



IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI COURT - VI

ITEM NO. 1

IA No: 5343/ND/2022

In CP IB 227/ND/2021

IN THE MATTER OF:

**M/s. Capital Finance And Investments LLP V/s. Shri Krishna
Prasadam Ltd.**

**Order under Section 30(6) of Insolvency and Bankruptcy Code,
2016**

Order delivered on 14.07.2023

CORAM:

SHRI BACHU VENKAT BALARAM DAS,

HON'BLE MEMBER (JUDICIAL)

SHRI RAHUL BHATNAGAR,

HON'BLE MEMBER (TECHNICAL)

ORDER

Order pronounced in open Court vide separate sheets.

IA No 5343/2022 in CP(IB)227/ND/2021 stands allowed.

1039

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DD/DR/AR/Court Officer
National Company Law Trib
New Delhi

SD/-

(Rahul Bhatnagar)

Member Technical

SD/-

(Bachu Venkat Balaram Das)

Member Judicial



सहायक पंजीयक
ASSISTANT REGISTRAR
राष्ट्रीय कम्पनी विधि अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
C.G.O. COMPLEX, NEW DELHI-110003

12/08/2023



IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH, COURT-VI

I.A. 5343/ND/2022

IN

C.P. No. IB-227/ND/2021

(Under Section 30 (6) and 31 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016))

IN THE MATTER OF:

M/S CAPITAL FINANCE AND INVESTMENTS LLP

.... Financial Creditor

Vs.

M/S SHRI KRISHNA PRASADAM LIMITED

....Corporate Debtor

AND

IN THE MATTER OF:

MR. JASWANT SINGH

RESOLUTION PROFESSIONAL OF

M/s. SHRI KRISHNA PRASADAM LIMITED

CORAM:

**SH. BACHU VENKAT BALARAM DAS, HON'BLE MEMBER
(JUDICIAL)**

SH. RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

PRESENT

For the Applicant: Adv. Harish Taneja with CS Ravi and Jaswant Singh, RP in person.





ORDER

PER: RAHUL BHATNAGAR, MEMBER (TECHNICAL)

ORDER DELIVERED ON: 14.07.2023

The present application has been filed under Section 30(6) read with Section 31(1) of the Insolvency & Bankruptcy Code, 2016 ('the Code') read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ('Regulations') on behalf of Mr. Jaswant Singh Resolution Professional (RP) of M/s. Shri Krishna Prasadam Limited ('Corporate Debtor'), seeking approval of the Resolution Plan submitted by Newage Intermediaries LLP ('Successful Resolution Applicant') and approved by the Committee of Creditors ('CoC') in its 7th CoC Meeting held on 21.09.2022.

2. Briefly stated, the facts as averred by the applicant in the application are stated are as follows:

- a) That the Corporate Insolvency Resolution Process against the Corporate Debtor was initiated vide order dated 14.03.2022 and the applicant was appointed as IRP in the matter.
- b) That Public Announcement in the matter for inviting the claims from the creditors of Corporate Debtor was made on 22.03.2022 by the IRP in Form-A in "Financial Express (English language) and in Jansatta (Hindi language)".
- c) That the Applicant prepared a list of Creditors after verification of claim received pursuant to the Public Announcement within 7 days from the last date of receipt of the claims and constituted Committee of Creditors and filed the same before this Tribunal which was taken on record vide order dated 04.07.2022 vide IA 2761/ND/2022.
- d) That the Applicant convened the first Meeting of Committee of Creditors ("COC") on 18.04.2022, in the said meeting the COC resolved to appoint the Applicant i.e., Interim Resolution Professional as Resolution Professional. Further the appointment





was confirmed by this Tribunal vide order dated 04.07.2022 vide IA 2973/ND/2022.

- e) That the Information Memorandum was prepared on the basis of financial statement for the year ended 31.03.2017 and same was provided to the member of COC on 21.05.2022 after obtaining the confidential undertaking under Regulation 36 (4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.
- f) That the Applicant convened the Second meeting of COC on 04.06.2022 wherein the Chairman apprised and discussed the eligibility criteria for bidding by the prospective resolution applicants and the process of evaluation of bid by defining the evaluation matrix pursuant to Section 25 (2) (h) of the IBC, 2016 read with Regulation 36B of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016 and for publication of Form G. In pursuance thereof, the Applicant proposed the resolutions before the COC and the same was approved by the COC unanimously with 100% Voting rights.
- g) That pursuant to approval of CoC, Form G was posted on the website of the CD and also published in Financial Express (English, Delhi Edition) and Jansatta (Hindi, Delhi Edition) on 5th June 2022. The Last date for receipt of Expression of Interest was 19.06.2022.
- h) That 7 entities/ persons have submitted their Expression of Interest for Resolution Plan for Corporate Debtor, detail of which is reproduced as under: -

Sr. No	Date of Communication	Name
1.	06.04.2022	Kundan Group
2.	07.06.2022	Vijender Jain (Green Homes (Consortium))
3.	11.06.2022	Anuj Goyal
4.	15.06.2022	Newage Intermediaries LLP
5.	18.06.2022	Surinder Bansal
6.	21.06.2022	Amrit Kumar Agrawal
7.	30.06.2022	Manohar Peravali





Few parties provided incomplete documents, therefore upon their request, Applicant provided extra time to submit the documents

- i) That the applicant received few more claims and accordingly reconstituted the CoC which is as under: -

S.No	Name of member of COC	Claim Submitted	Claim Admitted	Voting percentage of the member
1.	M/s Capital Finance and Investment LLP	1,58,06,625	33,68,997	18.30 %
2.	M/s Divinus Promoters Private Limited	1,58,06,625	1,50,50,164	81.70 %

- j) That the Applicant convened 4th COC meeting on 14.07.2022 wherein he apprised the members of COC that even after providing extra time to remove discrepancies only one party namely Newage Intermediaries LLP provided complete documents along with necessary EMD and showed their interest in reference to invitation of expression of interest.
- k) That pursuant to Regulation 36A (10) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016, the Applicant issued the provisional list of Prospective Resolution Applicants on 09th July 2022 constituting of single member i.e., Newage Intermediaries LLP
- l) That in pursuance of the Regulation 36B (1) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016, the Applicant issued the documents viz., Information memorandum, RFRP and Evaluation Matrix on 14.07.2022.
- m) That in pursuance of the Regulation 36A (12) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016, the Applicant issued the final list of Prospective Resolution Applicants on 24.07.2022 being sole Prospective Resolution Applicant M/s Newage intermediaries LLP.
- n) That in accordance with the Request for Resolution Plan as provided under Regulation 36B(1) of Insolvency and Banks Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016, the Applicant received Resolution Plan from the sole PRA i.e., M/s Newage Intermediaries LLP on 13.08.2022.





- o) That thereafter, the Applicant conducted due diligence of the Resolution Plan submitted by M/s Newage Intermediaries LLP and observed some deficiencies which were placed before the CoC members in fifth CoC meeting and after detailed deliberation and discussion with the CoC members, the Applicant communicated to the Prospective Resolution Applicant about the observation and requested them to rectify the same.
- p) That the Applicant filed an application bearing IA No 4384/2022 before the Tribunal for extension of CIR Period by 90 days which was approved by this Tribunal vide order dated 13.09.2022.
- q) That the Applicant convened the seventh Meeting of Committee of Creditors on 21.09.2022 wherein the legally compliant Resolution Plan with its Addendum submitted by M/s Newage intermediaries LLP was placed before COC members. The said resolution is reproduced as under: -

"RESOLVED THAT pursuant to Section 30(3) of the Insolvency and Bankruptcy Code, 2016 (IBC) and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 and Rules and Regulations framed there under, the Resolution Plan and Addendum thereof submitted by M/s Newage intermediaries LLP placed before the COC by the Chairman be and is hereby approved by the COC.

RESOLVED FURTHER THAT pursuant to the provisions of Section 30(6) and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 and Rules and Regulations framed there under, the Resolution Professional be and is hereby authorized to submit the Resolution Plan as approved by the Committee of Creditors to the Hon'ble Adjudicating Authority and to do all such acts, deeds and things as may be required or considered necessary or incidental thereto in connection with."

The aforesaid Resolution was approved unanimously by the CoC members with 100% voting rights.

- r) That up to the date of filing of the present application, a total of 7 (Seven) Meetings of Committee of Creditors) have been conducted.
- s) That the RP prayed for various Reliefs and Concessions as mentioned in para 29 of the petition.

3. We have heard the submissions made by the Ld. Counsel for the applicant and have gone through the documents produced on record.





That some key features of the Resolution Plan are as follows:

- i. That the amounts proposed to be paid towards the Corporate Insolvency Resolution of the Corporate Debtor pursuant to the implementation of the proposed Resolution Plan is as under: -

S No	Particulars	Basis	Amount
i.	Corporate Insolvency Resolution Process cost	100%	INR up to 10 Lakh
ii.	Secured Financial Creditors, Unrelated, Having Voting Right	Not Applicable	Nil
iii.	Unsecured Financial Creditors, Unrelated, Having Voting Right	100% of the amount of claim admitted	INR 184.19 Lakh
iv.	Operational Creditors other than workmen and employees	100% of the amount of claim admitted	INR 28.90 Lakh
v.	Workmen Dues	Not Applicable	Nil
vi.	Employees	Not Applicable	Nil
vii.	Government dues	Not Applicable	Nil
viii.	Others	Not Applicable	Nil
ix.	Contingency	Not Applicable	INR 1.91 Lakh
Total			INR 225 Lakhs

- ii. That the fair value and the liquidation value is 1,52,23,250 (Rupees One Crore Fifty-Two Lakhs Twenty-Three Thousand Two Hundred and Fifty)
- iii. That the final resolution plan and its addendum submitted by M/s Newage Intermediaries meets the requirements of Section 30(2) of the Code as under: -

Section	Provisions under Section 30(2) of the Code	Compliance under Resolution Plan
30(2)(a)	provides for the payment of	Clause a of Para 1 of





	insolvency resolution process costs in a manner specified by the Board in priority to the payment of other debts of the corporate debtor;	Part B i.e. "Financial proposal" on page 39 of the Resolution Plan, RA propose that the CIRP Costs of INR 10 Lakh shall be paid in priority to all other dues. CIRP Cost over and above INR 10 lakh will be adjusted with the payment to Financial Creditors.
30(2)(b)	<p>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-</p> <p>(i) the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53; or</p> <p>(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</p>	<p>Clause b of Para 1 of Part B i.e. "Financial Proposal" on page 39 of the Resolution Plan provides that as per due diligence and market information Distress/ Liquidation value of the corporate debtor under section 53 of the IBC 2016 on estimation basis would be significantly less than the payment to be made against claim of CIRP Cost, Financial Creditors and Operational Creditors. Further in "clause e" on page 16 RA propose to pay INR 28.90</p>





	the order of priority in sub-section (1) of section 53	Lakhs to the Operational Creditors against the claim admitted by RP amounting to INR 28.90 Lakhs.
30(2)(c)	provides for the management of the affairs of the Corporate Debtor after approval of the resolution plan;	Clause c of Para 1 of Part B i.e. "Financial Proposal" on page 40 of the Resolution Plan provides that the approval of the Resolution Plan by the Hon'ble NCLT will be treated as the order for existing Board to retire and RA to form new Board by appointing directors to take over the management of the Corporate Debtor on payment of Final / Upfront payment as stated in the Resolution Plan.
30(2)(d)	the implementation and supervision of the resolution plan;	Clause d of Para 1 of Part B i.e. "Financial Proposal" on page 40 of the Resolution Plan state that for effective implementation and the supervision of the





		Resolution Plan, it is proposed to appoint the Monitoring committee of independent persons at the mutually agreed terms of the COC members and RA from the date of approval by Hon'ble NCLT till the upfront payment of the Resolution Plan. Further, the timeline for implementation of the Resolution Plan is provided on page 37 of Resolution Plan.
30(2)(e)	does not contravene any of the provisions of the law for the time being in force	Clause e of Para 1 of Part B i.e. "Financial Proposal" on page 42 of the Resolution Plan- RA declares that the proposed binding Resolution Plan does not contravene any of the provisions of the law for the time being in force.
30(2)(f)	conforms to such other requirements as may be specified by the Board.	Clause I of Para 1 of Part B i.e. "Financial Proposal" on page 43 Resolution Applicant confirms that the Resolution Plan has





		been prepared as per the requirements specified by the Board.
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- iv. That the RA has provided the indicative timeline of events for implementation of the Resolution Plan at page 37 which is reproduced as under: -

Activity	Timeline (Days)	Remarks if any
Approval of Resolution Plan by NCLT (E = 'Effective Date')	E	
Appointment of requisite persons / agency hired for execution of operations / implementation of Resolution Plan and intimation of final CIRP Costs.	E + 10	The COC would decide on compensation to hired agency / requisite persons etc
Execution of definitive agreements with the relevant Financial Creditors to implement the Resolution Plan (if any)	E + 30	
Payment of the CIRP Costs (if any)	E + 30	
Payment of Employees Upfront Payment (if any)	E + 30	
Payment of Financial Creditor Upfront Payment	E + 30	
Infusion of funds by equity through issue of new shares to the RA	E + 30	

Activity	Timeline (Days)	Remarks if any
Infusion of funds by Private Finance Sponsors by way of Loan (if any)	E + 30	
Transfer of shares with existing shareholders	E + 30	
Reduction of capital	E + 30	
Preferential allotment of new shares	E + 30	
Consolidation of equity shares	E + 30	
Formation of the New Board of the Corporate Debtor	E + 30	
Other approvals/filings required under the Resolution Plan - Foreign Direct Investments (if any) - RBI (if needed) - Filing of various documents with MCA Other Authorities	E + 60	
Payment of 1st and Final Tranche within 30 days of Effective Date to Financial Creditors	E + 30	
Formation of management of the Corporate Debtor— • Appointment of key managerial personnel • Appointment of statutory and internal auditors (if required) • Appointment of company secretary (if possible)	E + 6 Months	





v. Mandatory Contents as specified under Regulation 38 of IBBI CIRP Regulations 2016 are as under: -

Regulation	Provisions under Regulation 38 of IBBI CIRP Regulations 2016.	Compliance under Resolution Plan
38(1)(a)	The amount payable under a resolution plan – (a) to the operational creditors shall be paid in priority over financial creditors; and (b) to the financial creditors, who have a right to vote under sub-section (2) of section 21 and did not vote in favour of the resolution plan, shall be paid in priority over financial creditors who voted in favour of the plan.]	RA undertakes that the RA will prioritize payment of dues to the Operational Creditors over Financial Creditors under the Resolution Plan. Further, the RA confirm to adhere to the regulation and ensure that the Financial Creditor who have voted against the Resolution Plan will get paid in priority over the Financial Creditor who have voted in favour of the Resolution Plan.
38(1A)	A resolution plan shall include a statement as to how it has dealt with the interests of all stakeholders, including financial creditors and operational creditors, of the corporate debtor.]	The Applicant has submitted that the Resolution Applicant has dealt with the interest of all the stakeholders including financial creditors and operational creditors of the Corporate Debtor as set forth on page 44 & 45 of the Resolution Plan.
38(1B)	A resolution plan shall include a statement giving details if the resolution applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority	The Resolution Applicant declares that the Resolution Applicant or any of its related parties has not/never failed to implement or contributed to the failure of implementation of any other Resolution Plan approved by the





	at any time in the past.]	Adjudicating Authority at any time in the past.
38(2)(a)	A resolution plan shall provide the term of the plan and its implementation schedule;	Term will start from the Hon'ble NCLT order and will end on the date of the payment of Balance amount. The implementation schedule has been provided on table of Page 37 of the Resolution Plan.
38(2)(b)	A resolution plan shall provide the management and control of the business of the corporate debtor during its term; and	The Resolution Applicant proposes that upon approval of Resolution Plan by this Tribunal, the existing board will retire and RA will form new board to take over the management of the Corporate Debtor who will manage and control the business of Corporate Debtor. Refer para c on page 40 of Resolution Plan.
38(2)(c)	A resolution plan shall provide adequate means for supervising its implementation	Approved Resolution Plan will be monitored and supervised by the monitoring committee till end of the Final/Upfront Payment amount is made by the RA.
38(2)(d)	provides for the manner in which proceedings in respect of avoidance transactions, if any, under Chapter III or fraudulent or wrongful trading under Chapter VI of Part II of the Code, will be pursued after	Not applicable since no avoidance application is filed before this Tribunal





	the approval of the resolution plan and the manner in which the proceeds, if any, from such proceedings shall be distributed:	
38(3)(a)	A resolution plan shall demonstrate that – it addresses the cause of default;	The Resolution Applicant has addressed the cause of default of the Corporate Debtor as set forth in Clause headed by “Reason for Default” on page no. 46 of the Resolution Plan.
38(3)(b)	A resolution plan shall demonstrate that – it is feasible and viable;	Third Para on page no. 46 of the Resolution plan provides for the feasibility and viability of the Resolution Plan
38(3)(c)	A resolution plan shall demonstrate that – it has provisions for its effective implementation;	(c) The Applicant has submitted that the Resolution Applicant has made adequate provisions for effective implementation of Resolution Plan and same has stated under the head “Implementation and supervision of the Resolution Plan” on page no. 40 of the Resolution Plan.
38(3)(d)	A resolution plan shall demonstrate that – it has provisions for approvals required and the timeline for the same; and	All the necessary approvals required for implementation of Resolution Plan will be taken care within 1 year or within such period as provided for in such law, whichever is later
38(3)(e)	A resolution plan shall demonstrate that – the resolution applicant has	The Resolution Applicant has provided the statement in regards to





	the capability to implement the resolution plan.]	its capability as set forth in first para of page 47 of the Resolution Plan.
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vi. The RA proposed the pay the CoC members in the below proportion: -

(INR IN LAKHS)

S.No	Name of member of COC	Claim Admitted	Final Amount to be paid in the plan	Voting percentage of the member
1.	M/s Capital Finance and Investment LLP	33.67	33.67	18.30 %
2.	M/s Divinus Promoters Private Limited	150.50	150.50	81.70 %
Total		184.19	184.19	100%

vii. There are no objections to the Resolution Plan by any of the stakeholders.

Plan for revival

viii. The RA, on payment of the Final/Upfront, payment under the Resolution Plan, will prepare a project report of the Business to be undertaken in the company. As there is no work in hand and inventory so the existing business will not be carried on in the company, the new business shall be related to supply of services. The RA intends to infuse additional funds as may be required for working capital within 24 months of the Effective Date as and when need be, to ramp up the business activity and thereby increase sales order to generate the revenue.

ix. With respect of compliance regarding Regulation 39(4) of the CIRP Regulations, the applicant has filed compliance certificate in Form-H

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IN

C.P. No. IB-227/ND/2021





certifying that the Resolution Plan submitted by the successful resolution applicant meets the requirements as laid down in various sections of the Code and the CIRP Regulations and there are sufficient provisions in the Plan for its effective implementation as required under the Code. Further, an affidavit has been obtained from the Successful Resolution Applicant stating that he is not ineligible under the provisions of Section 29A of the Code, 2016.

- x. The applicant has prayed for number of waivers in the Resolution Plan. As to the relief and concessions sought in the resolution plan, by taking into consideration the decision of the Hon'ble Supreme Court in the matter of **Embassy Property Development Private Limited v. State of Karnataka & Ors. in Civil Appeal No. 9170 of 2019**, we direct the Successful Resolution Applicant to file necessary application before the necessary forum/ authority in order to avail the necessary relief and concessions, in accordance with respective laws. The relevant part of the judgement is reproduced herein below:-

39. Another important aspect is that under Section 25 (2) (b) of IBC, 2016, the resolution professional is obliged to represent and act on behalf of the corporate debtor with third parties and exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial and arbitration proceedings. Section 25(1) and 25(2)(b) reads as follows:

"25. Duties of resolution professional -

(1) It shall be the duty of the resolution professional to preserve and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor.

(2) For the purposes of sub-section (1), the resolution professional shall undertake the following actions:-

(a).....

(b) represent and act on behalf of the corporate debtor with third parties, exercise rights for the benefit of the corporate debtor in judicial, quasi judicial and arbitration proceedings."

This shows that wherever the corporate debtor has to exercise rights in judicial, quasi-judicial





proceedings, the resolution professional cannot short-circuit the same and bring a claim before NCLT taking advantage of Section 60(5).

40. Therefore in the light of the statutory scheme as culled out from various provisions of the IBC, 2016 it is clear that wherever the corporate debtor has to exercise a right that falls outside the purview of the IBC, 2016 especially in the realm of the public law, they cannot, through the resolution professional, take a bypass and go before NCLT for the enforcement of such a right."

5. In so far as the approval of the resolution plan is concerned, this Adjudicating Authority is duty bound to follow the judgement of the **Hon'ble Supreme Court in the matter of K.Sashidhar v. Indian Overseas Bank (2019) 12 CC 150**, wherein the scope and interference of the Adjudicating Authority in the process of the approval of the Resolution Plan is elaborated as follow:-

35. Whereas, the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 limited to scrutiny of the resolution plan "as approved" by the requisite 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. Reverting to Section 30(2), the enquiry to be done is in respect of whether the resolution plan provides : (i) the payment of insolvency resolution process costs in a specified manner in priority to the repayment of other debts of the corporate debtor, (ii) the repayment of the debts of operational creditors in prescribed manner, (iii) the management of the affairs of the corporate debtor, (iv) the implementation and supervision of the resolution plan, (v) does not contravene any of the provisions of the law for the time being in force, (vi) conforms to such other requirements as may be specified by the Board. The Board referred to is established under Section 188 of the I&B Code. The powers and functions of the Board have been delineated in Section 196 of the I&B Code. None of the specified functions of the Board, directly or indirectly, pertain to regulating the manner in which the financial creditors ought to or ought not to exercise their commercial wisdom during the voting on the resolution plan under Section 30(4) of the I&B Code. The subjective satisfaction of





the financial creditors at the time of voting is bound to be a mixed baggage of variety of factors. To wit, the feasibility and viability of the proposed resolution plan and including their perceptions about the general capability of the resolution applicant to translate the projected plan into a reality. The resolution applicant may have given projections backed by normative data but still in the opinion of the dissenting financial creditors, it would not be free from being speculative. These aspects are completely within the domain of the financial creditors who are called upon to vote on the resolution plan under Section 30(4) of the I&B Code.

6. Also the Hon'ble Supreme Court of India in the matter of **Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta & Ors., Civil Appeal No. 8766-67 of 2019, vid its judgement dated 15.11.2019** has observed as follows:

"38. This Regulation fleshes out Section 30(4) of the Code, making it clear that ultimately it is the commercial wisdom of the Committee of Creditors which operates to approve what is deemed by a majority of such creditors to be the best resolution plan, which is finally accepted after negotiation of its terms by such Committee with prospective resolution applicants."

7. Thus, from the judgements cited supra, it is amply clear that only limited judicial review is available to the Adjudicating Authority under Section 30(2) read with Section 31 of the Code, 2016 and this Adjudicating Authority cannot venture into the commercial aspects of the decisions taken by the committee of the creditors.
8. Therefore, in our considered view, there is no impediment in giving approval to the Resolution Plan. Accordingly, we hereby **approve the Resolution Plan**, which shall be binding on the corporate debtor and its employees, shareholders of corporate debtor, creditors including the Central Government, any State Government or any local authority to whom statutory dues are owed, guarantors, successful resolution applicant and other stakeholders involved. In view of the above, **I.A. 5343/ND/2022 stands allowed.**





9. It is declared that the moratorium order passed by this Adjudicating Authority under Section 14 of the Code shall cease to have effect from the date of pronouncement of this order.
10. However, the resolution plan shall not construe any waiver to any statutory obligations/liabilities arising out of the approved resolution plan and the same shall be dealt in accordance with the appropriate authorities concerned as per relevant laws. We are of the considered view that if any waiver is sought in the resolution plan, the same shall be subject to approval by the concerned authorities. The same view has been held by the Hon'ble Supreme Court in **Ghanshyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited and Embassy Property Development case (supra).**
11. Accordingly, MoA and AoA of the corporate debtor shall be amended and filed with the RoC for information and record as prescribed. While approving the 'resolution plan' as mentioned above, it is clarified that the resolution applicant shall pursuant to the resolution plan approved under section 31(1) of the Code, 2016, obtain all the necessary approvals as may be required under any law for the time being in force within the period as provided for such in law.
12. The Resolution Professional shall forward all records relating to the Corporate Insolvency Resolution Process of the corporate debtor and the Resolution Plan to IBBI to be recorded at its database in terms of Section 31(3)(b) of the Code. The Resolution Professional is further directed to handover all the records, premises, properties of the corporate debtor to the Successful Resolution Applicant to ensure a smooth implementation of the resolution plan.
13. The approved 'Resolution Plan' shall become effective from the date of passing of this order. The Approved Resolution Plan shall be part of this order.





14. Let the copy of the order be served to the parties

SD/-

(RAHUL BHATNAGAR)
MEMBER TECHNICAL

SD/-

(BACHU VENKAT BALARAM DAS)
MEMBER JUDICIAL



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National Company Law Tribunal
New Delhi

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सहायक पंजीयक
ASSISTANT REGISTRAR
राष्ट्रीय कम्पनी विधि अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
C.G.O. COMPLEX, NEW DELHI-110003



IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT-VI

Item No. 105
IB-227/ND/2021

IN THE MATTER OF:

M/s. Capital Finance And Investments LLP

...PETITIONER

Vs.

Shri Krishna Prasadam Ltd.

...RESPONDENT

Section

U/s 7 of IB Code, 2016

Order delivered on 07.08.2023

(Virtual Hearing)

Coram:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)

SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the RP

:Mr. Jaswant Singh, RP

ORDER

IA/4138/2023

This application seeking modification of order dated 14.07.2023. Ld. Counsel for the Applicant has submitted that amount of claim submitted by M/s Capital Finance & Investment LLP has been wrongly mentioned as Rs. 1,58,06,625/- instead of Rs. 36,70,209/-. It seems that this error is inadvertent. We therefore, direct that claim amount of M/s Capital Finance & Investment LLP be read as Rs. 36,70,209/- in the order dated 14.07.2023. This order be read as part of the dated 14.07.2023, passed in IA/5343/ND/2022. The order dated 14.07.2023 is modified accordingly. **IA disposed of.**

Sd/-
(Rahul Bhatnagar)
Member (T)



Sd/-
(Bachu Venkat Balaram Das)
Member (J)

सहायक पंजीयक
ASSISTANT REGISTRAR
राष्ट्रीय कम्पनी विधि अधिकरण
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