,18,790/-. It is further stated that liquidation value of the Operational Creditors is nil. However, the Resolution Applicant has provided Rs. 2,00,000/- for the Operational Creditors.

11. Accordingly, the Applicant RP is duty bound to prefer an application under Section 30(6) and 31 of the Code read with Regulation 39(4) of the Regulations seeking approval of revised Resolution Plan which was duly accepted by the CoC, from this Authority. The Applicant has submitted the resolution plan along with a compliance certificate in Form H under Regulation 39(4) of the Regulations. In the matter of *Committee of Creditors of Essar Steel India Private Limited vs. Satish Kumar*, the Hon'ble Supreme Court held that in consonance with the provisions of Regulation 28(1A), the Resolution Plan should take care of the interest of all the stakeholders, including operational creditors of the Corporate Debtor. Therefore, the resolution plan has fulfilled the parameters of the

said judgement, inter alia, the maximization of value of the assets of the Corporate Debtor and interest of all the stakeholders has been taken into consideration. The copy of the Resolution Plan along with the compliance certificate in Form H is annexed as Annexure 14.

12. It is also stated that the Applicant RP had apprised the CoC members of the several applications against the sundry debtors for recovery of the outstanding amount due to the Corporate Debtor. In view of this, it is proposed that 50% of amount recovered from these debtors should be paid to secured creditors (within a period of 2 years from approval of the Resolution Plan), subject to the total contractual liability of secured creditors.
13. The Applicant RP has stated that the revised Resolution Plan envisages the revival of the Corporate Debtor and to sustain it as a going concern. In case of rejection of the revised Resolution Plan, the Corporate Debtor would be required to be liquidated and that would seriously prejudice the interest of all stakeholders.
14. Moreover, the Applicant RP states that as per Section 30 of the Code, amended vide Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 (No. 6 of 2018) that came into force on 06.06.2018, the revised Resolution Plan ought to be approved by 66% of voting share of financial creditors. It is submitted that the Resolution Plan has been duly approved by the CoC by a majority of 82.2% of the members.

15. We have carefully considered the submissions of the learned counsel for the RP and the learned Counsel for the resolution applicant and have also perused the record.
16. The Corporate Debtor was incorporated on 16.03.2012 and the CIRP proceedings were initiated under Section 7 of the Code against the Corporate Debtor by order delivered on 25.01.2019. The present application is filed for approval of the resolution plan submitted by Mr. Yusuf Khan (Successful Resolution Applicant). The approval has been sought under the provisions of Section 31 (1) of the Code.
17. We may first of all state that after receipt, verification and collation of claims as discussed above, the IRP constituted the CoC as per the provisions of Section 21 of the Code. The details of the financial creditors, the distribution of voting share among them and the position of voting for the resolution plan is as under (para No.5 of Form H) -

S. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for/Dissented/Abstained)
1	Indus Container Lines Private Limited (Unsecured Creditor) <ul style="list-style-type: none"> Amount of claim- Rs. 61,35,036/- 	11.54%	Dissented
2	Capital First Limited (Unsecured Creditor) <ul style="list-style-type: none"> Amount of claim- Rs. 9,06,794/- 	1.71%	Abstained
3	HDFC Bank Limited (Secured Creditor) <ul style="list-style-type: none"> Amount of claim- Rs. 48,71,397.63/- 	9.16%	Voted For

4	INDUSIND Bank Limited (Secured Creditor) • Amount of claim- Rs. 3,88,26,000/-	73.04%	Voted for
5	TATA Motors Finance Limited (Secured Creditor) • Amount of claim- Rs. 24,18,790/-	4.55%	Dissented

18. The details of stakeholders under the resolution plan are given in Para 7 of Form H:-

S. 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 (Internal Pg.11 & 12 of the Resolution Plan and page no. 97 and 98 of the Application)	(a) Creditors not having a right to vote under subsection (2) of section 21	-	-	-	-
		(b) Other than (a) above: (i) who did not vote in favour of the resolution Plan (Tata Motors Finance Limited)	24,18,790.00	24,18,790.00	24,18,790.00	100.00

		(ii) who voted in favour of the resolution plan (IndusInd Bank Limited and HDFC Bank Limited)	4,46,62,835.63	4,36,97,397.63	65,81,210.00	15.06
		Total[(i) + (ii)]	47,081,625.63	46,116,187.63	90,00,000/-	19.52
2	Unsecured Financial Creditors Internal Pg. 11 & 12 of the Resolution Plan and pg. no. 97 -98 of the Application)	(a) Creditors not having a right to vote under sub-section (2) of section 21	-	-	-	-
		(b) Other than (a) above: (i) who did not vote in favour of the resolution Plan (Indus Container Lines Private Limited and Capital First Limited) (ii) who voted in favour of the resolution plan	70,96,425.00	70,41,830.00	5,00,000.00	7.1
		Total[(i) + (ii)]	70,96,425.00	70,41,830.00	5,00,000	7.1
3	Operational Creditors (Internal Pg. no. 12 of the	(a) Related Party of Corporate Debtor	-	-	-	-

	Resolution Plan and Application)	(b) Other than (a) above:	89,38,115.66	85,22,423.69	2,00,000.00	2.35
		(i)Government	N.A	N.A	N.A	
		(ii)Workmen	N.A	N.A	N.A	
		(iii)Employees	N.A	N.A	N.A	
		Total[(a) + (b)]	89,38,115.66	85,22,423.69	2,00,000.00	2.35
4	Other debts and dues		N.A	N.A	N.A	N.A
	Grand Total		63,116,166.29	61,680,441.32	97,00,000.00	15.73%

*If there are sub-categories in a category, please add rows for each sub-category.

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

19. The abovementioned amount of Rs. 95,00,000/- payable to the Financial Creditors (secured and unsecured) is proposed to be paid within 180 days as per the Repayment Schedule provided in the Resolution Plan.

20. The compliance aspect of the resolution plan has been given in Para No. 9 of Form H, which is as follows:-

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?	Chapter – 1	Yes, RP has done Due Diligence and the Net Worth mentioned on Pg. No.90 of the Application of Resolution Plan is much higher than

			the minimum requirement of Rs.50 Lakh as per Minimum Eligibility Criteria. RA also met the other requirements of Minimum Eligibility Criteria.
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?	Chapter -1 (As per Final List)	Yes, Applicant is eligible and has submitted the Affidavit on Pg. No. 120 on the Application of Resolution Plan.
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Annexed with Resolution Plan	Yes, Affidavit on Pg. No. 120
Section 30(2)	Whether the Resolution Plan-		
	(a) Provides for the payment of insolvency resolution process costs?	(a) Chapter 3 Part B (Pg.95 of Application of Resolution Plan) Rs 25 Lakh	(a) Yes
	(b) provides for the payment to the operational creditors?	(b) Chapter 3 Part D (Pg.99 of Application of Resolution Plan-Rs.2 Lakh/- will be paid to the Operational Creditors)	(b) Yes
	(c) provides for the payment to the financial creditors who did not vote in favour of the resolution plan?	(c) Chapter 3 Part C (Pg. 98 and 11 of Application of Resolution Plan). Dissent secured financial creditor	(c) Yes

		will be Rs. 24,18,790. (Tata Motors Finance Limited) However unsecured creditor whose liquidation value is nil to be paid Rs. 5 lakh.	
	(d) provides for the management of the affairs of the corporate debtor?	(d) Chapter 3 Part M (Pg.111 of Application of Resolution Plan)	(d) Yes
	(e) provides for the implementation and supervision of the resolution plan?	(e) Chapter 3 Part N (Pg.111 of Application of Resolution Plan)	(e) Yes
	(f) contravenes any of the provisions of the law for the time being in force?	-	(f) No
Section 30(4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC? (b) has been approved by the CoC with 66% voting share?		(a)Yes (b)Yes, by 82.20% voting share E-voting result is on Page no. 84 of the application
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC		Yes
Regulation 35A	Where the resolution professional made a determination if the corporate debtor has been subjected to	I.A No. 414/JPR/2019. The matter is subjudiced and	Yes, Application has been filed by RP based on the Transactional

	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?	listed for the hearing on 21.01.2021 before Hon'ble NCLT-Jaipur Bench	Audit Report
Regulation 38 (1)	Whether the Resolution Plan identifies specific sources of funds that will be used to pay the - (a) insolvency resolution process costs? (b) liquidation value due to operational creditors? (c) liquidation value due to dissenting financial creditors?	a, b, c) Chapter 3 Part L (Pg.110,111, of Application of Resolution Plan and internal pg no. 24 and 25 of the resolution plan)	a) Yes b) Yes c) Yes
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Chapter 3 Part L (Pg.110 of Application of Resolution Plan and internal page no. 24 of the resolution plan)	Yes
Regulation 38(1B)	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code. (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?	No	No
Regulation 38(2)	Whether the Resolution Plan provides: (a) the term of the plan and its implementation schedule?	(a) Chapter 3 Part C (Pg.96-97 of Application of	(a)Yes

		Resolution Plan internal page no. 10 and 11 of the resolution plan)	
	(b) for the management and control of the business of the corporate debtor during its term?	(b)Chapter 3 Part M (Pg.111 of Application of Resolution Plan internal page no. 25 of the resolution plan)	(b)Yes
	(c) adequate means for supervising its implementation?	(c) Chapter 3 Part N (Pg. 111of Application of Resolution Plan internal page no. 25 of the resolution plan)	(c)Yes
38(3)	Whether the resolution plan demonstrates that –		
	(a) it addresses the cause of default?	Chapter 3	a)Yes
	(b) it is feasible and viable?	Chapter 3 Part A (Pg.94 of Application of Resolution Plan)	b)Yes
	(c) it has provisions for its effective implementation?	Chapter 3 Part N (Pg.111 of Application of Resolution Plan internal page no. 25 of the resolution plan)	c)Yes
	(d) it has provisions for approvals required	Chapter 6 Part N (Pg.118 of Application of	d)Yes

	and the timeline for the same?	Resolution Plan internal page no. 10 and 11 of the resolution plan)	
	(e)the resolution applicant has the capability to implement the resolution plan?	Chapter 1 Part N (Pg.109, 110 of Application of Resolution Plan)	e)Yes
39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	NO	Yes
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.	10% of 97 Lakh i.e. Rs. 9,70,000/- received from the resolution applicant on 11.12.2020 through electronic bank transfer. Additional affidavit filed along with proof of receipt upon oral directions of NCLT, Jaipur.	Yes

21. The approval of the resolution plan has been sought under Section 31(1) of the Code, which reads 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, 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

such as authorities to whom statutory dues are owed, 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.”

22. The conditions provided in Section 31(1) of the Code for approval of resolution plan are as follows:-

- (a) The Resolution Plan is approved by the CoC under Section 30(4) of the Code;*
- (b) The Resolution Plan so approved meets the requirements as referred to in Section 30(2) of the Code;*
- (c) The Resolution Plan has provisions for its effective implementation.*

The satisfaction of the conditions is discussed below.

23. It is submitted by the RP that the resolution plan has been approved by a vote of 82.2% of voting share of the financial creditors and therefore, the conditions provided for by Section 30(4) of the Code are satisfied.

24. The provisions of Section 30(2) of the Code are as follows:-

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

- (a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the payment of other debts of the corporate debtor;*
- (b) provides for the payment of debts of operational creditors in such manner as may be specified by the Board which shall not be less than-*

- (i) the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53; or*

(ii) the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53,

whichever is higher, and provides for the payment of debts of financial creditors, who do not vote in favour of the resolution plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (1) of section 53 in the event of a liquidation of the corporate debtor.

Explanation 1. — For removal of doubts, it is hereby clarified that a distribution in accordance with the provisions of this clause shall be fair and equitable to such creditors.

Explanation 2. — For the purpose of this clause, it is hereby declared that on and from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019, the provisions of this clause shall also apply to the corporate insolvency resolution process of a corporate debtor-

(i) where a resolution plan has not been approved or rejected by the Adjudicating Authority;

(ii) where an appeal has been preferred under section 61 or section 62 or such an appeal is not time barred under any provision of law for the time being in force; or

(iii) where a legal proceeding has been initiated in any court against the decision of the Adjudicating Authority in respect of a resolution plan;

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

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

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

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

Explanation. — For the purposes of clause (e), if any approval of shareholders is required under the Companies Act, 2013(18 of 2013) or any other law for the time being in force for the

implementation of actions under the resolution plan, such approval shall be deemed to have been given and it shall not be a contravention of that Act or law.”

25. The compliance of Section 30(2) of the Code is given in para No. 9 of Form H (*supra*). The same is being further examined as under:-

- a. **Section 30(2)(a):** The resolution plan (Chapter 3 Part B at Page 95 of the application) states that Resolution Applicant shall provide funds for payment of CIRP Cost and the CIRP Cost shall be fully paid and discharged before any payment is made to any of the creditors.
- b. **Section 30(2)(b):** From the resolution plan (Chapter 3 Part D at Page 99 of the application) it could be seen that the outstanding of operational creditors is Rs. 85,22,424/- (includes any additional claim on whatsoever account and nature would be settled by the Resolution Applicant). The, Resolution Applicant has proposed to pay an amount of Rs. 2,00,000/- (2 quarterly installments of Rs. 1,00,000/- at the end of each quarter) to the Operational Creditors against full and final settlement of all claims. With respect to payment to financial creditors who did not vote in favour of the Resolution Plan (Chapter 3 Part C at Page 98 of the Application), it is seen that liquidation value due to financial creditors was not known to Resolution Applicant. Hence, in case of any secured financial creditors dissenting from approval of resolution plan, liquidation value due to that creditor was proposed to

be paid first from amount of Rs. 90,00,000/- envisaged for secured financial creditors and no further amount was earmarked to be paid to them over and above Rs. 90,00,000/-.

- c. **Section 30(2)(c):** Resolution Plan (Chapter 3 Part M at Pg.111 of Application) provides that the management and control of business of the Corporate Debtor shall be handed over to the Board of Directors of Resolution Applicant for proper running and operations of the business of the Corporate Debtor subject to approval of the CoC and this Adjudicating Authority.
- d. **Section 30(2)(d):** In Chapter 3 Part N Pg.111 of Resolution Plan, it is stated that subject to approval of the CoC and this Adjudicating Authority, the Board of Directors of the Resolution Applicant shall supervise the implementation and execution of the Resolution Plan.
- e. **Section 30(2)(e):** In Form H Para 4, the RP has certified that the Resolution Plan does not contravene any of the provisions of the law for the time being in force.
26. The RP has also certified that Mr. Yusuf Khan, the resolution applicant 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.

27. As per the requirement of Regulation 39(4) of the Regulations for performance security, it is stated in Form H that 10% of Rs. 97,00,000/- i.e., Rs. 9,70,000/- has been received from the Resolution Applicant on 11.12.2020 through electronic bank transfer. It is also stated that additional affidavit has been filed along with proof of receipt upon oral directions of this Adjudicating Authority.
28. With regard to the compliance under Regulation 35A, it is stated that IA No. 414/JPR/2019 filed under sections 60(5) and 66 of the Code, is pending before this Adjudicating Authority and the same could be continued even after approval of the resolution plan.
29. A perusal of Regulation 38 would clearly show that by virtue of mandatory contents of resolution plan as discussed in the preceding paragraphs in relation to Section 30 and Section 31 of the Code, the requirement of Regulation 38 also stands fulfilled. Thus, the resolution plan fulfills all the requirements of Regulation 38 of the CIRP Regulations.
30. The Resolution Plan inter-alia entails the following:
- a. Corporate Restructuring through cancellation of present share capital of the Corporate Debtor and issuance of new share capital in favour of the Resolution Applicant and its/ his/ their associates.
 - b. Cancellation of any other equity-linked securities whether convertible or exchangeable and extinguishment of the same without any payment or further action.

- c. Reset of financial debt and operational debt as per the parameters of the Resolution Plan.
 - d. Extinguishment of any/ all claims against the Corporate Debtor along with related legal proceedings, including criminal proceedings and other proceedings which shall stand abated, settled and extinguished.
 - e. Change of Board of Directors and handing over of management to the Resolution Applicant upon sanction of the Plan from the effective date, the effective date being the date of handover by the RP to the Resolution Applicant.
 - f. Continuity of business wherein the Resolution Applicant has requested that any requisite business permits that may not have been granted or cancelled/ terminated/ revoked/ suspended may be granted/ restored/ renewed/ reinstated. In this respect the Resolution Applicant is directed to follow up with the concerned authorities, for maintaining/ sustaining operations as a going concern, in accordance with applicable laws, rules and procedure.
 - g. The term of the Plan and its implementation schedule is envisaged to be a period of 24 months.
31. In view of the above discussion, the Resolution Plan submitted by Mr. Yusuf Khan as approved by the CoC under Section 30(4) of the Code is hereby approved. The Resolution Plan so approved shall be binding on the Corporate Debtor and 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 such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the Resolution Plan.

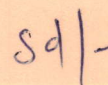
32. Under the provisions of Section 31(3) of the Code, we also direct as under:-

- a. The moratorium order passed by the Adjudicating Authority under Section 14 of the Code on 25.01.2019 shall cease to have effect; and
- b. The RP shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the Board to be recorded on its database.

33. In view of the foregoing, IA No. 03/JPR/2020 is disposed of.



**SH. RAGHU NAYYAR,
TECHNICAL MEMBER**



**SH. AJAY KUMAR VATSAVAYI,
JUDICIAL MEMBER**