

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

IA (IB) No. 955/KB/2021

In

CP (IB) No. 986/KB/2020

In the matter of:

Application under section 30(6) for approval of Resolution Plan under section 31(1) of the Insolvency and Bankruptcy Code, 2016.

And

In the matter of:

ICICI Bank Limited

...Financial Creditor

Versus

Narayani Steels Limited

...Corporate Debtor

And

In the matter of:

Krishna Komaravolu [Resolution Professional of Narayani Steels Limited]

...Applicant

Order Reserved on: 14.12.2021

Order pronounced on: 11.01.2022

Coram:

Shri. Rohit Kapoor, Member (Judicial)

Shri. Harish Chander Suri, Member (Technical)

Appearances (via video conference):

1. Mr. Rishav Banerjee, Advocate
2. Mr. Supriyo Gole, Advocate
3. Ms. Madhuj Barman, Advocate
4. Mr. Krishna Komaravolu, Resolution Professional

ORDER

Per: Harish Chander Suri, Member (Technical)

1. This Court convened through video conferencing
2. **IA (IB) No. 955/KB/2021** is an application under section 30(6) of the Code after approval of the resolution plan by the Committee of Creditors ('CoC').
3. This Application was moved on 14.12.2021 by Mr. Rishav Banerjee, Advocate on behalf of Mr. Krishna Komaravolu, Resolution Professional of Narayani Steels Limited (CIN: L27109WB1996PLC082021), by invoking the provisions of section 30(6) of the Insolvency and Bankruptcy Code, 2016 ('the Code' or 'IBC') read with regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ('CIRP Regulation') for approval of a Resolution Plan in respect of Narayani Steels Limited.
4. The underlying Company Petition in CP (IB) No. 986/KB/2020 was filed by ICICI Bank Limited against Narayani Steels Limited, the Corporate Debtor, under section 7 of the Insolvency and Bankruptcy Code 2016 which was admitted vide order dated 24.03.2021.
5. The Applicant herein, Mr. Krishna Komaravolu (IBBI Reg. No. IBBI/IPA-002/IP-N00562/2017-2018/11699) was appointed as the Interim Resolution Professional. He was later confirmed as the Resolution Professional of the Corporate Debtor at the first meeting of the Committee of Creditors (CoC) on 23.04.2021.
6. The IRP made public announcement on 26.03.2021 in Financial Express (English), Aajkal (Bengali) in Kolkata and Business Standard (English), Prajashakti (Telugu) in Visakhapatnam regarding initiation of Corporate Insolvency Resolution Process ('CIRP') and collected proof of claims from the financial and operational creditors, workers and employees of the Company in the specified forms till 07.04.2021. The applicant states he received claims from 7 (seven) financial creditors.
7. Accordingly, the CoC was constituted on 16.04.2021 with 7 (seven) financial creditors and a total of 11 (eleven) CoC meetings have been held during CIRP period, as follows:

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Particulars	Date of CoC meeting
1 st CoC Meeting	23.04.2021
2 nd CoC Meeting	18.06.2021
3 rd CoC Meeting	20.07.2021
4 th CoC Meeting	17.09.2021
5 th CoC Meeting	28.09.2021
6 th CoC Meeting	19.10.2021

8. The Applicant submits that in terms of the provisions of section 25(2)(h) of the Code read with regulation 36A(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, invitations in Form 'G' for Expressions of Interest ('**EoI**') from potential resolution applicants was published on 25.06.2021 for submission of resolution plans for the Corporate Debtor. The last date for receipt of EoIs was 10.07.2021.
9. In response to the invitation for EoI, five EoIs were received. The Applicant issued the final list of prospective resolution applicants ('**PRAs**') on 31.07.2021, wherein five prospective resolution applicants were eligible to submit Resolution Plan. The last date for submission of resolution plan was extended from 24.08.2021 to 08.09.2021. The List of the PRAs are as under:
- (i) Sunrise Industries, New Delhi
 - (ii) Somani Ispat Private Limited, Hyderabad
 - (iii) RKG Asset Management LLP
 - (iv) Rishikung Vincom Private Limited, Kolkata
 - (v) Duddu Fin-Lease Limited, Mumbai
10. However, only two PRAs i.e., (a) Rishikunj Vincom Private Limited and (b) Duddu Fin-Lease Private Limited submitted their Resolution Plans. The Resolution Plans were opened before the CoC in the 4th CoC Meeting and presentations were given by the PRAs about their resolution plan. Subsequently,

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the Applicant requested both the PRAs to enhance their respective resolution plan amount and to reduce the resolution plan period.

11. After negotiations between the members of CoC and the PRAs, Duddu Fin-Lease Limited sought time to consult with his higher ups, whereas, Rishikunj Vincom Private Limited agreed to revise the Resolution Plan amount from Rs.22.76 crores to Rs.27.72 crores and for reduction of resolution plan period from 12 months to 3 months. The revised resolution plan was submitted on 08.10.2021 by Rishikunj Vincom Private Limited.
12. In the 6th CoC meeting dated 19.10.2021, the CoC declared Rishikunj Vincom Private Limited as the successful H1 bidder and Duddu Fin-Lease Private Limited as the H2 bidder. The CoC approved the Resolution Plan of Rishikunj Vincom Private Limited with 100% vote.
13. The Applicant submits details of various compliances as envisaged within the Code and the CIRP Regulations which requires a Resolution Plan to adhere to, which is reproduced hereunder:

I. Submission of Resolution Plan in terms of section 30 of the Code (as amended vide Amendment dated 16.08.2019) as well as Regulation 38 of CIRP Regulations:

Relevant Provision	Provisions of Section 30 of the Code/Regulation	Page Number of Application	Remarks
Section 30(1)	A resolution applicant may submit a resolution plan along-with an affidavit stating that he is eligible under section 29A to the resolution professional prepared on the basis of the information memorandum	Page No. 230	Complied with. RA confirmed that he is eligible under Section 29A to submit Resolution Plan. Copy of the Affidavit dated 07.09.2021 is attached herewith.

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Section 30(2)(a) of the Code	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	Page No. 188	Rs.10 Lacs provided to settle the unpaid CIRP costs in priority to any other payments.
Section 30(2)(b) & Regulation 38(1)(a)	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 debt or under section 53.	Page No. 188 & 193	As there are no admitted claims of Operational Creditors, no amount is allocated/payable.
Regulation 38(1)(b)	Financial Creditors who have not voted in favour of the Plans	Page No. 195	There is no dissenting Financial Creditor; the Plan has been approved with 100% voting.
Section 30(2)(c) Regulation 38(2)(b)	Provides for the management of the affairs of the Corporate Debtor after approval of the	Page No. 189	RA will appoint directors as per statutory requirements or more, who may be in executive/non-

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	Resolution Plan.		<p>executive directors in capacity. The RA has informally identified people for the constitution of the Board with regard to Managing Director, Executive Director, Non-Executive Directors, CEO, CFO, CS etc. for the company but they will be appointed at a later stage by the Board. RA will ensure that all persons stated above or persons working as Managers or Officers as defined under the Companies Act 2013 will be Section 29A compliant during the implementation of Resolution Plan.</p>
Section 30(2)(d) Regulation 38(2)(a) & (c)	The implementation and supervision of the resolution plan	Page Nos. 189 & 195	<p>The implementation of the resolution plan will be monitored by the Monitoring Committee. The appointment of independent persons</p>

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			shall be at mutually agreed terms with CoC members and RA for the period with effect from the date of approval of Resolution Plan by Hon'ble NCLT till the upfront payment of the Resolution Plan.
Section 30(2)(e)	Does not contravene any of the provisions of the law for the time being in force	Page No. 192	The Plan complies with provisions of the laws; RA declared to this effect.
Section 30(3)	The Resolution Professional shall present to the Committee of Creditor for its approval such resolution plans which confirm the conditions referred to in sub-section (2)	Page No. 245	The duly compliant resolution plan was presented to the CoC by RP at its 6 th CoC meeting held on 19 th October 2021.
Section 30(4)	Approval of Resolution Plan by Committee of Creditors by a vote of not less than 66% of voting share of the Financial Creditors.	Page No. 260	The Resolution Plan is approved by Committee of Creditors with 100% voting share.

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Section 30(6)	The Resolution Professional shall submit the Resolution Plan as approved by the CoC to the Adjudicating Authority	Yes	The RP submitted the Application on 02.11.2021.
Regulation 37(a) to (l)	A Resolution Plan shall provide for the measures, as may be necessary for Insolvency Resolution of the Corporate Debtor for maximization of value of the assets	Page Nos. 241-243	Upon approval of Resolution Plan, the debt obligations of the CD get substantially reduced. CD is running as a going concern even now and hence there will not be any difficulty for the Resolution Applicant to continue the operations of the company.
Regulation 38(1A)	A resolution plan shall include a statement as to how it has dealt with interest of all stakeholders including Financial Creditors and Operational Creditors of CD.	Page No. 193	The Resolution Plan provided for the interest of all stakeholders. The Secured Financial Creditors get 13.71% of their claim amount and there are no dues to the Operational Creditors, employees/workers since company is a

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			going concern.
Regulation 38(3)	<p>A resolution plan shall demonstrate</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>(d) It has provisions for approvals required and the timeline for the same; and</p> <p>(e) The Resolution Applicant as the capability to implement the resolution plan</p>	Page No. 196	<p>The present lower capacity is mainly due to low/non-availability of gas. With the reduced debt obligations, the internal generations of funds are adequate to meet all the operating expenses besides a reasonable profit.</p> <p>The resolution applicant provided the required details in the resolution plan.</p>

I. Measures required for implementation of the Resolution Plan in terms of Regulation 37 and Regulation 39 of CIRP Regulations:

Sl. No.	Mandatory contents of the Resolution Plan	Relevant clause of the Resolution Plan complying with the mandatory contents
Regulation 39		
1	Representation to the effect that the contents of the affidavit submitted stating inter alia that that such	Page No. 58 of Resolution Plan and the affidavit submitted by the Successful

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	Resolution Applicant is not disqualified or ineligible under the Code and the CIRP Regulations from submitting a Resolution Plan for the Company, in the format provided in Format IIIA continue to be true and warrant that in shall at all point of times remain true. The Resolution Applicant specifically must represent in the Resolution Plan that it is not disqualified from submitting a resolution plan under Section 29A and other provisions of the Code and any other Applicable Law;	Resolution Applicant
2	Any other disclosure required to establish and assess the eligibility of the Resolution Applicant under the IB Code, the CIRP Regulations and including under Section 29A of the IB Code along with any supporting documents confirming the same;	Not required and hence not provided
3	An undertaking by the Resolution Applicant that every information and records provided in connection with or in the Resolution Plan is true and correct and discovery of any false information and record at any time will render the applicant ineligible, forfeit any refundable deposit and attract penal action	Page No. 58-59 of the Resolution Plan

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	under the IB Code.	
4	Such other information as may be necessary for assisting the COC valuation of the Resolution Plans.	NA
Regulation 37		
5	Regulation 37 (a) & (b)- Transfer/ sale of all or part of the assets of the Company to one or more persons;	No such proposal is made in the Resolution Plan
6	Regulation 37 (ba)- Restructuring of the Corporate Debtor, by way of merger, amalgamation and demerger	No such proposal is made in the Resolution Plan
7	Regulation 37 (c)- The substantial acquisition of shares of the Corporate Debtor, or the merger or consolidation of the Corporate Debtor with one more person	Restructuring of the Capital Structure is at page 26 of the Resolution Plan
8	Regulation 37 (ca)- cancellation or delisting of any shares of the corporate debtor, if applicable	Restructuring of the Capital Structure is at page 26 of the Resolution Plan
9	Regulation 37 (d)- satisfaction or modification of any security interest	Second para to page 33 of the Resolution Plan
10	Regulation 37 (e)- curing or waiving of any breach of the terms of any debt due from the Company	Page 55 of the Resolution Plan
11	Regulation 37 (f)- reduction in the amount payable to the creditors	Page 55 of the Resolution Plan
12	Regulation 37 (g)- extension of a maturity date or a change in interest	Page 55 of the Resolution Plan

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	rate or other terms of a debt due from the Company	
13	Regulation 37 (h)- amendment of the constitutional documents of the Company	No such proposal is made in the Resolution Plan
14	Regulation 37 (i) - Issuance of securities of the Company, for cash, property, securities, or in exchange for claims or interests or other appropriate purpose.	Page No. 29 of Resolution Plan
15	Regulation 37 (j)- change in portfolio of goods or services produced or rendered by the corporate debtor	No such proposal is made in the Resolution Plan
16	Regulation 37 (k)- change in technology used by the corporate debtor	No such proposal is made in the Resolution Plan
17	Regulation 37 (l)- obtaining necessary approvals from the Central and State Governments and other authorities	No such proposal is made in the Resolution Plan.

14. The Applicant submits that the Resolution Professional has submitted a certificate of eligibility under section 29A of the Code, which has been annexed as **Annexure T** at **pages 274 – 278** of the Application.
15. The Applicant has filed a Compliance Certificate in prescribed form i.e., Form ‘H’ in compliance with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016 which has been annexed as **Annexure U** at **pages 279 – 283** of the Application.

Details of Resolution Plan/Payment Schedule

16. The Applicant submits the relevant information with regard to the amount claimed, amount admitted and the amount proposed to be paid by the Resolution

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Applicant i.e., Rishikunj Vincom Private Limited, under the Resolution Plan is tabulated as under:

Details of expenses/ stakeholder	Amount Claimed INR	Amount of claim admitted INR	Payment proposed per Resolution Plan INR	% payment to amount claimed
CIRP Costs	10,00,000	10,00,000	10,00,000**	100%
Secured Financial Creditors	195,52,93,717	195,52,93,717	26,81,00,000	13.71%
Employees	NIL	NIL	NIL	NIL
Government	NIL	NIL	NIL	NIL
Unsecured Financial Creditors	103,60,41,271	103,60,41,271	81,00,000	0.78%
Total	296,13,34,988	296,13,34,988	27,72,00,000	14.49%

17. Summary of the financial proposal/payment under the Resolution Plan dated 08.10.2021 of Rishikunj Vincom Private Limited is enumerated below:

- i) Resolution Plan amount: Rs. 27.72 Crore
- ii) Resolution Plan Period: 3 months from the order of NCLT
- iii) Proposed payment:
 - Unpaid CIRP Costs- Rs. 10 Lakh
 - Financial Creditors- Rs. 26.81 Crore
 - Unsecured Financial Creditors- Rs. 81 Lakh
 - Operational Creditors- Rs. NIL

The implementation schedule is furnished below:

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Rs. in Lakhs

Particulars	Resolution Debt	Resolution Amount	Upfront Payment within 30 days of effective date	Payment within 60 days of effective date	Payment within 90 days of effective date
CIRP Costs	10.00	10.00	10.00	0.00	0.00
Secured Financial Creditors	19552.94	2600.00	1300.00	650.00	650.00
Unsecured Financial Creditors	10360.41	162.00	40.51	20.25	20.25
Total	29613.35	2772.00	1350.51	670.25	670.25

18. **Reliefs and/or concessions**

Sl.No.	Relief and/or Concessions Sought	Orders Thereon
(i)	Issuance / renewal of all kinds of licenses / permission required for operation of the business/factory / project operations	Temporary license shall be granted / provided to operate the project / business / factory operations immediately (without any stay or hindrance) without application for the interim period till date of approval of such permissions.
(ii)	Issue of Shares to Resolution Applicant under Preferential Allotment OR	Granted

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	Through Transfer / Extinguishment of Shares of Existing Equity Shareholders	
(iii)	Further issuance of shares or equivalent instruments under preferential allotment or equity shares through rights issue for working capital / CAPEX of the Corporate Debtor to investors under preferential allotment or rights issue of equity shares to existing shareholders upto the tune of Rs 25 Crores at Face Value of Rs 10 each to augment / raise working capital / CAPEX requirements of the Corporate Debtor so as to run the business operations of the Corporate Debtor within 36 months of the Effective Date.	This is for the New Board of Directors to decide, as per the law.
(iv)	Raising of debts in any form or manner for working capital / CAPEX of the Corporate Debtor by issuance of any form / kind of debt instruments (Secured / Unsecured) from any source for working capital / CAPEX Requirements of the Corporate Debtor so as to run the business operations of the Corporate Debtor within 24 months of the Effective Date.	This is for the New Board of Directors to decide, as per the law.
(v)	Approval for Change in Face Value of the Shares from Rs 10/-per share to Rs 0.50/- per share and then Consolidation of Face Value from Rs 0.50/- per share	Granted subject to the condition that the necessary forms shall be filed with the RoC with

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	to Rs 10/- per share	requisite fees.
(vi)	Waiver / Exemption from Takeover Code	Granted.
(vii)	Approvals for cancellation/extinguishment of free/pledged shares	Granted.
(viii)	Approval for Reduction of Quantity of Shares with Existing Shareholders	Granted subject to the fact that it complies with the necessary sections of Companies Act, NCLT Rules and directives of the SEBI.
(ix)	Approval of Extinguishment / Payment for Fraction of Shares to Existing Shareholders and issuance of new shares in lieu of the same to the RA or its Group / Associates Companies/Firms	Granted.
(x)	Approval of Increase in Authorised Capital	Granted subject to the necessary regulations to be followed and required documentation to be completed along-with requisite fees to be paid.
(xi)	Waiver/In-principle Approval for Application of SEBI/Stock Exchange Rules for issuance of Shares or equivalent instruments under Preferential	Granted.

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	Allotment and Non-convertible Debentures as well as Rights Issue for Deferred Payment under this Resolution Plan as well as raising new Capital for Working Capital / CAPEX	
(xii)	Waiver / Exemption from Shareholder's Approval	Granted.
(xiii)	Approval for Shifting of Registered Office of the Corporate Debtor	Granted only if the registered office/property belongs to the Corporate Debtor itself and not to a third party. The shift shall be as per the prescribed law.
(xiv)	Approval for Change of Name of the Corporate Debtor	Granted after following all the necessary rules and regulations of the Companies Act, 2013.
(xv)	Changes to be incorporated in the MOA/AOA	Granted after following the procedure as laid down in the Companies Act, 2013
(xvi)	Exemption from minimum public shareholding requirement	Granted after following SEBI ICRD Regulations 2018 ('ICDR Regulations')
(xvii)	Waiver of valuation of pricing of shares	Granted subject to the

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	by Registered Valuer	condition that no shares will be undervalued and a fair price be given to the same.
(xviii)	Waiver/exemption from requirement of No-Objection Certificate	No specific direction can be given.
Waiver of Liabilities		
(xix)	Liabilities claimed by Financial Creditors	Strictly as envisaged under the Code. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not part of the resolution plan shall stand extinguished. All other claims shall be dealt with in accordance with the resolution plan.
(xx)	Liabilities claimed by workmen and employee.	Granted.
(xxi)	Litigations before various courts	Granted.
(xxii)	Liabilities claimed by the erstwhile promoters	Granted.
(xxiii)	Liabilities accrued/dues under statutory dues	Granted

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(xxiv)	Liabilities claimed by Operational Creditors	Granted.
(xxv)	Liabilities / Litigations / Disputes / Appeals with Income Tax Dept	This is for the authorities concerned to consider keeping in view the scheme of the Code.
(xxvi)	Liabilities / Litigations / Disputes / Appeals with Sales Tax / VAT / Service Tax / GST / Excise / Customs / Octroi / Entry Tax Dept	This is for the authorities concerned to consider keeping in view the scheme of the Code.
(xxvii)	Removal of Corporate Debtor Name from Blacklisted or Barred Vendor List	Granted
(xxviii)	Liabilities that may accrue under Various Corporate Laws and Acts, Rules and Regulations	This is for the authorities concerned to consider.
(xxix)	Liabilities accrued to SEBI / BSE	This is for the authorities concerned to consider.
(xxx)	Liabilities accrued/may accrue under Various Acts & Laws	This is for the authorities concerned to consider.
(xxxi)	Liability which may accrue to Provisions of MAT and Other Sections of Income Tax Act	This is for the authorities concerned to consider.
(xxxii)	Corporate Guarantees issued by Corporate Debtor	Granted.
(xxxiii)	Contingent Liabilities / Legal	Granted.

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	Proceedings pursuant to Resolution Approval	
(xxxiv)	Legal Proceedings pending action / initiated against Corporate Debtor pursuant to Resolution Approval	Granted.
(xxxv)	Contracts made prior to Effective Date	Granted in terms of the resolution plan.
(xxxvi)	Claims / Rights of Existing Promoter and Promoter Group	Granted.
(xxxvii)	Claims by Government Authorities / Public Sector Authorities	This is for the authorities concerned to consider.
(xxxviii)	Termination of any Negotiable Instruments	Granted.
(xxxix)	Corporate Guarantee / Indemnities by Corporate Debtor	Granted.
(xl)	Revocation of Power of Attorneys	Granted.
(xli)	Extinguishment / Revocation of Workmen Contract	Granted.
(xlii)	Power to appoint new Workmen and Employees	Granted.
(xliii)	Approved Resolution Plan to be considered as Proof for Waiver of Liabilities	Granted.
(xliv)	Removal of Lien / Charge or any action	Strictly as envisaged

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	by Government / Statutory Authority	under the Code.
(xlv)	Change of Authorised Signatory	Granted but as per the established laws and regulations.
(xlvi)	Revision of Books of Account of Previous Years	Granted.

Findings:

19. On hearing the submissions made by the Ld. Counsel for the Resolution Professional, and perusing the record, we find that the Resolution Plan has been approved with 100% voting share. As per the CoC, the plan meets the requirement of being viable and feasible for revival of the Corporate Debtor. By and large, all the compliances have been done by the RP and the Resolution Applicant for making the plan effective after approval by this Bench.
20. On perusal of the documents on record, we are also satisfied that the Resolution Plan is in accordance with **sections 30 and 31 of the IBC** and also complies with **regulations 38 and 39** of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016. **We therefore approve the Resolution Plan.**
21. As far as the question of granting time to comply with the statutory obligations/seeking sanctions from governmental authorities is concerned, the Resolution Applicant is directed to do the same within one year as prescribed under section 31(4) of the Code.
22. In case of non-compliance of this order or withdrawal of Resolution Plan, the CoC shall forfeit the EMD amount already paid by the Resolution Applicant.
23. Subject to the observations made in this Order, the Resolution Plan in question is hereby approved by this Bench. The Resolution Plan shall form part of this Order.
24. The Resolution Plan is binding on the Corporate Debtor and other stakeholders involved so that revival of the Debtor Company shall come into force with immediate effect.

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25. The moratorium imposed under section 14 shall cease to have effect from the date of this order.
26. The Resolution Professional shall submit the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record and also return to the Resolution Applicant or New Promoters.
27. Certified copy of this order be issued on demand to the concerned parties, upon due compliance.
28. Liberty is hereby granted for moving any Application if required in connection with implementation of this Resolution Plan.
29. A copy of this Order is to be submitted in the Office of the Registrar of Companies, West Bengal.
30. The Resolution Professional shall stand discharged from his duties with effect from the date of this Order.
31. The Resolution Professional is further directed to handover all records, premises/factories/documents to the Resolution Applicant to finalise the further line of action required for starting the operation. The Resolution Applicant shall have access to all the records/premises/factories/documents through the Resolution Professional to finalise the further line of action required for starting of the operation.
32. **IA (IB) No. 955/KB/2021** and the main Company Petition i.e., **CP (IB) No. 986/KB/2020** shall stand disposed of accordingly.
33. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
34. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
35. File be consigned to the record

Harish Chander Suri)
Member (Technical)

(Rohit Kapoor)
Member (Judicial)

Order signed on January 11, 2022

SA, LRA