BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONAL BENCH, KOLKATA, WEST BENGAL
FINANCE CENTRE, 3RD FLOOR, NEW TOWN
[Under Section 18 (1) read with Section 14 of the National Green Tribunal Act, 2010]

ORIGINAL APPLICATION NO. 188/2023/EZ

RAJKUMAR DAS

... Applicant

-And-

In the matter of:

MOEF & ORS.

... Respondents

AFFIDAVIT-IN-OPPOSITION FILED ON BEHALF OF THE RESPONDENT NO.4 ABOVENAMED TO THE APPLICATION FILED BY THE APPLICANT UNDER SECTION 18 (1) READ WITH SECTION 14 OF THE NATIONAL GREEN TRIBUNAL ACT, 2010

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NOTARY INDIA GOVT. OF KOLKATA SHYAM NARAYAN PANDEY REGN NO. 16324/2018

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SL. NO. 35 DT. 03.04.24

For RAMSARUP INDUSTRIES LTD.
Director / Authorised Signatory

BEFORE THE NATIONAL GREEN TRIBUNAL

EASTERN ZONAL BENCH, KOLKATA, WEST BENGAL

FINANCE CENTRE, 3RD FLOOR, NEW TOWN

[Under Section 18 (1) read with Section 14 of the National Green Tribunal Act, 2010]

ORIGINAL APPLICATION NO. 188/2023/EZ

Rajkumar Das, son of Swapan Kumar Das, Malancha Chandpur, Kharagpur, Paschim Midnapore - 721301

... Applicant

-And-

1. **MOEF,** through its Secretary, Indira Paryavaran Bhawan, Jor Bagh, Lodi Road, New Delhi - 110003;
2. **The West Bengal Pollution Control Board,** service through the Chairman, Paribesh Bhawan, 10A, Block-LA, Sector-III, Bidhannagar, Kolkata - 700106;
3. **State Water Investigation Directorate,** through its Director Nirman Bhaban, 3rd

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Floor, Salt Lake City, Kolkata - 700091;

4. **Ramsarup Industries Limited**, previously Ramsarup Lohh Udyog Ltd., through its Chairman cum Managing Director, 7C, Kiron Shankar Roy Road, Hastings Chamber, 1st Floor, Kolkata - 700001.

... Respondents

AFFIDAVIT-IN-OPPOSITION FILED ON BEHALF OF THE RESPONDENT NO.4 ABOVENAMED TO THE APPLICATION FILED BY THE APPLICANT UNDER SECTION 18 (1) READ WITH SECTION 14 OF THE NATIONAL GREEN TRIBUNAL ACT, 2010.

I, Saugata Banerjee, son of Sri Baikuntheswar Banerjee, aged about 36 years, by faith- Hindu, by occupation- service, working for gain at Ramsarup Industries Limited and having its office at SS Chambers, 5, C.R. Avenue, 3rd Floor, Kolkata - 700072, do hereby solemnly affirm and say as follows: -

1. I am an Authorised Representative of the respondent no. 4. I am and have made myself well aware of and fully acquainted with all the relevant facts and circumstances of this case. I have also been duly empowered and authorized by the respondent no. 4 to make and affirm this affidavit on its behalf. As such, I am competent to affirm this affidavit on behalf of the respondent no. 4.

For RAMSARUP INDUSTRIES LTD. Saugata Banerjee Director / Authorised Signatory

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2. I say that I have carefully perused the service copy of the application taken out by the applicant purportedly under Section 18 (1) read with Section 14 of the National Green Tribunal Act, 2010 (hereinafter referred to as "the NGT Act") allegedly affirmed on 1 December 2023 (hereinafter referred to as the "said application") and I have understood its true scope, contents, purport and meaning thereof.

3. I say that I have been advised to deal with and/or traverse only those averments and allegations made in the said application, which are material for proper and effective adjudication thereof. Save as what are the matters of record and what can be substantiated therefrom and barring what are specifically admitted by me, I deny and dispute each and every averment and allegation made in the said application in seriatim, as if the same were specifically traversed.

4. However, prior to specifically dealing with the averments and allegations contained in the several paragraphs of the said application, I humbly submit that the said application is not at all maintainable and is liable to be dismissed in limine with exemplary costs on the following grounds each of which is without prejudice to one another:

   a) I say that the said application does not disclose any cause of action which could have justified initiation of the present proceeding by or at the instance of the applicant and on such ground alone, the said application deserves no consideration.

   b) I say that the applicant cannot and does not have any right to invoke the jurisdiction of this Hon'ble Tribunal in any view of the matter, even if the averments made in the said application are taken at face value and be deemed to be sacrosanct.

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c) From a bare perusal and wholesome reading of the said application itself, it would also be manifest that the applicant is a busy body and is not at all a person aggrieved, at whose instance the jurisdiction of this Hon'ble Tribunal can be invoked.

d) I say that a person can prefer an application for grant of any relief whether in the nature of compensation or for mandatory directions or for punitive orders or for settlement of disputes and the like before this Hon'ble Tribunal only on actually sustaining the injury complained of and not otherwise. From a perusal of the said application itself, it clearly transpires that it is not even the case of the applicant that he himself has sustained any injury by reason of the alleged violations committed by the respondent no. 4. The application may kindly not be entertained by this Hon'ble Tribunal at the instance of the applicant.

e) I most humbly submit that in order to acquire *locus standi* to take out and maintain an application before this Hon'ble Tribunal, the applicant must necessarily come within the purview of Section 18 (1) of the NGT Act. The applicant does not fall within the ambit, scope and purview of the parties described more fully and particularly in Section 18 (1) of the NGT Act, who are entitled to maintain an action before this Hon'ble Tribunal.

f) Nothing has been pleaded in the said application to demonstrate as to how the original applicant could be personally aggrieved by the affectation of any judicially enforceable legal right. It is respectfully submitted that only a person who has suffered or suffers from a legal injury within the meaning of Section 18 (1) of the said NGT Act, can approach this Hon'ble Tribunal.

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g) Furthermore, there is no direct or indirect cause of action, which could have justified initiation of the present proceeding at the instance of the applicant, nor does the said application disclose any.

h) From a perusal of the said application, it further transpires that the applicant has really sought to espouse the cause of others by filing the said application. The purported concern of the applicant as regards the injury allegedly sustained by others does not and cannot however give rise to a cause of action in his favour to invoke the jurisdiction of this Hon'ble Tribunal.

i) I say that the provisions laid down in the NGT Act do not authorize or entitle a person "interested in the protection of the environment and in protection of the right to clean environment" to purportedly espouse the alleged cause of others by filing an application before this Hon'ble Tribunal and on the contrary, require the injured and aggrieved persons themselves to personally approach this Hon'ble Tribunal for redressal of their grievances. The said application is an absolute abuse of the process of law and also of the process of this Hon'ble Tribunal and deserves no consideration whatsoever.

j) It is clear that the said application has been filed with a vested agenda at the instance and/or behest of persons/entities having business interests contrary to that of the respondent no. 4.

k) Furthermore, the said application is also palpably barred by limitation and on such ground as well, justice demands forthwith dismissal of the said application.

l) The said application is bad for mis-joinder and non-joinder of necessary parties. The respondent no. 1 is a Ministry under the

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Union of India and is not a separate juristic entity. The Union of India has not been impleaded in the instant proceedings, and the application is liable to be dismissed on that ground alone.

5. The respondent no. 4 was incorporated on 9 July 1979, for, *inter alia*, carrying on the business of manufacturing of Steel, TMT Bars and Steel Wires. The manufacturing units of the respondent no. 4, *inter alia*, include an integrated steel plant (hereinafter referred to as the "said Plant") located in Kharagpur, District: Paschim Medinipur, West Bengal 721 301 (hereinafter referred to as the "Kharagpur Land"). The said land was held by Ramsarup Lohh Udyog, a unit of the respondent no. 4, on a 99-year lease with the West Bengal Industrial Development Corporation (hereinafter referred to as "WBIDC").

6. Ramsarup Lohh Udyog Limited was the original owner or the project proponent with respect to the said Plant. The Hon'ble High Court at Calcutta in Company Petition No. 195 of 2008 connected with Company Application No 236 of 2008 being a Scheme of Amalgamation between Ramsarup Lohh Udyog Limited and Ramsarup Industries Limited (hereinafter referred to as the "Scheme") vide order dated 30 June 2008, permitted amalgamation of Ramsarup Lohh Udyog Limited with Ramsarup Industries Limited i.e., the respondent no. 4. Pursuant to the provisions of the Scheme, the Kharagpur Land and all other Environmental Clearances, permits, registrations and licenses, stood transferred to Ramsarup Industries Limited i.e., the respondent no. 4.

7. The said Plant situated on the Kharagpur land remained operational till about June 2010 (hereinafter referred to as the "Shutdown date"). Inasmuch as on and from such Shutdown date, the said Plant remained non-functional and/or non-operational, the machinery and

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equipment of the said Plant consequently fell into disrepair and were rendered obsolete and unworkable. The Shutdown date shall be evident from the relevant extract of the Annual Report for the year 2010-11 of the Respondent no. 4 which is annexed hereto and marked as **Annexure "R-1"**.

8. During the period of operationalization of the said Plant i.e. prior to the Shutdown date, the said Ramsarup Lohh Udyog Limited and/or the respondent no. 4 had obtained the requisite Environmental Clearances ("EC"), Consent to Establish ("CTE") and Consent to Operate ("CTO") in respect of the said Plant, which are as follows:

(a) CTE dated 6 June 2006, issued by the respondent no. 2 to Ramsarup Lohh Udyog Limited permitting establishment of the said Plant, a copy whereof is annexed hereto and marked as **Annexure "R-2"**;

(b) EC dated 3 October 2006 (hereinafter referred to as the "2006 EC"), issued by the respondent no. 1 to Ramsarup Lohh Udyog Limited under the Environment Impact Assessment Notification dated 27 January 1994 (hereinafter referred to as "1994 EIA Notification") and the Environment (Protection) Act, 1986 (hereinafter referred to as the "1986 Act"), a copy whereof is annexed hereto and marked as **Annexure "R-3"**;

(c) CTO dated 8 February 2007, issued by the respondent no. 2 to Ramsarup Lohh Udyog Limited under Sections 25 and 26 of the Water (Prevention and Control of Pollution) Act, 1974 and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981, to operate the said Plant for the period from 22 November

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2006 to 30 November 2007, a copy whereof is annexed hereto and marked as **Annexure "R-4"**;

(d) Renewal of the aforesaid CTO dated 22 December 2008, issued by the respondent no. 2 to Ramsarup Lohh Udyog Limited under Sections 25 and 26 of the Water (Prevention and Control of Pollution) Act, 1974 and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981, granting CTO the said Plant for the period from 1 December 2008 to 30 November 2010, a copy whereof is annexed hereto and marked as **Annexure "R-5"**;

(e) CTO dated 2 June 2009, issued by the respondent no. 2 to Ramsarup Lohh Udyog Limited under Sections 25 and 26 of the Water (Prevention and Control of Pollution) Act, 1974 and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981, granting CTO the said Plant upto 31 March 2010, a copy whereof is annexed hereto and marked as **Annexure "R-6"**; and

(f) EC dated 3 June 2009 issued by the respondent no. 1 to Ramsarup Lohh Udyog Limited under the Environment Impact Assessment Notification 14 September 2006 ("2006 EIA Notification") and the 1986 Act in respect of modernisation-cum-expansion of the said Plant which was to remain valid for a period of 10 years and whereby, EC was *inter alia* granted to the proposed setting up of a Sinter Plant, Oxygen Plant, etc. in the said Plant (hereinafter referred to as the "2009 EC"), a copy whereof is annexed hereto and marked as **Annexure "R-7"**.

9. In terms of the 2006 EC, permission was accorded to the setting up of 0.3 MTPA Integrated Steel Plant to manufacture 0.291 MTPA cast billets and 31,300 TPA cold pig iron besides co-

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generation of 20 MW power. Also, in terms of the 2006 EC, Ramsarup Lohh Udyog Limited was permitted to set up inter alia, (i) DRI Plant with raw material feed system ("DRI"), rotary kiln, rotary cooler, product handling system and waste gas system; (ii) Blast furnace of 350 m^3 capacity; (iii) steel melting shop; (iv) Electric Arc Furnace ("EAF"); and (v) 20 MW captive power plant.

10. In terms of the 2009 EC, permission was accorded for inter alia, the enhancement of the production capacities of the said Integrated Steel Plant. A comparison between the existing and proposed permitted capacities under the the 2009 EC is as follows:

Units	**Capacity**	
	Existing	**Proposed**
DRI Plant	(1X500 TPD)/ 150,000 TPA	(1X500 TPD)/ 150,000 TPA
Blast Furnace	(1X350 m^3)/ 2,64,100 TPA	(1X350 m^3)/ 3,10,900 TPA
Pig Casting Machine	1X 1,000 TPD	
EAF Shop	(1X50T)/ 3,00,000 TPA	(1X70T)/ 3,83,200 TPA
Ladle Furnace	(1X50T)	(1X70T)
Billet Caster	(1X2/3 Strand). 2,91,000 TPA	(1X4 Strand)/ 3,72,000 TPA
Power Plant	20 MW	45 MW
WHRB	1X52.5 TPH	1X52.5 TPH
BF Gas Fired Boiler		1X25 TPH
CFBC	1X35 TPH	1X120 TPH
Sinter Plant	-	(1X90 m^2)/ 9,60,000 TPA
Oxygen Plant	-	7,300 Nm^3 / hour of Oxygen
Rolling Mill	-	0.8 MTPA

11. In terms of the 2009 EC, permission was accorded to establish, *inter alia*, the Sinter Plant in the said Plant. However, prior to setting up the said Sinter Plant, the entire said Plant itself ceased to operate in June 2010. Only civil/structural work relating to the Sinter Plant had been done prior to shut down. Engineering, electrical and other parts

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of the Sinter Plant had not even commenced and put in place at the time of shut down. As such the Sinter Plant was a long way from being commissioned. As such, the machinery and equipment procured in respect of the proposed Sinter Plant went into disrepair and obsolescence. The respondent no. 4 craves leave of this Hon'ble Tribunal to refer to a copy of a valuation report dated 30 September 2013, evidencing the steps taken to establish the said Sinter Plant.

12. The respondent no. 4 was the 'Corporate Debtor' in an application filed by the erstwhile management of the respondent no. 4 under Section 10 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC, 2016") being C.P. (IB) No. 349/KB/2017 before the Kolkata Bench of the Hon'ble National Company Law Tribunal ("Hon'ble NCLT") for initiation of corporate insolvency resolution process (hereinafter referred to as "CIRP") of the respondent no. 4. The respondent no. 4 was admitted into CIRP by an order dated 8 January 2018, passed by the Hon'ble NCLT, a copy of which is annexed hereto and marked as **Annexure "R-8"**.

13. In the CIRP of the respondent no. 4, a consortium of S.S. Natural Resources Private Limited and Shyam Sel and Power Limited (collectively referred to as the "Resolution Applicant") submitted a Resolution Plan towards resolution of the respondent no. 4 (hereinafter known as the said "Resolution Plan") which was approved by the Committee of Creditors of the respondent no. 4 (hereinafter referred to as the "CoC") and was subsequently approved by the Hon'ble NCLT by an order dated 4 September 2019. A copy of the order of the Hon'ble NCLT dated 4 September 2019 is annexed hereto and marked as **Annexure "R-9"**.

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14. The order of the Hon'ble NCLT dated 4 September 2019, approving the said Resolution Plan has attained finality since appeals therefrom before the Hon'ble National Company Law Appellate Tribunal (hereinafter referred to as the "NCLAT") and thereafter before the Hon'ble Supreme Court were dismissed. A copy of the order dated 4 March 2021 passed by the Hon'ble NCLAT dismissing the appeal from the order of the Hon'ble NCLT dated 4 September 2019, is annexed hereto and marked **Annexure "R-10"**. Copies of the orders of the Hon'ble Supreme Court dated 4 May 2021 and 2 July 2021, dismissing the Special Leave Petitions preferred from the order of the Hon'ble NCLAT dated 4 March 2021, are annexed hereto and marked as **Annexure "R-11"** and **Annexure "R-12"** respectively.

15. After the dismissal of the appeals filed against the order dated 4 March 2021 passed by the Hon'ble NCLAT on 4 May 2021 by the Hon'ble Supreme Court of India, the Resolution Plan achieved finality but was unable to be implemented by the Resolution Applicant due to pending litigations and disputes with the erstwhile promoters of the respondent no. 4. A second round of litigation was initiated in 2022 by one CFM Asset Reconstruction Company Private Limited (hereinafter referred to as the "CFM"), the majority financial creditor of the respondent no. 4, seeking liquidation of the respondent no. 4 on the ground of non-implementation of the approved Resolution Plan. However, the application filed by CFM was dismissed by the Hon'ble NCLT on 6 April 2022, with directions on the Resolution Applicant to immediately implement the approved Resolution Plan. The said order was challenged by CFM before the Hon'ble NCLAT and subsequently, the Hon'ble Supreme Court of India, with both dismissing the appeals by orders dated 19 April 2022 and 12 May

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2022 respectively. Copies of the orders of the Hon'ble NCLT dated 6 April 2022, Hon'ble NCLAT dated 19 April 2022 and Hon'ble Supreme Court dated 12 May 2022, are annexed hereto and collectively marked as **Annexure "R-13"**.

16. The said Resolution Plan, approved by the Hon'ble NCLT and having been affirmed by the Hon'ble NCLAT and the Hon'ble Supreme Court, has attained finality and CIRP being proceedings in rem, the said Resolution Plan is binding on the world at large, including the respondents herein. The said Resolution Plan provides, *inter alia*, for the following which are relevant for the purpose of the instant writ petition:

> "***Clause 15.13**: Upon approval of this Resolution Plan, all investments (including but not limited to the investment in key infrastructure facilities),* ***statutory rights, licenses, agreements, registrations or any similar approval by whatever name called and fundamental for running the business on going concern shall be in complete force and valid.***
>
> ***Clause 15.14**: The Resolution Applicant has prepared this Resolution Plan on the basis of certain assumptions set out below, and has assumed that* ***upon approval of this Resolution Plan by the Adjudicating Authority, the Corporate Debtor and the Resolution Applicant**, as the case may be, **shall be entitled to the following and the same shall be deemed to form a part of the order of the NCLT**:*

...

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ii. *Licenses/ Approvals/ Contractual Rights and Benefits*

(a) *The Resolution Applicant is praying that upon approval of this Resolution Plan by the Adjudicating Authority and since the Resolution Applicant will acquire the Corporate Debtor on a going concern basis, all subsisting consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled to shall, notwithstanding any provision to the contrary in their terms, he deemed to continue without disruption for the benefit of the Corporate Debtor.*

(b) *For the avoidance of doubt, it is hereby clarified that all consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled to, which were in place on the date of shut down of the plant pursuant to lock-out ("Shut Down Date"), shall be deemed to continue without disruption for the benefit of the Corporate Debtor for a period of 12 months from the Completion date or until renewed by the relevant authorities, whichever is later. Without any liability for the non-compliance during the time specified above, the Resolution Applicant undertakes to cause the Corporate Debtor to expeditiously identify such expired consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law,*

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contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled to, evaluate the steps required to address the same and take steps to remedy the same to the extent practically possible.

(c) The period of non-operation i.e., from the Shut Down Date to the Effective Date shall not be counted upon i.e., any approval, grant, license, etc. shall be treated to be in effect as the same was in effect on the Shut Down Date and shall remain valid for their residual tenor as on the Shut Down Date with effect from the Effective Date."

A copy of the approved Resolution Plan is annexed hereto and marked as **Annexure "R-14"**.

17. By virtue of Clauses 15.13 and 15.14 of the said Resolution Plan, all consents, permits, registrations, licences, approvals granted to the respondent no. 4 (including the clearances and consent granted, inter alia, by the respondent No. 1 and respondent No. 2), which were in place on the date of shutdown were to be deemed to continue without disruption for the benefit of respondent no. 4 until, inter alia, renewal by the relevant authorities, with the period of non-operation, i.e., from the date of shutdown to the Effective Date of the said Resolution Plan i.e., 4 September 2019, to be excluded from being counted towards the term and/or validity of any such consent and/or license and/or approval.

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18. The Resolution Plan in its entirety, including Clauses 15.13 and 15.14, are binding, inter alia, on all instrumentalities of the State including the respondents herein by operation of Section 31 of IBC,

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2016 read with Clause 16 of the said Resolution Plan and inasmuch as the said Resolution Plan has attained finality having been approved upto the Hon'ble Supreme Court. The said Resolution Plan has in rem effect and binding on all Central and State authorities including the respondents herein.

19. The said Resolution Plan contemplates running of the respondent no. 4 as a going concern, free from any charge or impediment, or being without any necessary statutory and/or regulatory approval inasmuch as the said resolution plan explicitly deems the continuation of all subsisting clearances and/or consents and/or approvals granted to the respondent no. 4 without any disruption, notwithstanding any term therein to the contrary. The Resolution Plan also requests Central and State Governments to issue all such further clearances and/or consents and/or approvals to the respondent no. 4 after approval of the said Resolution Plan as expeditiously as possible. Further, the said Resolution Plan specifically prohibits the termination of any consent and/or clearance and/or approval which had been granted to the respondent no. 4 on account of any action taken for implementation of the said Resolution Plan. The aforesaid is binding on the respondents and their functionaries inasmuch as the said Resolution Plan had been approved by the said Adjudicating Authority up to the Hon'ble Supreme Court under Section 31 of the IBC, 2016.

20. On 5 May 2022, at the 18th Meeting of the Monitoring Agency of the respondent no. 4, the Resolution Applicant placed its Directors on the reconstituted Board of Directors of the respondent no. 4 in terms of Clause 13.3.2 of the said Resolution Plan, whereupon the erstwhile Directors of respondent no. 4 stood discharged from office and the

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management and control of the respondent no. 4 was handed over to the said reconstituted Board of Directors of the respondent no. 4. A copy of the Minutes of the Meeting of the 18th meeting of the Monitoring Agency of the respondent no. 4 dated 5 May 2022 is annexed hereto and marked as **Annexure "R-15"**.

21. Subsequent to the handover of management and control of the respondent no. 4 to the Resolution Applicant on 5 May 2022, the new management of the respondent no. 4 took possession of the said Plant on the Kharagpur Land on 12 May 2022.. Upon taking possession of, inter alia, the said Plant on the said Kharagpur Land, the new management discovered that the machinery and equipment in the said Plant, particularly in respect of the Sinter Plant, had become totally damaged, obsolete and was in a state of extreme disrepair. In other words, such infrastructure had become wholly unworkable. In so far as the Sinter Plant and the plant and machinery related thereto are concerned, the same were found to be lying in such damaged/rusted condition that if proper care was not immediately taken, the same would be lost forever and be unutilizable. Accordingly, some repairing work was carried out to the civil work in the Sinter Plant to protect the structure. Additionally, painting work was carried out to prevent the said civil/structural work from further rusting and damage. All this was done only so that ultimately after the respondent no. 4 was able to obtain a valid CTE and CTO, the respondent no. 4 would be able to set up the Sinter Plant for use, utilization and operation. In so far as the DRI, Captive Power Plant ("CPP") and the Blast Furnace is concerned, EC, CTE and CTO had already been granted prior to shutdown. In so far as the DRI and the CPP are concerned, the same are completed whereas the Blast

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furnace is under renovation/revamping. Recently, on 18 March 2024 the respondent no. 2 has granted a CTO to the respondent no. 4 whereby the respondent no. 4 has been accorded to operate DRI and CPP units in the said Plant. A copy of the CTO dated 18 March 2024 is annexed hereto and marked as **Annexure "R-16**". Upon completion of revamping work of the Blast Furnace unit along with associated auxiliary units, the respondent no. 4 will approach the competent authority for grant of a CTO in respect of such Blast Furnace unit. The respondent no. 4 has already applied for grant of such CTO in respect of such Blast Furnace unit. In this connection, a copy of the said CTO application is annexed hereto and marked as **Annexure "R-17"**. In respect of other units of the said Plant, the same is still in the stage of disrepair with mere painting works having been done to protect the same for further damage being caused by exposure to the elements. Although the new management has taken over the control of the respondent no. 4 on and from 5 May 2022, the said Plant is still to become operational, and no operations of manufacturing and production are currently going on therein. Once the same is operationalized, it will provide direct and indirect employment to approximately 1,000 persons in the region apart from generating indirect employment for several thousand persons and more.

22. It is further pertinent to mention here that the 2009 EC was issued on 3 June 2009 and was valid for 10 years i.e. till 2 June 2019. As stated hereinabove, the respondent no. 4 was admitted to the CIRP on 8 January 2018 and the erstwhile Board of Directors of the respondent no. 4 was suspended in place whereof the Resolution Professional was appointed. The responsibility of renewing the EC lay on the Resolution Professional and/or the erstwhile management of

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the respondent no. 4. The present management of the respondent no. 4 only took over the control of the respondent no. 4 in 2022.

23. At this juncture, the respondent no. 4 was surprised to receive a purported Show Cause Notice dated 23 August 2023 issued by the respondent no. 1 purportedly under Section 5 of the 1986 Act, inter alia, (hereinafter referred to as the "First Show Cause Notice") alleging that on the basis of a joint inspection carried out by the Regional Offices of the respondent no. 1 at Kolkata and Bhubaneswar on 4 August 2023, it was found that construction of proposed Sinter Plant and Pellet Plant had been carried out in the said Plant allegedly without obtaining a prior environmental clearance, in purported violation of 2006 EIA Notification. The First Show Cause Notice accordingly directed the respondent no. 4 to stop all purportedly illegal ongoing construction which had been reported to have been undertaken purportedly without existing EC and further directed the respondent no. 4 to show cause within 15 days of receipt of the said notice, failing which the respondent no. 1 would initiate such action as being fit and appropriate under the provisions of the 1986 Act. A copy of the First Show Cause Notice dated 23 August 2023, issued by respondent no. 1 is annexed hereto and marked as **Annexure "R-18"**.

24. Without prejudice to the submission that there was no violation of the 2006 EIA Notification or the 1986 Act inasmuch as the 2009 EC issued by the respondent no. 1 remains valid and subsisting by operation of the provisions of the said Resolution Plan, the respondent no. 4 upon receipt of the said notice, in exercise of its bona fides, ceased whatever little renovation and/or repairing and/or

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painting work had been commenced with respect to the said Plant on the Kharagpur Land.

25. The First Show Cause Notice was issued on the basis of a purported complaint dated 30 June 2023, lodged by one Swami Vivekananda Mission Trust with the respondent no. 1. The said complaint is baseless, frivolous, false, vexatious and fabricated, having been filed with the sole motive of exacting a personal vendetta against the respondent no. 4 by co-opting the due process of law.

26. By a letter dated 12 September 2023, the respondent no. 4 replied to the First Show Cause Notice, *inter alia*, clarifying and stating that:

(a) The 2009 EC was valid and subsisting inasmuch as Clauses 15.13 and 15.14 of the said Resolution Plan, which are binding on all instrumentalities of the State including the respondent nos. 1 to 3 herein, operate to the effect that the aforesaid 2009 EC granted to respondent no. 4 by the respondent no. 1, which was in place on the Shutdown date of the said Plant, deemed to continue without disruption, for the benefit of respondent no. 4, until renewal by the respondent no. 1, with the period of non-operation of the said Plant, i.e., from the Shutdown date of the said Plant in June 2010 till the Effective Date of the said Resolution Plan i.e., 4 September 2019, to be excluded from being counted towards the term and/or validity of the said 2009 EC.

(b) Upon taking possession of the Kharagpur Land by the new management and upon discovering that the machineries and equipment in respect of the Sinter Plant as also the structure of the said Plant was in disrepair and/or incapable of being utilized

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at such state, the new management undertook to repair and/or restore and/or renovate the machineries and equipment.

(c) Approval for the Sinter Plant had already been obtained from respondent no. 1 *vide* 2009 EC which remains valid and subsisting in light of the operation of Clauses 15.13 and 15.14 of the said Resolution Plan.

(d) The respondent no. 4 had already procured machineries and equipment in relation to the said Sinter Plant, as evident from the said Valuation Report dated 30 September 2013, but the same was not installed and was lying in a state of extreme and complete disrepair.

(e) As regards the allegations pertaining to the purported construction of the Pellet Plant, the said allegation is misconceived and baseless. I say that, the construction work in the said premises was only for guest house/rest house for the employees/labourers in the said Plant and not the pellet plant. I therefore say that, the only construction undertaken by the respondent no. 4 at the said premises was for setting up of a guest house/rest house which is sorely required and not for construction of the pellet plant. Although the respondent had applied for construction of the pellet plant in its TOR application, the same was withdrawn on 8 December 2023. Hence, the question of construction of a pellet plant does not and/or cannot arise. In any event, even the work of construction in connection with the proposed guest house/rest house has been stopped by way of abundant precaution, after the receipt of the First Show Cause Notice.

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(f) As regards the allegations pertaining to the purported construction of an oxygen plant, the said allegation is misconceived and baseless inasmuch as the 2009 EC permits construction of an oxygen plant on Kharagpur Land and/or in the said Plant. The oxygen plant forming the subject matter of the complaint was already in place prior to the Resolution Plan being sanctioned by the Hon'ble NCLT. No new construction in respect of oxygen plant was required or has been carried out. As and when required, the respondent no. 4 would take necessary steps for grant of CTE and CTO in respect of a modern oxygen plant, which may be required to be set up at the appropriate stage.

A copy of the reply issued by the respondent no. 4 dated 12 September 2023, is annexed hereto and marked **Annexure "R-19"**.

27. Inasmuch as the First Show Cause Notice was issued to the said Ramsarup Lohh Udyog Limited, the respondent no. 4 under the aforesaid reply dated 12 September 2023, further communicated to the respondent no. 1 that an application for change of name of the said Ramsarup Lohh Udyog Limited to Ramsarup Industries Limited in the 2009 EC and records of the respondent no. 1 was made by the respondent no. 4 on 15 November 2022, which was pending before the respondent no. 1. The respondent no. 4 submit that the aforesaid application has not yet been processed by respondent no. 1.

28. Despite the issuance of the aforesaid reply by the respondent no. 4 to the First Show Cause Notice, the respondent no. 2 purported to issue a show cause notice dated 29 September 2023 (hereinafter referred to as the "Second Show Cause Notice") on the self-same cause of

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action, inter alia, directing immediate stoppage of all purported illegal ongoing construction which had been reported to have been undertaken allegedly without existing environment clearances in respect of such constructions mentioned in the First Show Cause Notice of the respondent no. 1.

29. Inasmuch as the Second Show Cause Notice does not raise and/or make any allegation and/or finding of purported non-compliance beyond the ambit of the First Show Cause Notice of the respondent no. 1, the contents thereof did not merit any independent response beyond the contents of the reply of the respondent no. 4 by its letter dated 12 September 2023, which are reiterated and reaffirmed herein for avoidance of prolixity. A copy of the Second Show Cause Notice dated 29 September 2023, issued by respondent no. 2 is annexed hereto and marked as **Annexure "R-20"**.

30. The respondent no. 4 submits that inasmuch as the said Resolution Plan excludes the period of non-operation of the said Plant i.e., the period from June 2010 i.e. the date of shutdown of the said plant till 4 September 2019from being counted towards the term and/or validity of the said 2009 EC, the respondent no.4 submits that the said EC is still valid and subsisting. The respondent no. 4 at all material times had undertaken and/or commenced renovation and/or repairing and/or restoration of machineries and equipment in the said Plant, and more particularly the Sinter Plant, in accordance with the approvals granted by the respondent no. 1 under the aforesaid 2009 EC.

31. In any event, the respondent no. 4 is permitted by the said Resolution Plan to do all such acts and/or deeds necessary to operationalize the

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said Plant which is an integral and/or essential component of the said Resolution Plan read with the IBC, 2016 such that the respondent no. 4 is successfully revived. Such statutory right of the respondent no. 4 is in aid of maximizing the value of the assets of the respondent no. 4 as a running concern in accordance with the objects and purpose of the said Resolution Plan and IBC, 2016.

32. In respect of the other allegations made in the First Show Cause Notice issued by the respondent no. 1, the respondent no. 4 states that after taking possession of the Kharagpur Land on 12 May 2022, the respondent no. 4 took all necessary steps to ensure compliance with all other conditions stipulated in the 2009 EC. Inasmuch as the said Plant has not been operational sinceJune 2010 and with the new management coming in possession of the said Plant only in May 2022 after hand over of the management and control of the respondent no. 4, the respondent no. 4 had no occasion to restore and/or repair the said Plant whatsoever or howsoever prior to that. As such and with the aforesaid clearances remaining valid and subsisting, the respondent no. 4 hereby undertakes before this Hon'ble Tribunal to take all steps as necessary in aid of operationalizing the said Plant in accordance with the conditions of the aforesaid 2009 EC as expeditiously as possible.

33. The respondent no. 4 states that Section 31 of IBC, 2016 statutorily makes an approved resolution plan, binding on not only the respondent no. 4 and its employees, members and creditors, but also on the Central Government, any State Government or any local authority as also on the guarantors and other stakeholders involved in the CIRP of the respondent no. 4. The said Resolution Plan, being

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approved by the Hon'ble NCLT and having attained finality, is thus binding on the respondents as also their functionaries.

34. The said Plant on the Kharagpur Land is an essential and/or integral feature and/or component of the said Resolution Plan inasmuch as the same constitutes the single most critical asset for revival of the respondent no. 4 and maximising its value as a running concern. Expeditious operationalization of the Plant on the Kharagpur land would act in aid of successfully reviving the respondent no. 4 as a going concern in accordance with the object and purpose of the said Resolution Plan as also the IBC, 2016 and would generate employment and catalyse economic growth in the region.

35. Expeditious operationalization of the said Plant on the Kharagpur Land is in the fundamental interest of successfully reviving the respondent no. 4 and maximizing the value of its assets as a running concern, in accordance with the object and purpose of the said Resolution Plan and the IBC, 2016. Thus, any attempt to impede the operationalization of the said Plant on the said Kharagpur Land would, by necessary implication, be contrary to the said Resolution Plan.

36. Without prejudice to the aforesaid and in fact strictly relying thereon, I shall proceed to deal with the various statements made in the said application. I have been advised to deal with only those allegations and/or contentions and/or statements made in the said application which are necessary for the proper adjudication of the instant dispute. Save and except what are matters of record, all other allegations and/or contentions and/or statements made in the said

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application are deemed to have been denied as if the same had been traversed in seriatim.

37. With reference to paragraphs 1 to 3 of the said application, save and except what are matters of record or what may be gleaned therefrom, all other allegations made in the paragraphs under reference are denied and disputed. It is denied that the present application is maintainable under Section 18 (1) or 14 or 15 of the said Act. It is denied that the applicant in the instant case is an aggrieved person or is interested in the protection of environment or ecology. It is denied that the applicant is a law-abiding citizen of India or is interested in the protection of the environment or in protection of the right to a clean environment guaranteed to him under Article 21 of the Constitution of India or is interested in performance of his duties under Article 51 of the Constitution of India. It is denied that the directions sought by the applicant are appropriate or that the same are appropriate to protect the environment against the respondent no. 4 for illegal use of ground water or illegal construction and modernization of the Integrated Steel Plant without any environmental clearance. It is denied that the respondent no. 4 is illegally using any ground water or is illegally constructing or modernizing its integrated steel plant without any EC. It is also pertinent to mention here that, while the 2006 EC restricted the usage of groundwater, the 2009 EC does away with such restriction. It appears that after obtaining the 2009 EC, the erstwhile management of the respondent no. 4 applied for and obtained three separate permits for sinking of new well, all dated 4 January 2010 from the State Water Investigation Department (hereinafter referred to as the "S.W.I.D"). Subsequently, pursuant to such permits, three

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separate bore wells/tube wells were sunk for the purposes of the subject project. Since takeover of the responent no. 4 by the new management in May 2022, water from the borewell has been used exclusively for the drinking purpose of its employees. Such usage of water from the borewell does not violate the provisions of the 2009 EC, which is still operative and subsisting. In fact, the CTO dated 18 March 2024 expressly permits and enables usage of ground water. It may also be noted that the respondent no. 4 has entered into an agreement with the Kharagpur Municipality Corporation for supply of 2 MgD water per day. Copies of the permits dated 4 January 2010 issued by S.W.I.D. and the agreement dated 9 February 2024 for water supply are annexed hereto and collectively marked as **Annexure "R-21"** and **Annexure "R-22"** respectively.

38. With reference to paragraphs 4(a) to 4(f) of the said application, save and except what are matters of record or what may be gleaned therefrom, all other allegations made in the paragraphs under reference are denied and disputed. The various permissions granted to the respondent no. 4 from time to time have already been indicated in the preceding paragraphs. With regard to the applicant's allegation to the effect that while the limit of the 2006 EC was 31,300 TPA Cold Pig Iron, the CTO granted on 22 December 2008 allowed for production of 2,42,856 TPA in excess of what was provided under the 2006 EC, reliance may be placed on a circular dated 14 December 2006, being F.No. J-11013/41/2006-IA-II(I) issued by MoEF, IA Division, Government of India i.e. the respondent no. 1. The said circular was issued in relation to the 2006 EIA Notification. The circular provides that in cases of change in Product-Mix, changes in the quantities or numbers of products, the same may be allowed

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without prior EC by the concerned State Pollution Control Board, provided such changes in the quantities of the products are in the same category and are within the previously granted overall total limits. The said 2006 EIA Notification further provided that in projects involving modernization of their existing unit with increase in the total production capacity beyond the threshold limit through a change in process or technology or change in the Product Mix or debottle-necking or a combination of these, involving increase in pollution load, prior EC from the concerned Regulatory Authority would be obtained under the 2006 EIA Notification.

In this connection, it may be stated that the Metallurgical Process of an Integrated Steel Plant, inter alia, consists of production of hot metal through the Blast Furnace. The hot metal with DRI is then normally converted, through an EAF, into Billets through the Continuous Billet Casting Machine ("CBC Machine").As and when the EAF is not available or functionable for conversion of the hot metal into Billets, in such situations the hot metal is converted into Pig Iron, through the Pig Casting Machine.

However, in case of the respondent no. 4's Plant, the Blast Furnace complex comprised of one Blast Furnace of 350 m^3 volume along with its auxiliaries for producing hot metal to the tune of 2,28,100 Tonnes Per Annum (TPA). However, in as much as the EAF is not commissioned, accordingly the entirety of the hot metal in the Blast Furnace was converted into Pig Iron.

The 2006 EC provided for an 0.3 MTPA Steel Plant consisting of 0.291 MTPA Cast Billets and 31,300 TPA cold pig iron besides co-generation

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of 20MW power. The said 2006 EC further provided that the 350 M^3 Blast Furnace would produce 2,28,100 TPA Hot Metal.

On 6 June 2006, the CTE permitted the production of Steel at 24,250 TPM which is equivalent to 0.291 MTPA and cold Pigs at 2,608 TPM which is equivalent to 31,296 TPA.

The CTO dated 22 December 2008, (hereinafter referred to as "2008 CTO") was granted for the operation of Blast Furnace for the production of 18,360 TPM Pigs (which is equivalent to 2,20,320 TPA Pigs) from the 2,28,100 TPA hot metal. Such in Product- Mix approved by the State Pollution Control Board was allowed by the aforesaid 2006 EIA Notification, read with the Circular dated 14 December 2006.

A comparison between the approvals granted by the 2006 EC and the 2008 CTO, in terms of the extent of allowable production of Hot metal and Pig Iron, is tabulated in the following manner:

2006 EC	Hot metal- 2,28,100 TPA	Pig Iron- 31,300 TPA	Total production = 2,28,100 TPA + 31,300 TPA = 2,59,400 TPA
2008 CTO		Pig Iron- 18,360 TPM (equivalent to 2,20,320 TPA)	Total production = 2,20,320 TPA

From the aforesaid it is evident that the clearance for 2,20,320 TPA granted by the 2008 CTO was infact within the permitted production limit of 259400 TPA under the 2006 EC. A Steel making process flow sheet is annexed hereto and marked as **Annexure "R-23"**. It is therefore denied that the 2008 CTO obtained from the respondent no. 2 for production of cold Pig Iron exceeded the capacity of cold Pig Iron as per the 2006 EC. It is also denied that the respondent no. 4

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continued excess production of cold Pig Iron from 2008 or that such production was in violation of the 2006 EC. It is denied that the CTO granted by the respondent no. 2 was in violation of the 2006 EIA Notification as alleged or at all. Save as aforesaid all other allegations are denied and disputed.

39. With reference to paragraphs 4(g) to 4(i) of the said application, save and except what are matters of record or what may be gleaned therefrom, all other allegations made in the paragraphs under reference are denied and disputed. It is stated that the expansion proposal dated 3 April 2023 through Terms of Reference (hereinafter referred to as "TOR") was submitted but the application was withdrawn. It is further submitted that by virtue of Clauses 15.13 and 15.14 of the Resolution Plan, all consents, permits, registrations, licenses, approvals granted to the respondent no. 4 (including the clearances and consent granted, inter alia, by the respondent no. 1 and the respondent no. 2), which were in place on the date of shut down were to be deemed to continue without disruption for the benefit of respondent no. 4 until, inter alia, renewal by the relevant authorities, with the period of non-operation, i.e., from the date of shutdown to the Effective Date of the said Resolution Plan i.e., 4 September 2019, to be excluded from being counted towards the term and/or validity of any such consent and/or license and/or approval. The 2009 EC in respect of the said plant continues to be valid and subsisting by operation of clauses 15.13 and 15.14 of the Resolution Plan.

The construction work undertaken by the respondent no. 4 is not illegal and the only work that was undertaken was to erect a Guest House/Rest House for employees of the respondent no. 4. In this

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regard it is stated that from the records now made available to the present management of the respondent no. 4, it transpires that in the application for modernization cum expansion submitted by the erstwhile management of the respondent no. 4 with the respondent no. 1, there was provision for a housing area on which the construction of the guest house/rest house was initiated. Such construction commenced by the present management was not contrary to or dehors the existing 2009 EC; rather, the same forms part of the Project Plan in respect of which permission for expansion was granted for 2009 EC. In this connection a copy of the plan submitted with the application for modernization, evidencing a provision for a housing area is annexed hereto and marked as **Annexure "R-24".** However, as and by way of abandunt precaution, on receipt of the First Show Cause Notice, the ongoing construction was stopped. The same shall be evident from the report on inspection conducted by Integrated Regional Office of the respondent no. 1 on 2 November 2023. The respondent no. 4 respectfully submits that this Hon'ble Tribunal may be pleased to accord permission for continuation of the said construction, so that the same may be utilized for the benefit of the employees/labourers of the said Plant. It is completely denied that the respondent no. 4 was operating the plant illegally till 2010. The plant has been taken over by the present management on the strength of the orders passed by Hon'ble NCLT [which have been affirmed by Hon'ble NCLAT and the Hon'ble Supreme Court] and the present management was not involved in the operation of the said Plant prior to May 2022. It is denied that the construction activities undertaken by the respondent no. 4 is illegal or that the same is continuing. The allegations made by the applicant

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are completely baseless and unfounded. The pictures annexed to the said application as Annexure E do not show any illegal construction. Save as aforesaid all other allegations are denied and disputed.

40. With reference to paragraphs 4(j) and 4(k) of the said application, save and except what are matters of record or what may be gleaned therefrom, all other allegations made in the paragraphs under reference are denied and disputed. The contents of the showcause notices are matters of record. All allegations of alleged violations made therein against the respondent no. 4 were absolutely baseless and frivolous. The respondent no. 4 has duly replied to the showcause notice dated 23 August 2023 vide its reply dated 12 September 2023. The various allegations contained in the First Show Cause Notice has been replied to and/or rebutted. It is submitted that no further step was taken pursuant to the showcause notices dated 23 August 2023 and 29 September 2023 issued by the respondent nos. 1 and 2 respectively after receipt of the respondent no. 4's reply. The same gives rise to a necessary implication that the respondents no. 1 and 2 were satisfied with the replies issued by the respondent no. 4 to such showcause notices. The various allegations made by against the respondent no. 4 were dealt with in the following manner:

a) **Paragraph 4 (k) (a)** - The repairing of the DRI and Blast Furnace was undertaken in terms of the existing EC, CTE and CTO which was granted in respect of the above units . In any event after the receipt of the First Show Cause Notice, by way of abundant precaution, all activities pertaining to this repairing work have been stopped. It is reiterated that CTO in respect of the DRI and CPP units in the said Plant has already been granted to the respondent no. 4 on 18 March 2024.

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b) **Paragraph 4 (k) (b) & (c)** - In terms of the 2009 EC, permission was accorded to establish, *inter alia*, the Sinter Plant in the said Plant. However, prior to even setting up the said Sinter Plant, the entire Plant itself ceased to operate on and from June2010. As mentioned hereinbefore, some plant and machinery related to the Sinter Plant including stack (which had been procured by the previous management) was lying unutilised at the plant site.In so far as the Sinter Plant and the plant and machinery related thereto are concerned, the same were found to be lying in such damaged/rusted condition that if proper care was not immediately taken, the same would be lost forever and be unutilizable. Accordingly, some repairing work was carried out to the civil work in the Sinter Plant to protect the structure. Additionally, painting work was carried out to prevent the said civil/structural work from further rusting and damage. All this was done only so that ultimately after the respondent no. 4 was able to obtain a valid CTE and CTO, the respondent no. 4 would be able to set up the Sinter Plant for use, utilization and operation. In so far as the DRI, CPP and the Blast Furnace is concerned, EC, CTE and CTO had already been granted prior to shutdown. In so far as the DRI and the CPP are concerned, the same are completed whereas the Blast furnace is under renovation/revamping.. As such, the Sinter Plant including the stack is still a long way from being commissioned.

c) **Paragraph 4 (k) (d)** - As regards the allegations pertaining to the purported construction of the Pellet Plant, the said allegation is misconceived and baseless. I say that, the construction work in the said premises was only for guest house/rest house for the

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employees/labourers in the plant and not the pellet plant. I therefore say that, the only construction undertaken by the respondent no. 4 at the said premises was for setting up of a guest house/ rest house which is sorely required and not for construction of the pellet plant. Although the respondent had applied for construction of the pellet plant in its TOR application, the same was withdrawn on 8 December 2023. Hence, the question of construction of a pellet plant does not and/or cannot arise. From the records now made available to the present management of the respondent no. 4, it transpires that in the application for modernization cum expansion submitted by the erstwhile management of the respondent no. 4 with the respondent no. 1, there was provision for a housing area on which the construction of the guest house/rest house was initiated. Such construction commenced by the present management was not contrary to or dehors the existing 2009 EC; rather, the same forms part of the Project in respect of which permission for expansion was granted for 2009 EC. In any event, even the work of construction in connection with the proposed guest house/ rest house has been stopped by way of abundant precaution.

d) **Paragraph 4 (k) (e)** - The oxygen plant forming the subject matter of the complaint was already in place prior to the Resolution Plan being sanctioned by the Hon'ble NCLT. No new construction in respect of oxygen plant was required or has been carried out. As and when required, the respondent no. 4 would take necessary steps for grant of CTE and CTO in respect of a

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modern oxygen plant, which may be required to be set up at the appropriate stage.

e) **Paragraph 4 (k) (f)** - While the 2006 EC restricted the usage of groundwater, the 2009 EC does away with such restriction. It appears that after obtaining the 2009 EC, the erstwhile management of the respondent no. 4 applied for and obtained three separate permits for sinking of new well, all dated 4 January 2010 from the S.W.I.D. Subsequently, three separate bore wells/tube wells were sunk for the purposes of the subject project. Since takeover of the responent no. 4 by the new management in May 2022, water from the borewell have been used exclusively for the drinking purpose of its employees. Such usage of water from the borewell does not violate the provisions of the 2009 EC, which is still operative and subsisting. It may also be noted that the respondent no. 4 has entered into an agreement with the Kharagpur Municipality Corporation for supply of 2 MgD water per day. It is reiterated that the CTO dated 18 March 2024 expressly permits and enables usage of ground water.

f) **Paragraph 4 (k) (g)** - In the reply dated 12 September 2023, with regard to the Green belt at the said Plant, the respondent no. 4 intimated that while the Green belt of 33% was already at the project site, it shall do a detailed survey and submit a report in respect thereof, within 3 months to the respondent no. 1. Pursuant to such report having been submitted by the respondent no. 4, the respondent no. 1 has reviewed the action taken by the respondent no. 4 and vide its report dated 11 December 2023 held that the respondent no. 4 needs to develop

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Green belt in 107.25 acres. The total Green belt is presently in 107 acres. The respondent no. 4 in this regard is already taking steps to develop the Green belt in the remaining minscule 0.25 acres of land at the said Plant. In the report dated 11 December 2023, the respondent no. 1 has reported that the ambient air quality and ambient noise monitoring data submitted by the respondent no. 4 are all within the permissible limits. A copy of the report of the respondent no. 1 dated 11 December 2023 are annexed herewith and marked as **Annexure "R-25"**.

g) **Paragraph 4 (k) (h)** - It is denied that the respondent no. 4 is a violator or that it has violated the conditions of the EC. It is denied that the respondent no. 4 is continuing with its construction activities. The contents of the applicant's purported representation dated 9 November 2023 are absolutely false and frivolous. Save as aforesaid all other allegations are denied and disputed.

41. With reference to paragraph 5 and the various grounds made out in the said application, I say that the grounds set forth therein are thoroughly misconceived, baseless and devoid of any substance or merit and do not warrant any consideration by this Hon'ble Tribunal. I say that the grounds as taken by the applicant are untenable in the eye of law and does not give rise to any cause of action, which calls for interference by this Hon'ble Tribunal. It is denied that the respondent authorities have failed to preserve the natural resources or prevent extraction of ground water. It is denied that the respondent no. 4 continued any excess production of Cold Pig iron from 2008 violating the EC conditions or the State Board granted consent to the respondent no. 4 in violation of the EIA notification. It is denied that

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the respondent no. 4 was operating illegally till 2008 or that any construction activity undertaken by the respondent no. 4 since 2022 is illegal or in violation of the Environment (Protection) Act, 1986 or the Rules framed thereunder or the 2006 EIA Notification. It is denied that the respondent no. 4 is a gross violator or has not obtained environment clearance for the production of Cold Pig iron or for expansion activity. It is denied that any violation was found in the joint inspection or that the respondent no. 4 has ever been or is non-compliant. The contents of show cause notice are absolutely frivolous and the same has been appropriately replied to by respondent no. 4 by its reply dated 12 September 2023. To avoid prolixity, I am refraining from dealing with such allegations individually and refer to statements made by me in the preceding paragraphs in connection with the same. The contents of the applicant's representation are absolutely denied and disputed. It is denied that any activity carried out by the respondent no. 4 is illegal or is in violation of EC. It is denied that the respondent no. 4 is liable to be proceeded against for any alleged violation of the Environment (Protection) Act or the 2006 EIA Notification or the Ground Water Resource [Management Control and Regulation] Act, 2005.

42. With reference to paragraphs nos. 6, 7 and 8 of the said application, I deny that the cause of action in the instant case is a continuing cause of action or is renewing on a day-to-day basis. It is denied that the limitation prescribed in Section 14 (3) of the NGT Act, 2010 is inapplicable in the facts of the instant case, as alleged or at all. I emphatically deny that the applicant is entitled to any of the reliefs as sought for in the said application.

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SHYAM NARAYAN PANDEY
REGN. NO. 13624/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.
Director / Authorised Signatory

43. I submit that the said application is misconceived, baseless and devoid of any substance and as such the same should be dismissed.

44. That the statements made in paragraphs 2, 3, 18, 19, 22, 27 and 31 hereinabove are true to my knowledge, those made in paragraphs 1, 5 to 17, 20, 21, 23, 26, 29, 37, 38 and 39 hereinabove are based on information derived from records and believed by me to be true and those made in paragraphs 4, 24, 25, 28, 30 to 36 and 40 to 43 hereinabove are my most humble submissions before this Hon'ble Tribunal.

DEPONENT

Identified by me

Advocate
F/436/360/2017

Before Me

Notary

Solemnly Affirm & Declared
Before Me on Identification
of Ld. Advocate

SHYAM NARAYAN PANDEY
NOTARY, GOVT. OF INDIA
REGN. NO. 13824/2018

03.04.2024

03 APR 2024

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 13824/2018
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GOVT. OF INDIA

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN NO. 13824/2018
GOVT. OF INDIA

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONAL BENCH, KOLKATA
WEST BENGAL, FINANCE CENTRE, 3RD FLOOR, NEW TOWN

[Under Section 18 (1) read with Section 14 of the National Green Tribunal Act, 2010]

ORIGINAL APPLICATION NO. **188**/2023/EZ

RAJKUMAR DAS

... Applicant

-And-

MOEF, THROUGH ITS SECRETARY, INDIRA PARYAVARAN BHAWAN & ORS.

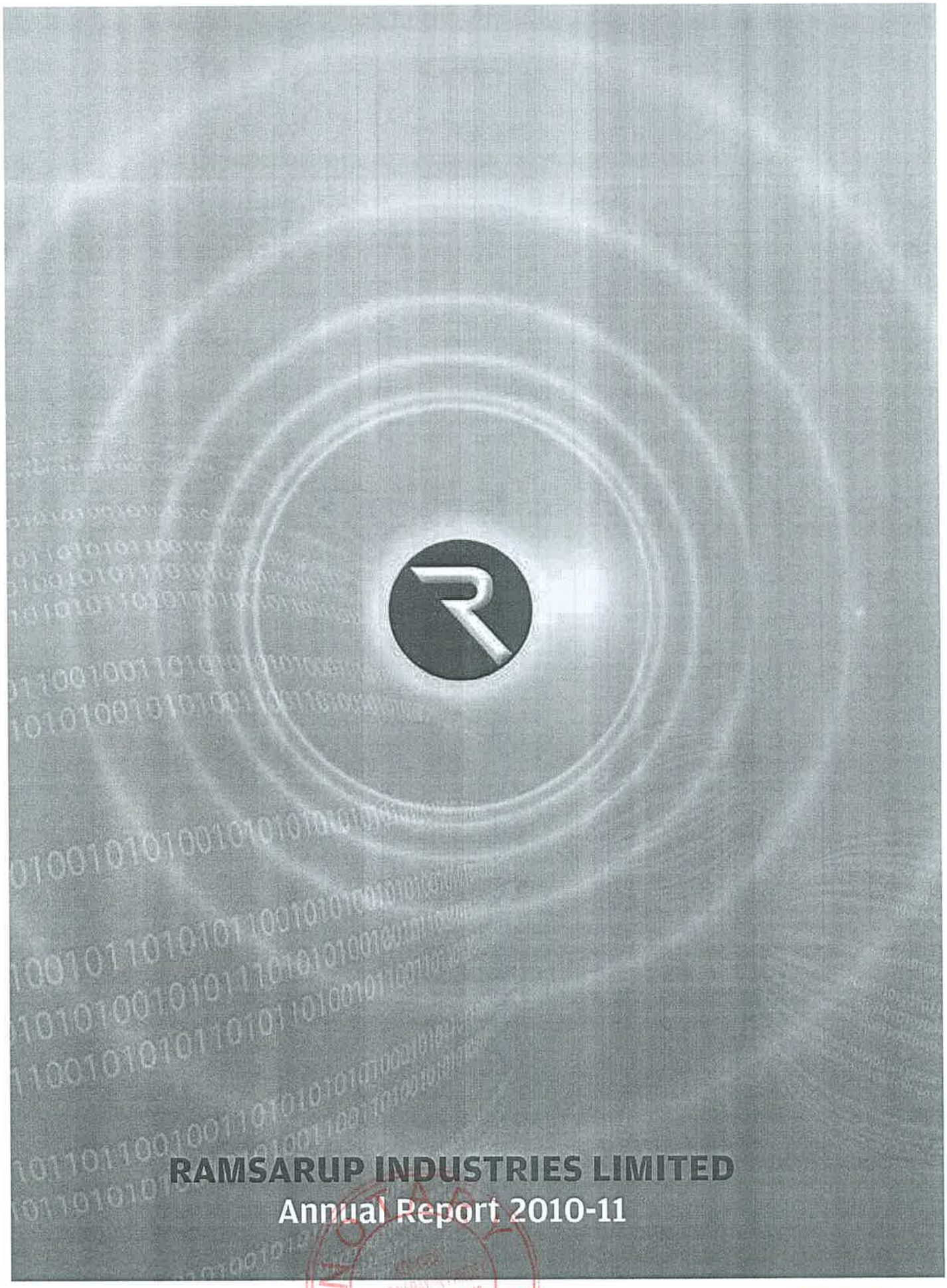
... Respondents

AFFIDAVIT-IN-OPPOSITION FILED ON BEHALF OF THE RESPONDENT NO.4 ABOVENAMED TO THE APPLICATION FILED BY THE APPLICANT UNDER SECTION 18 (1) READ WITH SECTION 14 OF THE NATIONAL GREEN TRIBUNAL ACT, 2010.

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 1032/2018
GOVT. OF INDIA

SHOUNAK MITRA, Advocate
ZULFIQAR ALI ALQUADERI, Advocate
SHIVANGI THARD, Advocate
KHAITAN & CO LLP
Advocates, Notaries, Patent & Trademark Attorneys
Emerald House
1B, Old Post Office Street
Kolkata 70001

Annexure "R-1"



SHYAM NARAIN
REGN. NO. 1302412018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Forward-Looking Statement

The report contains forward-looking statements that involve risks and uncertainties. When used in this discussion, the word like 'plans', 'expects', 'anticipates', 'believes', 'intends', 'estimates', or other similar expressions as they relate to Company or its business are intended to identity such forward- looking statements. Forward-looking statements are based on certain assumptions and expectations of future events. The Company's actual result, performance or achievements could differ materially from those expressed or implied in such forward-looking statements. The Company undertakes no obligation or responsibility to publicly amend, update, modify or revise any forward-looking statements, on the basis of any new information, future event, subsequent development or otherwise.

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NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13824/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Corporate Information

Board of Directors

Mr. Aashish Jhunjhunwala - Chairman & Managing Director
Mr. Naveen Gupta - Whole time Director & CFO
Mr. K. M. Lal
Mr. Debashis Sarkar - IDBI Nominee
Mr. Bimal Kumar Jhunjhunwala
Mr. Aayush Lohia

Company Secretary

Mr. Gajendra Kumar Singh

Auditors

M/S P. K. Lilha & Co.
Chartered Accountants
5, Fancy Lane
kolkata - 700001

Bankers & Financial Institutions

Punjab National Bank
Indian Overseas Bank
Vijaya Bank
The Karur Vysya Bank Ltd.
Allahabad Bank
UCO Bank
ING Vysya Bank Ltd.
United Bank of India
ICICI Bank Ltd.
IDBI Bank Ltd.
West Bengal Industrial Development Corporation Ltd.
Indian Renewable Energy Development Agency Ltd.
State Bank of India
Canara Bank
Central Bank of India
Oriental Bank of Commerce
Bank of India
The Federal Bank Limited
Axis Bank Ltd.
Development Credit Bank
SIDBI

Registred Office

Hastings Chambers, 1st and 2nd floor
7c, Kiran Shankar Roy Road
Kolkata - 700001
Ph: + 91 33 2242 1200
Fax: + 91 33 2242 1888
Email: company@ramsarup.com
Website: www.ramsarup.com

Unit I: Ramsarup Industrial Corporation

Plot no. 6&7, 'D' block,
Kalyani, Nadia
West Bengal

Unit II: Ramsarup Utpadak

68, East Ghosh Para Road
Athpur, Shyamnagar
24 Parganas (North), West Bengal

Unit III: Ramsarup Vidyut

Village Khori
Taluka Sakri
District- Dhule, Maharashtra

Unit IV: Ramsarup Infrstructure

West Bengal and Rajasthan

Unit V: Ramsarup Nirmaan Wires

Mouza - Gopalpur, Durgapur
District - Burdwan, West Bengal

Unit VI: Ramsarup Lohh Udyog

Saha chowk, Rakha Jungle
Kharagpur, Paschim Midnapur
West Bengal

Registar & Share Transfer Agent

Link Intime India Pvt. Ltd.
59C, Chowringhee Road, 3rd floor
kolkata - 700020
Ph: 91 33 2289 0540
Tele Fax: 91 33 2289 0539
Email: kolkata@linkintime.co.in

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO. 18024/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Notice

TO THE MEMBERS

NOTICE is hereby given that the 32nd Annual General Meeting of Ramsarup Industries Limited will be held on Wednesday, 16th May 2012 at Kalakunj, 48, Shakespeare Sarani, Kolkata 700 017 to transact the following business:

ORDINARY BUSINESS :

1. To receive, consider and adopt the Audited Balance Sheet as at 31st March 2011 and the Profit and Loss Account for the year ended on that date along with the reports of Auditors and Directors thereon.

2. To elect a director in place of Mr. K. M. Lal, who retires by rotation and being eligible, offers himself for re-election.

3. To appoint Auditors and fix their remuneration and in this regard to consider and if thought fit , to pass with or without modification following Resolution as an **Ordinary Resolution**:

   "**RESOLVED THAT** M/s P.K. Lilha & Co., Chartered Accountants being firm registration no. 307008E be and are hereby re-appointed as Auditors of the Company from the conclusion of this Annual General Meeting untill the conclusion of next Annual General Meeting and the Board of Directors be and is hereby authorised to determine the remuneration payable to the Company's Auditors in consultation with them."

NOTES :

1. **A MEMBER ENTITLED TO ATTEND AND VOTE AT THE MEETING, IS ENTITLED TO APPOINT A PROXY TO ATTEND AND TO VOTE ON A POLL INSTEAD OF HIMSELF AND SUCH PROXY NEED NOT BE A MEMBER OF THE COMPANY. PROXIES, IN ORDER TO BE EFFECTIVE, MUST BE RECEIVED AT THE REGISTERED OFFICE OF THE COMPANY, NOT LESS THAN FORTY-EIGHT HOURS BEFORE THE COMMENCEMENT OF THE MEETING. A PROXY FORM IS APPENDED WITH THE ADMISSION SLIP.**

2. Information required under the provisions of clause 49 of the Listing Agreement, is given in the Corporate Governance Report annexed to the Director's Report.

3. Members/Proxies should bring duly filled Attendance Slips sent herewith for attending the meeting.

4. Register of Members and share transfer books of the Company will remain closed from 11th May 2012 to 16th May, 2012 (both days inclusive).

5. Pursuant to 205A of the Companies Act, 1956 and the introduction of Section 205C by the Companies (Amendment) Act, 1999, the amount of dividend which remains unclaimed / unpaid if any, for a period of seven years is being regularly transferred to the "Investors Education & Protection Fund" constituted by the Central Government and the Shareholders would not be able to claim any amount of the dividend so transferred to the fund. As such, Shareholders who have not encashed their dividend warrants are requested in their own interest to write to the company immediately, claiming dividends declared by the company, if any, during the years 2003-04 and onwards and still remaining outstanding.

6. Members are requested to notify change of address, bank mandate & nomination for shares held in demat form (if any), only to the respective Depository participants where the member has opened its demat account. The Company or its share transfer agent will not act on any direct requests from these Members for change of such details. However, for any change in particulars for shares held in physical form, the change should be sent to the Registrar & share transfer agent of the company M/s Link Intime India Private Limited at 59C,Chowranghee Road, 3rd Floor, Kolkata 700 020 .

7. Members holding shares in demat form may please note that the Bank account details given by them to their depository participants (DPs) and passed on to the Company by such DPs would be printed on the dividend warrants of the concerned members. However, if any members want to receive dividend in any other bank account, he/she should change / correct the bank account details with the concerned DPs. The company would not entertain any such requests from the shareholders directly for deletion/change in the Bank account details.

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO. 1302412018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

8. Corporate Members intending to send their authorised representative are requested to send a duly certified copy of the Board resolution/Power of Attorney authorising their representative to attend and vote on their behalf at the Annual General Meeting.

9. Members desirous of obtaining any information about the accounts and operations of the company are requested to address their questions in writing, at least 7 (Seven) days in advance of the meeting, at the Registered office of the Company to keep the information available at the Meeting.

10. Documents referred to the accompanying Notice and Explanatory Statement are open for inspection at the Registered Office of the Company during office hours on all working days (Monday to Friday) between 11.00 a.m. and 1.00 p.m. up to the date of Meeting and will also be available for inspection at the meeting.

11. Members who have shareholdings in multiple accounts in identical names or joint accounts in the same order are requested to send all the share certificate(s) to the Registrars & Share Transfer Agents, M/s Link Intime India Pvt. Ltd. At 59C, Chowranghee Road, 3rd Floor, Kolkata 700 020, for consolidation of all such shareholdings into one account to facilitate better service.

12. Individual shareholders can now take the facility of making nomination of their holding. The nominee shall be the person in whom all rights of transfer and/or amount payable in respect of shares shall vest in the event of the death of the shareholder and the joint-holder(s), if any. A minor can be a nominee provided the name of the guardian is given in the nomination form. Non-individuals including society, trust, body corporate, partnership firm, Karta of Hindu Undivided Family, holder of Power of Attorney cannot nominate. For further detail in this regard shareholders may contact M/s Link Intime India Pvt. Limited, Kolkata.

13. In all correspondence with the Company or with its Share Transfer Agents, Members are requested to quote their folio number and in case their shares are held in the dematerialised form, they must quote their Client ID Number and their DPID Number.

14. As an austerity measure, copies of the Annual Report will not be distributed at the Annual General Meeting. Members are requested to bring their copies to the meeting.

15. **MEMBERS MAY PLEASE NOTE THAT NO GIFT/GIFT COUPONS SHALL BE DISTRIBUTED AT THE VENUE OF THE MEETING.**

Registered Office :
Hastings Chambers,
7C, Kiran Shankar Roy Road, 1st floor,
Kolkata -700 001
Date : 24th April, 2012

By order of the Board
For RAMSARUP INDUSTRIES LIMITED
Sd/-
Gajendra Kumar Singh
Company Secretary

Details of Directors seeking appointment/Re-appointment at the forthcoming Annual General Meeting (In pursuance of Caluse 49(IV) of the Listing Agreement).

Name of the Director	**Mr K. M. Lal**
Date of Birth	22nd June, 1940
Date of Appointment	18th May, 2006
Expertise in specific functional areas	Finance & Company Administration
Qualifications	M.Sc. (Chemistry)
Directorships held in other companies	SREI Capital Limited Panacea Biotech Limited Polylink Polymer (India) Limited Hindustan Wire Limited Gem Spinners India Limited Gem Sugars Limited

NOTARY KOLKATA SHIVAM PARKASH PANDEY REGN NO. 10024/2013 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure "R-2"

NOC

WEST BENGAL POLLUTION CONTROL BOARD

Paribesh Bhawan
10A, Block-LA, Sector-III
Salt Lake City, Kolkata-700 098

Memo No. 805-2N-111/2004 Dated 06/06/2006.

From :
Member Secretary,
West Bengal Pollution Control Board

To : M/s. Ramsarup Lohh Udyog Limited.
7C, Kiran Shankar Roy Road,
Hasting Chambers, 2nd Floor,
Kolkata-700001

Sub : Consent to Establish (NOC) from Environmental Point of View

Ref : Your letter No. RLUL/EIN/05 Dated 28/07/05.

Dear Sirs,

In response to the application for Consent to Establish (NOC) for proposed Unit of M/s. Ramsarup Lohh Udyog Limited for Integrated Steel Project

for manufacturing/storage/installation Billets(24250 tonnes per month), Cold pig Iron 3600 tonnes /month) Sponge Iron (), Power (Lohh /7/month) & Granulated Slag* at L.R. No.131,138, ... Mouza-Kalaikunda Gram Panchayat at PS-Kharagpur (Local) Dist-Paschim Medinipur, West Midnapore.

this is to inform you that this Board hereby grants the Consent to Establish (NOC) from the environmental point of the above subject to the following conditions and special conditions annexed.

*(5450 tonnes / month).

1. The quality of sewage and trade effluent to be discharged from your factory shall satisfy the permissible limits as prescribed in IS : 2490 (Pt. I) of 1974; and/or its subsequent amendment and Environment (Protection) Rules 1986;

2. Suitable measures to treat your effluent shall be adopted by you in order to reduce the pollutional load so that the quality of the effluent satisfies the standards mentioned above;

3. You shall have to apply to this Board for its consent to operate and discharge of sewage and trade effluent according to the provisions of the Water (Prevention & Control of Pollution) Act, 1974. No sewage or trade effluent shall be discharged by you without prior consent of this Board;

4. All emission from your factory shall conform to the standards as laid down by this Board;

5. No emission shall be permitted without prior approval of this Board and you shall apply to this Board for its consent to operate and atmospheric emission as per provision of the Air (Prevention & Control Pollution) Act, 1981;

6. No industrial plant, furnace, flues, chimneys, control equipment, etc. shall be constructed/reconstructed/ erected / re-erected without prior approval of this Board.

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
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GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

NOC W0200866

7. You shall comply with
   (i) Water (Prevention and Control of Pollution) Cess Act, 1977, if applicable.
   (ii) Water (Prevention and Control of Pollution) Cess Act, 1978, if applicable.
   (iii) Environment (Protection) Act, 1986
   (iv) Environment (Protection) Rules, 1986
   (v) Hazardous Wastes (Management and Handling) Rules, 1989 and Amended Rules, 2000
   (vi) Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 and Amended Rules, 2000
   (vii) Manufacture, Use, Import and Storage and Hazardous Micro Organisms, Genetically Engineered Organisms or Cell Rules, 1989
   (viii) The Public Liability Insurance Act, 1991 and Amended Act, 1992
   (ix) The Public Liability Insurance Rules, 1991 and Amended Rules 1993
   (x) Biomedical Wastes (Management & Handling) Rules, 1998 and Amended Rules 2000 if applicable.
   (xi) Recycled Plastics Manufacture and Usage Rules 1999, if applicable and
   (xii) Ozone Depleting Substances (Regulation & Control) Rules, 2000, if applicable

8. You will have to abide by any other stipulations as may be prescribed by any authority/local bodies/Government Departments etc.

SPECIAL CONDITION :

Gross Capital Investment on land, building, plant and mechinery = Rs.460 crores.

See Annexure.

Any violation of the aforesaid conditions shall entail cancellation of this Consent to Establish (NOC)

Yours faithfully,

Member Secretary,
West Bengal Pollution Control Board

Memo No. -2N-111/2004 Dated .....

Copy forwarded for information to :

1. Chief Inspector of Factories, Government of West Bengal, N. S. Building, Kolkata-700 001
2. Director of Industries/Director of Cottage & Small Scale Industries, Government of West Bengal, N. S. Building, Kolkata-700 001
3. Guard file, West Bengal Pollution Control Board.
4. Environmental Engineer, HI/Alipur R.O./Howrah R.O./Hooghly R.O./B.R.O./D.R.O./Haldia R.O./S.R.O./ Asansol / Sub-R.O./WBPC Board

Himalaya Bhawan
Delhi Road, Dankuni
Dist. Hooghly

Panbesh Bhawan
IICA, LA-Block, Sector-III
Salt Lake City,
Kolkata-700 098

Vill, Panpur
Kalyani Expressway
P.O. Nirayanpur
Dist. 24 Pgs. (N)

Block-05 at 40
Flats Complex
Adjacent to Priyambada
Housing Estate
P.O.: Khanjanchak,
P.S. Durgachak
Haldia-721602
Dist : Purba Medinipur

Asansol Sub-Regional Office
Ghanty Mansion (2nd Floor)
60, G. T. Road
Asansol-713 301

Saheb Khudiram Sarani
City Centre, Durgapur-16
Dist. Burdwan

Parbahan Nagar
Maligara, Siliguri
Dist-Darjeeling .

Bhabani Bhawan
2nd Floor, Alipur
Kolkata-700 027

10, Camac Street
2nd Floor
Kolkata-700 017

Member Secretary,
West Bengal Pollution Control Board

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO 13824/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure to NOC Sl. No. NO 23866
Special Conditions issued to M/s. Ramsarup Loiih Udyog Ltd

A) Emission sources :-

1) D.G. Set (1000 KVA) – Two nos.
2) Blast furnace (350m^3) -One No and BF stove
3) Electric Arc Furnace (50 T) - One No
4) Ladle furnace (50 T) -One No
5) Raw Material Preparation area or DRI Kiln, Blast Furnace, EAF
6) Product house area, Product separation area
7) Cooler discharge area
8) Rotary kiln -- One no., Capacity (500 TPD)
9) a) Waste Heat Recovery Boiler (1 no Capacity 54 TPH) (fuel waste gases from Rotary Kiln and (b) Blast Furnace Gas fired Boiler (1 no) - for 20MW Captive Power Plant
10) AFBC Boiler (1no) (Dolochar is to be used as fuel)

Stacks and Emission Control Devices –

i. for generators, a common stack of height 15m from G.L. to be provided with acoustic enclosures / acoustic treatment of the D.G. room with residential silencer.
ii. for Blast Furnace and BF stove 50m from G.L. to be provided with dust catcher and venturi scrubber
iii. for Electric Arc Furnace & Ladle Furnace 50 m from G.L. to be provided with Bag Filter
iv. for Billet Casting area 32m from G.L. to be provided with suitable fume extraction system
v. for Raw Material Preparation area, stack of height 45 m from G.L. to be provided with Dry Fog Dust Suppression System and Bag Filter
vi. for Cooler discharge area stack of height 45 m from G.L. to be provided with Bag Filter
vii. for Product house area and Product separation area of rotary kiln, stack of height 45 m from G.L. to be provided with Bag Filter.
viii. for Rotary Kiln 45 m from G.L. to be provided with Dust Settling Chamber, Post combustion chamber & Electrostatic Precipitator (ESP), ESP's are to be equipped with adequate numbers of fields and ESP should ensure 100 mg/nm^3
ix. for Product separation area 15 m from G.L. to be provided with Bag Filter.
x. for WHR Boilers (54 TPH) and AFBC Boiler - 55 m chimney from G.L. to be provided with Dust Settling Chamber, Post combustion chamber, Electrostatic Precipitator (ESP) with I.D.Fan.
xi. for Blast Furnace Gas fired Boiler (35 TPH) - 55 m chimney from G.L

All stacks to have sampling port, platform and ladder as per the Emission Regulation Part –III of CPCB.

B. Effluent:-

1) Cooling water to be recycled after settling.
2) Process effluent (boiler blow down etc)to be recycled after treatment.
3) The wastewater from venturi scrubber should be treated by clariflocculation
4) Domestic effluent – To be reused after treatment.

C. Solid Waste : -

i. Granulated Slag from Electric Arc Furnace to be sold off. Dust from Gas Cleaning plant & scrap to be reused..Dust & Scale from steel melting shop to be kept in a designated area in the plant. Dolochar to be used as fuel for firing the AFBC Boiler.
ii. Steel Melting Shop(SMS) slag and Blast Furnace slag to be utilised as per the schedule mentioned in the Charter on Corporate Responsibility for Environmental Protection(CREP).The SMS slag and Blast Furnace slag to be used in landfill at low lying areas and sold to cement plants respectively.

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 1382/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

contd. from pg. 1

Annexure to NOC Sl. No. NO 28866

Special Conditions issued to M/s. Ramsarup Lohh Udyog Ltd

D. General :-

1. Noise Control -- Ambient noise level & D.G. Set noise level not to exceed the permissible limit.
2. The standards / guidelines for control of noise from stationary Diesel generator sets prescribed under notification of Ministry of Environment & Forest, Govt. of India, G.S.R.371(E), [17/5/2002] and its amendments should be followed.
3. Water shall be sourced from the Kharagpur Municipal Water Supply System.
4. ESPs should meet a standard of 100 mg/nm^3.
5. The unit must comply with the provisions of Hazardous Wastes (Management & Handling) Rules, 1989 & amendments made thereafter
6. No additional machineries/equipments can be installed without prior permission from this Board.
7. The unit should not start operation without obtaining 'Consent-to-Operate' from this Board. Installation of pollution control devices shall be completed before applying for "consent to operate".
8. The unit should submit copy of service contract for operation and maintenance of pollution control devices.
9. The unit should not start production without installation of dedicated energy meter for emission control equipment.
10. The unit should not start production without commissioning inter-lock system between emission control equipments and rotary kilns.
11. Effluent generated to reused/recycled within the plant itself.
12. Good house-keeping to be maintained.
13. Arrangements for rain water harvesting should be done as proposed.
14. A proper storm water drainage system should be developed.
15. Waste heat recovered from the flue gas of rotary kiln & Blast furnace to be used in boilers for generation of electricity.
16. Noncoking coal of low ash percentage (approximately 27.5%) is to be used for DRI unit
17. Tree planting – at least 40% of the area to be covered by greeneries.
18. Proper steps are to be taken so that the flora and fauna are not affected during the construction phase.
19. The industry shall ensure compliance of the Charter on Corporate Responsibility for Environmental Protection
20. This NOC is valid up to 31.07.2010 for completion of the integrated steel plant.
21. This NOC is issued with the provision that the unit shall not undertake any construction work without obtaining environmental clearance from the Ministry of Environment & Forests, Govt. of India.
22. Environmental clearance from the Ministry of Environment & Forests, Govt. of India has to be obtained as per public hearing conducted on 10.03.2006.
23. State Government clearance to be obtained from Environment Department for captive power plant.

Member Secretary
West Bengal Pollution Control Board

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 10324/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure "R-3"

No.J.11011/228/2006-IA II(I)
Government of India
Ministry of Environment & Forests
I.A.Division

Telfax 2436 0488
Paryavaran Bhavan
CGO Complex,Lodi Road
New Delhi-110003

Date : 3rd October, 2006

To,

Shri Ashish Jhunjhunwala
Managing Director
Ramsarup Lohh Udyog Limited
7C, Kiran Shankar Roy Road
Hastings Chambers, 1st Floor,
Kolkata – 700 001

Phone : 033-22137663
Fax No : 033- 22137667
E-mail : ramsarup@cal2.vsnl.net.in

Subject : Integrated Steel Plant at Industrial Estate Kharagpur, District Paschim Medinipur, West Bengal by M/s Ramswarup Lohh Udyog Limited – Environmental Clearance reg.

Sir,

This has reference to your letter no. RLUL/ENV/06 dated 22nd June 2006 alongwith application, EIA/EMP and related project documents also with CD and subsequent clarifications furnished by you vide your letter dated 10th July 2006, for environmental clearance on the above mentioned project. The Ministry of Environment and Forests has examined your application. It is noted that the proposal is for 0.3 MTPA Integrated steel plant at Industrial Estate, Kharagpur, in District Pashchim Medinipur, West Bengal to manufacture 0.291 MTPA Cast Billets and 31,300 TPA Cold pigs besides co-generation of 20 MW power. Direct Reduced Iron (DRI) Plant will be installed to produce 90% of iron (total), around 0.2 -0.3% carbon. DRI Plant will consist of raw material feed system, rotatory kiln, rotary cooler, product (DRI) handling system and waste gas system. Blast furnace (BF) of 360 m3 capacity will be installed to produce 2,28,100 TPA hot metal which will be charged to EAF. Part of the hot metal will be converted to pig iron in pig casting machine. Steel Melting shop (SMS) for producing 3,00,000 TPA steel will be installed. Electric Arc furnace (EAF) will act as primary steel making unit and will be charged using 38% DRI, 60% hot metal and 2% plant return scrap. 20 MW captive power plant will be generated from Waste Heat emanating from DRI Kiln and BF. Total land acquired for the project is 302 Acres. Total cost of the project is Rs. 500 Crore.

3.0. Public hearing meeting was held on 10th February 2006. Consent to establish has been issued by the West Bengal Pollution Control Board vide letter no 305-2N-111/2004 dated 6th June 2006. Commitment for supply of 660 m3/hr water has been issued by Kharagpur Municipality on 29.06.2005. West Bengal Industrial Development Corporation Ltd. has issued possession certificate for acquiring 302 acres land.

E/A

NOTARY
KOLKATA
SHRI NARAYAN PANDEY
REGN. NO. 16624/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

4.0. The Ministry of Environment and Forests hereby accords environmental clearance to the above project under the provisions of EIA Notification dated 27th January, 1994 as amended subsequently subject to strict compliance of the following specific and general conditions:

A. SPECIFIC CONDITIONS :

i) The gaseous emissions from various process units shall conform to the load/mass based standards notified by this Ministry on 19th May, 1993 and standards prescribed from time to time. The state Board may specify more stringent standards for the relevant parameters keeping in view the nature of the industry and its size and location. At no time the emission level shall go beyond the prescribed standards. On-line continuous monitoring system shall be installed in stacks to monitor SPM and interlocking facilities shall be provided so that process can be automatically stopped in case emission level exceeds the limit.

ii) In-plant control measures for checking fugitive emissions from all the vulnerable sources like spillage/raw materials/coal handlings etc. shall be provided. Further, specific measures like provision of dust suppression system consisting of water sprinkling, suction hoods, fans and bag filters etc. shall be installed at material transfer points, blast furnace stock house and other enclosed raw material handling areas. Centralized de-dusting system i.e. collection of fugitive emissions through suction hood and subsequent treatment through bag filter or any other device and finally emitted through a stack of appropriately designed height conforming to the standards for electric arc furnaces. Fugitive emissions shall be regularly monitored and records maintained.

iii) As indicated in the EIA/EMP report, the company shall install Waste Heat Recovery Boilers (WHRB) to recover the waste heat and generate power from the steam produced by the WHRB. The particulate emissions from the WHRB shall be controlled by installation of ESP as per the CPCB specification and particulate emissions shall not exceed 50 mg/Nm^3. Further, the company shall install Dry Fog Dust Suppression in the material handling area, Dry gas cleaning system in rotary kiln, bag filter in DRI kiln, Dust catcher and venturi type gas cleaning system to the BF. Air emission from EAF will be controlled by providing hood over EAF and Bag filter fume extraction system in ladle and billet casting section.

iv) Total requirement of the water shall not exceed 660 m^3/d and shall be met from Kharagpur Municipal Water Supply. No ground water shall be drawn either for construction or operation. 'Zero' discharge shall be followed strictly as proposed. As reflected in the EIA/EMP report, the waste water generation from the various units and its proper recycling and reuse shall be ensured. The effluent during the monsoon shall be discharged after conforming to the prescribed standards. The domestic waste water after treatment in STP shall be discharged into natural drainage after ensuring quality of water within prescribed norms.

v) As indicated in the EIA/EMP, Solid wastes are generated in the form of Slag, Scrap, Scale and dust. SMS slag from EAF shall be used in land fill at low-lying areas. Slag from Blast Furnace shall be granulated and sold to the Cement plants located near by for slag cement. Scrap from SMS and other areas shall be recycled in the proposed plant to the extent possible. Dust from ESP of waste heat boiler of Captive Power Plant

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13824/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

shall be sold to the maximum extent possible and balance shall be dumped in a secured land fill area. Dust from DRI de-dusting and other de-dusting system shall be dumped in a secured land fill. The secured land fill for dumping of solid waste shall be as per CPCB norms.

vi) The company shall develop surface water harvesting structures to harvest the rain water for utilization in the lean season besides recharging the ground water table.

vii) Green belt shall be developed in at least 100 acres area (33 %) within and around the plant premises as per the CPCB guidelines in consultation with DFO.

viii) Occupational Health Surveillance of the workers shall be done on a regular basis and records maintained as per the Factories Act.

ix) The project authorities shall ensure the Compliance of the recommendations made in the CREP for the Iron & steel plant.

B. GENERAL CONDITIONS:

i. The project authorities must strictly adhere to the stipulations made by the West Bengal State Government.

ii. No further expansion or modifications in the plant should be carried out without prior approval of the Ministry of Environment and Forests.

iii. At least four ambient air quality-monitoring stations should be established in the downward direction as well as where maximum ground level concentration of SPM, SO_2 and NO_x are anticipated in consultation with the WBPCB. Data on ambient air quality and stack emission should be regularly submitted to this Ministry including its Regional Office at Bhubaneshwar and the WBPCB/CPCB once in six months.

iv. Industrial waste water shall be properly collected, treated so as to conform to the standards prescribed under GSR 422 (E) dated 19th May, 1993 and 31st December, 1993 or as amended form time to time. The treated wastewater shall be utilized for plantation purpose.

v. The overall noise levels in and around the plant area shall be kept well within the standards (85 dBA) by providing noise control measures including acoustic hoods, silencers, enclosures etc. on all sources of noise generation. The ambient noise levels should conform to the standards prescribed under EPA Rules, 1989 viz. 75 dBA (daytime) and 70 dBA (nighttime).

vi. The project proponent shall also comply with all the environmental protection measures and safeguards recommended in the EIA / EMP report. Further, the company must undertake socio-economic development activities in the surrounding villages like community development programmes, educational programmes, drinking water supply and health care etc.

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO. 13024/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

vii. The project authorities will provide requisite funds both recurring and non-recurring to implement the conditions stipulated by the Ministry of Environment and Forests as well as the State Government along with the implementation schedule for all the conditions stipulated herein. The funds so provided should not be diverted for any other purpose.

viii. The Regional Office of this Ministry at Bhubaneshwar /CPCB/WBPCB will monitor the stipulated conditions. A six monthly compliance report and the monitored data along with statistical interpretation shall be submitted to them regularly.

ix. The Project Proponent shall inform the public that the project has been accorded environmental clearance by the Ministry and copies of the clearance letter are available with the WBPCB/Committee and may also be seen at Website of the Ministry of Environment and Forests at http:/envfor.nic.in. This should be advertised within seven days from the date of issue of the clearance letter, at least in two local newspapers that are widely circulated in the region of which one shall be in the vernacular language of the locality concerned and a copy of the same should be forwarded to the Regional office.

x. Project authorities should inform the Regional Office as well as the Ministry, the date of financial closure and final approval of the project by the concerned authorities and the date of commencing the land development work.

5.0. The Ministry may revoke or suspend the clearance, if implementation of any of the above conditions is not satisfactory.

6.0. The Ministry reserves the right to stipulate additional conditions if found necessary. The Company in a time bound manner will implement these conditions.

7.0. The above conditions will be enforced, inter-alia under the provisions of the Water (Prevention & Control of Pollution) Act, 1974, the Air (Prevention & Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986, Hazardous Wastes (Management and Handling) Rules, 2003 and the Public (Insurance) Liability Act, 1991 along with their amendments and rules

(Sanchita Jindal)
Additional Director

Copy to:-

1. The Chairman, Central Pollution Control Board, Parivesh Bhavan, CBD-cum-Office Complex, East Arjun Nagar, Delhi-110032.
2. The Chairman, West Bengal Pollution Control Board, Parivesh Bhawan, 10A Block-LA Sector-III, Salt Lake, Calcutta- 700091.
3. The Chief Conservator of Forests, Regional Office (EZ),Ministry of Environment and Forests A-3 Chandrashekharpur, Bhubaneshwar – 751 023
4. The Secretary, State Department of Environment, Govt. of West Bengal, Kolkata.

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13824/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

5. JS(OCI-I), Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, New Delhi.
6. Monitoring Cell, Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, New Delhi.
7. Guard File.
8. Monitoring File.
9. Record File.

(Sanchita Jindal)
Additional Director

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN NO. 13024/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure "R-4"

WEST BENGAL POLLUTION CONTROL BOARD

'Paribesh Bhawan',
Bldg. No. – 10A, Block-LA, Sector-III,
Salt Lake City, Kolkata-700 098

Consent Letter Number : C-017521
Memo Number : [illegible] -4A-11/2006 Date 02.11.06

Consent to Operate

under

Section 25 & 26 of the Water (Prevention and Control of Pollution) Act, 1974 and
Section 21 of the Air (Prevention and Control of Pollution) Act, 1981.

The West Bengal Pollution Control Board (hereinafter referred to as State Board) under the privisions of Section 25 & 26 of the Water (Prevention and Control of Pollution) Act, 1974, as amended and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981, as amended, and Rules and Orders made thereunder, hereby grants its consent to :

RAMSARUP LOHH UDYOG LIMITED

(Address of Regd. office/Head/Office/City Office)

(hereinafter referred to as Applicant) for its unit located at P.O. Rakhajungle, Kharagpur, Midnapore (West), Pin – 721 301.

(Detailed address of the manufacturing unit)

for a period from 22.11.2006 to 30.11.2007

to operate the industrial unit and to discharge liquid effluent and to emit gaseous effluent from the premises/land of the industrial unit, in accordance with the conditions as mentioned in the Annexure to this consent letter provided on any day at any instance the quantity and quality of liquid discharge and gaseous emission shall not exceed the parmissible limit as specified in the Table I & II of this consent letter and in the Environmental (Protection) Act, 1986.

Breach of the conditions and / or failure to comply with the directions as set out in the Annexure shall render the applicant liable for prosecution under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981.

The State Board reserve the right to revoke, withdraw or make any reasonable variation / change / alter the conditions of this consent letter giving one month's notice to the applicant.

West Bengal Pollution Control Board Paribesh Bhawan Bldg. No. LA, Block-L A, Sector-III Calcutta-700098

Seal

For and on behalf of the State Board

(Member Secretary/Chief Engr./Sr. Env. Engr./Env. Engr./Asst.Env.Engr.)
Sr. Env. Engineer (Planning)

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO 13824/2013 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Consent letter No. C-017531

Consent to RAMSARUP LOHH UDYOG LIMITED

for its unit at P.O. RAKHAJUNGLE : KHARAGPUR : MIDNAPORE (WEST) : PIN - 721 301.

11. The *Applicant* shall install suitable device for measuring the volume of water consumed for different purposes as mentioned above giving correct result to the satisfaction of the *State Board*.

12. All the stacks connected to various sources of emissions must be designated by numbers such as S-1, S-2, S-3, etc., and this must be painted/displayed to facilitate identification.

13. The *Applicant* shall install comprehensive control system consisting of pollution control equipment as is warranted with reference to generation of air emissions and operate and maintain the same continuously so as to achieve the level of pollutants to the *Standard* as given in Table-II below.

Table-II

Stack No.	Stack height from G.L. (in mts.)	Stack attached to (sources and control system, if any):	Volume Nm³/hr	Velocity of gas emission m/sec	Concentrations of parameters not to exceed					Frequency of emission sampling
					SPM (mg/Nm³)	CO (% v/v)				
S-1	50	Blast Furnace			150					
S-2										
S-3										
S-4										
S-5										
S-6										
S-7										
S-8										
S-9										
S-10										

WEST BENGAL

West Bengal Pollution Control Board Paribesh Bhawan 10A, Block-LA, Sector-III Salt Lake, Kolkata-700098

(Member-Secretary/Chief Engr./Sr. Env. Engr./Env. Engr./Asst.Env.Engr.)
Sr. Env. Engineer (Planning)

Continued.....

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO 10324/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Consent Letter No. C-017521

Page 03 of 08

Consent to RAMSARUP LOHH UDYOG LIMITED

for its unit at P.O. RAKHAJUNGLE : KHARAGPUR : MIDNAPORE (WEST) PIN - 721 301.

14. The *Applicant* shall provide ports in the stack(s) and other necessary permanent facilities such as ladder, platform, etc. for monitoring/sampling the air emissions and the same shall be made available for inspection and use by the *State Board's* staff as well as *State Board's* authorised agencies.

15. The *Applicant* shall observe the following fuel consumption pattern :-

Sl. No.	Type of fuel	Quantity consumed per day	Fuel burning operation where the fuel is used
01	Coke	154700 MT/Year	Blast furnace.
02			
03			
04			
05			

16. The *Applicant* shall maintain the generation and treatment/disposal of non-hazardous solid waste as specified below :

	Type of waste	Quantity	Treatment	Disposal
1.	Iron scrap & slag (SMS)			Sold out and dumping
2.	ETP Sludge			Used in sinter plant
3.	Rejected material & scrap			Recycling in EAF

17. The *Applicant* shall take adequate measures for control of noise levels from its own sources within the premises within the limit given below :

Time	Limit in dB(A) L_{eq}
Day Time (06 a.m. to 09 p.m.)	65
Night Time (09 p.m. to 06 a.m.)	55

18. The *Applicant* shall at all times maintain good house-keeping, proper working order, and operate efficiently for control of pollution from all sources so as not to cause nuisance to surrounding areas/inhabitants and to achieve compliance with the terms and conditions of the consent.

19. The *Applicant* shall bring about at least 33% of the available open land under the green coverage / plantation.

20. The *Applicant* shall provide for an alternate electric power source sufficient to operate all pollution control facilities installed by the *Applicant* to maintain compliance with the terms and conditions of the consent. In absence of such an alternate electric power source, the *Applicant* shall stop, reduce or otherwise control production to abide by the terms and conditions of the Consent regarding pollution level.

21. The *Applicant* shall install a separate energy meter showing the consumption of energy for operation of pollution control devices.

22. The *Applicant* shall ensure that fugitive emissions from the activity are controlled so as to maintain clean and safe environment in and around the factory premises.

23. The *Applicant* shall provide drainage system for conveying industrial and domestic liquid waste. Storm-water drain shall be kept separate from the drainage system meant for industrial and domestic liquid waste.

West Bengal Pollution Control Board
Paribesh Bhawan
10A, Block-LA, Sector-III
Salt Lake, Kolkata-700098

(Member Secretary/Chief Engr./Sr. Env. Engr./Env. Engr./Asst. Env. Engr.)
Sr. Env. Engineer/Planning

Continued.....

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO 10024/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Consent Letter No.C-017521

Page 10 of 10

Consent to RAMSARUP LOHA UDYOG LIMITED

for its unit at P.O. RAKHAJUNGLE : KHARAGPUR : MIDNAPORE (WEST) : PIN - 721 301.

24. The *Applicant* shall maintain a separate register showing consumption of chemicals used in pollution control systems.

25. The *Applicant* shall get the samples of hazardous wastes/leachates analysed at least once in ..... from the laboratory recognised of the West Bengal Pollution Control Board and ensure that they conform to the limits stipulated. Test reports shall be sent to the Board.

26. The *Applicant* shall provide adequate and safe facility for collection of air, wastewater and solid waste samples by the *State Board's* staff as well as *State Board's* authorised agencies.

27. The *Applicant* shall submit to the *State Board* by the 30th September of every year the Environmental Statement Report for the financial year ending 31st March of the current year in the prescribed form (Form-V) as required under the provisions of rule 14 of the Environment (Protection) [Second Amendment] Rules, 1992.

28. The *Applicant* shall allow the Officers of the *State Board* to enter into the applicant's premises at any reasonable time to inspect the pollution control systems as well as monitoring and measuring devices in connection with prevention & control of pollution.

29. The *Applicant* shall maintain an Inspection Book in the factory premises which shall be made available to Officers & employees of the *State Board* for inspection, review and to write down any direction or observation as is deemed necessary during the inspection from time to time.

30. The *Applicant* shall furnish to the *State Board* all information in respect of quality, quantity, rate of discharge, place of discharge of liquid effluent and air emissions.

31. The *Applicant* shall maintain adequate number of qualified and trained personnel among his staff for proper maintenance and operation of the effluent treatment and/or emission control devices and for overall environment management of the industry.

32. The *Applicant* shall have to make registration for the use of groundwater, if any, with Central Ground Water Authority.

33. The *Applicant* shall intimate to the *State Board* immediately of any occurrence or apprehension of occurrence of discharge of any poisonous, noxious or pollutants in excess of quality as well as quantity as mentioned earlier to any receiving water body/receiving system or to atmosphere owing to accident or other unforeseen incident / event including natural disaster. The *Applicant* shall (i) take all steps adequate to prevent such accidental discharge / release of poisonous, noxious or pollutants and to limit their consequences to persons and the environment. (ii) provide to the persons working on the site with the information, training and equipment including antidotes necessary to ensure their safety and mitigate the accidental release of poisonous, noxious or pollutants to the environment.

34. The *Applicant* shall make an application to the *State Board* in the prescribed form for renewal of the consent at least 60 (sixty) days before the date of expiry of this Consent.

35. The *Applicant* shall not make any alternation/modification/expansion in the existing manufacturing process and equipment as well as the pollution control system without prior approval of the Board.

36. The Applicant shall comply with the conditions as laid down in the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 and Hazardous Wastes (Management & Handling) Rules, 1989.

Additional Conditions: This consent to operate is valid for the operation of the Blast Furnace only.

(Member Secretary/Chief Engr./Sr. Env. Engr./Env. Engr./Asst.Env.Engr.)
Sr. Env. Engineer(Planning)

West Bengal Pollution Control Board
Kalikapur, Bhawan
Block - DK, Sector-II
Calcutta-700 099

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN NO 10824/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure "R-5"

RENEWAL (Red Category)

WEST BENGAL POLLUTION CONTROL BOARD

'Paribesh Bhawan',
Bldg. No. – 10A, Block-LA, Sector-III,
Salt Lake City, Kolkata-700 098

Consent Letter Number : C033601

Memo Number : 47 4A-11/2006 Date 22.12.08

Renewal of Consent to Operate under *Section 25 & 26* of the Water (Prevention and Control) of Pollution) Act, 1974, and *Section 21* of the Air (Prevention and Control of Pollution) Act, 1981.

The West Bengal Pollution Control Board *(hereinafter referred to as 'State board')* under the provisions of Section 25 & 26 of the Water (Prevention and Control of Pollution) Act, 1974 as amended and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 as amended, and Rules and Orders made thereunder hereby grants renewal of consent to :

M/s RAMSARUP LOHA UDYOG LIMITED

(hereinafter referred to as 'Applicant') for its unit located at P.O.: Rekha Jungle, P.S.: Kharagpur (L), Dist.: Paschim Medinipore, Pin: 721301

(Detailed address of the manufacturing unit)

for a period from 01.12.2008 to 30.11.2010 to continue operation of the industrial unit and to discharge liquid effluent and to emit gaseous effluent from the premises/land of the industrial unit, in accordance with the conditions as mentioned in the 'Consent to Operate' issued to the Applicant vide no. ** dated *(hereinafter referred to as 'Earlier Consent')* and the conditions mentioned below, provided on any day at any instance the quantity and quality of liquid discharge and gaseous emission shall not exceed the permissible limit as specified in the Table I & II of the Earlier Consent and in this consent letter and as specified in the Environmental (Protection) Act, 1986.

Breach of the conditions and / or failure to comply with the directions as mentioned in the Earlier Consent and in this consent shall render the applicant liable for prosecution under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981.

The State Board reserve the right to revoke, withdraw or make any reasonable variation / change / alter the conditions of *the Earlier Consent and this consent letter giving one month's notice to the applicant.*

** 777-4A-11/2006 dated 13.06.2008

Additional Condition:

1. This consent is valid for production of cold pig iron - 18360 MT/month granulated slag - 5450 MT/month and generation of power - 7.5 MW using blast furnace gas fired boiler.
2. The industry should operate complying the environmental norms strictly.
3. Please see annexure attached.

Seal

For and on behalf of the State Board

(Member Secretary/Chief Engineer/Sr. Env. Engr/Asst. Env. Engr.)
CHIEF ENGINEER
W.B. POLLUTION CONTROL BOARD
KOLKATA-700 098

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 10324/2013
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Consent letter No.:Co017521

Consent to RAMSARUP LOHA UDYOG LIMITED

for its unit at P.O. RAGHAJUNGE : KHARAGPUR : MIDNAPORE (WEST) : PIN - 721 301.

24. The *Applicant* shall maintain a separate register showing consumption of chemicals used in pollution control systems.

25. The *Applicant* shall get the samples of hazardous wastes/leachates analysed at least once in ..... from the laboratory recognised of the West Bengal Pollution Control Board and ensure that they conform to the limits stipulated. Test reports shall be sent to the Board.

26. The *Applicant* shall provide adequate and safe facility for collection of air, wastewater and solid waste samples by the *State Board's* staff as well as *State Board's* authorised agencies.

27. The *Applicant* shall submit to the *State Board* by the 30th September of every year the Environmental Statement Report for the financial year ending 31st March of the current year in the prescribed form (Form-V) as required under the provisions of rule 14 of the Environment (Protection) [Second Amendment] Rules, 1992.

28. The *Applicant* shall allow the Officers of the *State Board* to enter into the applicant's premises at any reasonable time to inspect the pollution control systems as well as monitoring and measuring devices in connection with prevention & control of pollution.

29. The *Applicant* shall maintain an Inspection Book in the factory premises which shall be made available to Officers & employees of the *State Board* for inspection, review and to write down any direction or observation as is deemed necessary during the inspection from time to time.

30. The *Applicant* shall furnish to the *State Board* all information in respect of quality, quantity, rate of discharge, place of discharge of liquid effluent and emissions.

31. The *Applicant* shall maintain adequate number of qualified and trained personnel among his staff for proper maintenance and operation of the effluent treatment and/or emission control devices and for overall environment management of the industry.

32. The *Applicant* shall have to make registration for the use of groundwater, if any, with Central Ground Water Authority.

33. The *Applicant* shall intimate to the *State Board* immediately of any occurrence or apprehension of occurrence of discharge of any poisonous, noxious or pollutants in excess of quality as well as quantity as mentioned earlier to any receiving water body/receiving system or to atmosphere owing to accident or other unforeseen incident / event including natural disaster. The *Applicant* shall (i) take all steps adequate to prevent such accidental discharge / release of poisonous, noxious or pollutants and to limit their consequences to persons and the environment. (ii) provide to the persons working on the site with the information, training and equipment including antidotes necessary to ensure their safety and mitigate the accidental release of poisonous, noxious or pollutants to the environment.

34. The *Applicant* shall make an application to the *State Board* in the prescribed form for renewal of the consent at least 60 (sixty) days before the date of expiry of this Consent.

35. The *Applicant* shall not make any alternation/modification/expansion in the existing manufacturing process and equipment as well as the pollution control system without prior approval of the Board.

36. The Applicant shall comply with the conditions as laid down in the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 and Hazardous Wastes (Management & Handling) Rules, 1989.

Additional Conditions: This consent to operate is valid for the operation of the Blast Furnace only.

West Bengal Pollution Control Board
Parivesh Bhawan
10A, Block - A, Sector-III
Salt Lake City, Kolkata-700 098

(Member Secretary/Chief Engr./Sr. Env. Engr./Env. Engr./Asst.Env.Engr.)
Sr. Env. Engineer (Planning)

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 19824/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Conditions : The conditions of the Earlier Consent has been modified as mentioned below :

01. The *Applicant* shall observe the following fuel consumption pattern

Sl. No.	Type of fuel	Quantity per day	Sl. No.	Type of fuel	Quantity per day
01	Coke	1260 Ton/mon	Nil		
02			01		

02. Daily Water consumption for the following purposes should not exceed : As per the conditions of EC 1st used by MoEF

Industrial cooling, spraying in mine pits and boiler feed water (*water used for gardening should be included in this category of use*)	Domestic purpose	Processing whereby water gets polluted and the pollutants are easily biodegradable	Processing whereby water gets polluted and the pollutants are not easily biodegradable

03. Daily discharge of effluent shall not exceed : The unit should maintain "zero discharge"

	Industrial Liquid effluent	Domestic Liquid effluent	Mixed (industrial & domestic) liquid effluent
No. of outfalls			
Quantity	KL	KL	KL
Place of discharge			

04. The *Applicant* shall maintain the quality of liquid effluents so that it should conform to the *Standard* for final effluent as mentioned :

Outlet No.	Nature of effluent	pH	BOD (mg/l, max.)	COD (mg/l, max.)	TSS (mg/l max.)	O & G (mg/l, max)	(mg/l, max.)	(mg/l, max.)	(mg/l max.)	(mg/l, max.)	Frequency of effluent sampling

05. The *Applicant* shall maintain the quality of the gaseous emissions to conform the quality of the final gaseous emission to the *Standard* as given below :

Stack No.	Stack height from G.L. (in mts.)	Stack attached to (source and control system, if any)	Volume Nm³/hr.	Velocity of gas emission (m/sec)	Concentrations of parameters not to exceed SPM (gm/Nm³)	(%) (Gas/v)			Frequency of sampling
S-1	50 M	Blast furnace-01	no. (350 M³)		150	1%			Half
S-2	55 M	BF gas fired boiler-34	TPH		150	1%			Yearly
S-3	15 M	DG set -1000 KVA	(01 no.)		150	1%			
S-4									

06. The *Applicant* shall maintain the generation and treatment / disposal of non-hazardous solid waste as specified below : Same as earlier consent.

Type of waste	Quantity	Treatment	Disposal

07. The *Applicant* shall apply for renewal of consent to *State Board* in prescribed form 60 (sixty) days before expiry of the Consent.

For and on behalf of the State Deptl Seal

(Member Secretary/Secretary/Chief Engineer/Regional Officer/Asst. Env. Engr.)

CHIEF ENGINEER
W.B. POLLUTION CONTROL BOARD
KOLKATA-700 098

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 13924/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure to CFO sl No.C033601

Additional conditions issued to : M/s. Ramswarup Lohh Udyog Ltd.

1. On-line continuous monitoring system shall be installed in the stacks to monitor SPM as per the condition of EC issued by MoEF and NOC of the Board. The time frame should be indicated within 3 months.

2. Adequate measures like provision of dust suppression system consisting of water sprinkling, suction hoods, fans and bag filters shall be taken to control fugitive emission from all the vulnerable sources. Secondary fugitive emissions from all the sources shall be controlled within the latest permissible limits issued by the Ministry and guidelines / Code of Practice issued by the CPCB shall be followed. Fugitive emission shall be regularly monitored and records maintained.

3. Slag generated from Blast furnace shall be granulated and sold to the cement plants for further processing.

4. All efforts shall be made to reuse and re-circulate the water and to maintain "Zero discharge". Storm water drain shall be provided within the premises of the industry so as to avoid mixing with effluent.

5. Ambient air quality shall be monitored through ambient air quality monitoring stations and report to be submitted to the Board on regular basis. Time frame for installation of automatic air quality monitoring stations should be informed to this Board within 3 months.

6. All other conditions as imposed by the MoEF through their Environmental Clearance vide No. J-11011/229/2006-IA II(I) dated 03.10.2006 should be followed.

19/12/08

(Dr.T.K.Gupta)
Chief Engineer-I

Dr. Tapas Kr. Gupta
CHIEF ENGINEER - I
W.B. POLLUTION CONTROL BOARD
KOLKATA-700 098

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 13824/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure "R-6"

WEST BENGAL POLLUTION CONTROL BOARD

'Paribesh Bhawan',
Bldg. No. – 10A, Block-LA, Sector-III,
Salt Lake City, Kolkata-700 098

Consent Letter Number : C045580

Memo Number : 41 – 42-11/2006 Date : 02.06.09

Consent to Operate

under

Section 25 & 26 of the Water (Prevention and Control of Pollution) Act, 1974 and
Section 21 of the Air (Prevention and Control of Pollution) Act, 1981.

The West Bengal Pollution Control Board (hereinafter referred to as State Board) under the provisions of Section 25 & 26 of the Water (Prevention and Control of Pollution) Act, 1974, as amended and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981, as amended, and Rules and Orders made thereunder, hereby grants its consent to :

M/s RAMSARUP LOHH UDYOG LIMITED, 76, Netaji Subhas Chandra Bose Road Roy Road, Hastings Chembers, 1st Floor, Kolkata 700001 WEST BENGAL (Address of Regd. Office/Head/Office/City Office)

(hereinafter referred to as Applicant) for its Expansion existing premises P.O.:Rakhajungle, P.S.:Kharagpur (L) Dist.:Paschim Medinipur, Pin:- 721301

(Detailed address of the manufacturing unit)

for a period from up to 31.03.2010

to operate the industrial unit and to discharge liquid effluent and to emit gaseous effluent from the premises/land of the industrial unit, in accordance with the conditions as mentioned in the Annexure to this consent leter provided on any day at any instance the quantity and quality of liquid discharge and gaseous emission shall not exceed the permissible limit as specified in the Table I & II of this consent letter and in the Environmental (Protection) Act, 1986.

Breach of the conditions and / or failure to comply with the directions as set out in the Annexure shall render the applicant liable for prosecution under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981.

The State Board reserve the right to revoke, withdraw or make any reasonable variation / change / alter the conditions of this consent letter giving one month's notice to the applicant.

For and on behalf of the State Board

West Bengal Pollution Control Board
Paribesh Bhawan
Bl. No. 10A, Sector-III
Seal

(Member Secretary/Chief Engr./Sr. Env. Engr./Env. Engr./Asst.Env.Engr.)

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13824/2016 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Consent Letter No.: CO4

02 of 06

ANNEXURE

Consent to M/s RAMSARUP LOHH UDYOG LIMITED

for its unit at existing premises, P.O.: Rakhajungle, P.S.: Kharagpur(L), Dist.: Paschim Medinipur, Pin-721301.

Conditions :

01. This Consent is valid for the manufacture of :-

Sl. No.	Name of major products and by-products	Quantity manufactured per month
01	Direct reduced iron	12500 TPM
02	Dolochar	3960 TPM
03	Electrical power through	12.5 MW
04	WHRB connected with the rotary	
05	Kiln.	
06		
07		
08		
09		
10		
11		
12		

WEST BENGAL

02. The *Applicant* shall remain responsible for quantity and quality of liquid effluent and air emissions.

03. Daily discharge of industrial liquid effluent shall not exceed Zero discharge KL.

04. Daily discharge of domestic liquid effluent shall not exceed Zero discharge KL.

05. Daily discharge of mixed (industrial & domestic) liquid effluent shall not exceed N.A. KL.

06. The *Applicant* shall discharge liquid effluent to N.A. (place of discharge) through N.A. nos. outlets/outfalls.

07. To bring into any altered or new outlet/outfall or to change the place of discharge, the Applicant shall have to inform the Board and obtain prior permission of the Board in this effect.

08. The *Applicant* shall provide comprehensive facility for treatment of industrial liquid waste and domestic liquid waste (sewage, sullage and liquid effluent generated from canteen), and operate and maintain the same continuously so that the quality of final effluent conforms to the *Standard* as given in Table-I in page 03.

22/10/09.

(Member Secretary/Chief Engr./Sr. Env. Engr./Env. Engr./Asst.Env.Engr.)

Sr. Env. Engineer/ Planning

Continued.....

For RAMSARUP INDUSTRIES LTD.

Director/Authorised Signatory

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13824/2018 GOVT. OF INDIA

Consent Letter No.: CO45580

Consent to M/s RAMSARUP LOHH UDYOG LIMITED.,

for its unit at existing premises, P.O.: Rakha Jungle, P.S.: Kharagpur(L),

Dist.: Paschim Medinipur, Pin: 721301

Table-I

Outlet No.	Nature of effluent	Parameters	Standard	Frequency of effluent sampling
		pH	Between: 5.5 - 9.0	
		Total Suspended Solids	Not to exceed: 100 mg/l.	
		Biochemical Oxygen Demand (3day at 27°C)	Not to exceed: --- mg/l.	Annually
		Chemical Oxygen Demand	Not to exceed: 250 mg/l.	
		Oil & Grease	Not to exceed: 10 mg/l.	

WEST BENGAL

09. The *Applicant* falls in the ..... Category of the Water (Prevention and Control of Pollution) Cess Act, 1977 with Rules made thereunder and the Applicant shall comply with the provisions of the said Act and Rules made thereunder.

10. Daily water consumption for the following purposes should not exceed :–

- Industrial cooling, spraying in mine pits and boiler feed water → 2000 KL
  (Water used for gardening should be included in this category of use)
- Domestic purpose → 30 KL
- Processing whereby water gets polluted and the pollutants are easily biodegradable → N.A. KL
- Processing whereby water gets polluted and the pollutants are not easily biodegradable → N.A. KL

The *Applicant* shall regularly submit to the Board the Returns of Water Consumption in the prescribed form and pay the Cess as specified under Section 3 of the said Act.

04/06/09.

(Member Secretary/Chief Engr./Sr. Env. Engr./Env. Engr./Asst.Env.Engr.)

Sr. Env. Engineer

Continued.....

NOTARY KOLKATA SHRI LAKHPAT PANDEY REGN. NO. 10024/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Consent Letter No.: COA

Page 04 of 06

Consent to M/s RAMSARUP LOHH UDYOG LIMITED,

for its unit at existing premises, P.O.:Rabindranagar, P.S.:Kharagpur (L), Dist.: Paschim Medinipur, Pin: 721301

11. The *Applicant* shall install suitable device for measuring the volume of water consumed for different purposes as mentioned above giving correct result to the satisfaction of the *State Board*.

12. All the stacks connected to various sources of emissions must be designated by numbers such as S-1, S-2, S-3, etc., and this must be painted/displayed to facilitate identification.

13. The *Applicant* shall install comprehensive control system consisting of pollution control equipment as is warranted with reference to generation of air emissions and operate and maintain the same continuously so as to achieve the level of pollutants to the *Standard* as given in Table-II below.

Table-II

Stack No.	Stack height from G.L. (in mts.)	Stack attached to (sources and control system, if any):	Volume Nm³/hr	Velocity of gas emission m/sec	Concentrations of parameters not to exceed					Frequency of emission sampling
					SPM (mg/Nm³)	CO (% v/v)				
S-1	55m	Rotary Kiln-500TPD & WHRB-54 TPH along with ESP as APC device			100	1%				Thrice in a year.
S-2	45m	Cooler discharge, product house, raw material preparation section, intermediate bunker & other vulnerable sources along with common header & cumulative continuous emission locations.			100	1%				
S-3										
S-4										
S-5										
S-6										
S-7										
S-8										
S-9										
S-10										

ATTESTED BENGAL

(Member Secretary/Chief Engr./Sr. Env. Engr./Env. Engr./Asst.Env.Engr.)

Sr. Env. Engineer Planning,

Continued.....

NOTARY KOLKATA GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Consent Letter No.:0045580 Page 05 of 05

Consent to M/s RAMSARUP LOHH UDYOG LIMITED.

for its unit at existing premises, P.O.:Rakhajungle, P.S.:Kharagpur(L),

Dist.:Paschim Medinipur, Pin: 721301

14. The *Applicant* shall provide ports in the stack(s) and other necessary permanent facilities such as ladder, platform, etc. for monitoring/sampling the air emissions and the same shall be made available for inspection and use by the *State Board's* staff as well as *State Board's* authorised agencies.

15. The *Applicant* shall observe the following fuel consumption pattern :–

Sl. No.	Type of fuel	Quantity consumed per day	Fuel burning operation where the fuel is used
01	Coal with	12650 TPM	Rotary Kiln of capacity-500TPD
02	Low ash percentage		
03	(approx 27.5%)		
04			
05			

16. The *Applicant* shall maintain the generation and treatment/disposal of non-hazardous solid waste as specified below:

Type of waste	Quantity	Treatment	Disposal
Coal fines			sold to outside

17. The *Applicant* shall take adequate measures for control of noise levels from its own sources within the premises within the limit given below:

	Limit in dB(A) L_{eq}
Day Time (6 a.m. to [illegible])	[illegible]
Night Time ([illegible] to 6 a.m.)	70

18. The *Applicant* shall at all times maintain good house-keeping, proper working order, and operate efficiently for control of pollution from all sources so as not to cause nuisance to surrounding areas/inhabitants and to achieve compliance with the terms and conditions of the consent.

19. The *Applicant* shall bring about at least 33% of the available open land under the green coverage / plantation.

20. The *Applicant* shall provide for an alternate electric power source sufficient to operate all pollution control facilities installed by the *Applicant* to maintain compliance with the terms and conditions of the consent. In absence of such an alternate electric power source, the *Applicant* shall stop, reduce or otherwise control production to abide by the terms and conditions of the Consent regarding pollution level.

21. The *Applicant* shall install a separate energy meter showing the consumption of energy for operation of pollution control devices.

22. The *Applicant* shall ensure that fugitive emissions from the activity are controlled so as to maintain clean and safe environment in and around the factory premises.

23. The *Applicant* shall provide drainage system for conveying industrial and domestic liquid waste. Storm-water drain shall be kept separate from the drainage system meant for industrial and domestic liquid waste.

02/06/09.

(Member Secretary/Chief Engr./Sr. Env. Engr./Env. Engr./Asstt.Env.Engr.)
Sr. Env. Engineer Planning.

Continued.....

WEST BENGAL

NOTARY
KOLKATA
SHYAM SUNDAR PANDEY
REGN. NO. 13824/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director/Authorised Signatory

Consent Letter no: 2043

Consent to M/s RAMSARUP LOHH UDYOG LIMITED,

for its unit at existing premises, P.O.: Rakha Jungle, P.S.: Kharagpur(L), Dist.: Paschim Medinipur, Pin: 721301

24. The *Applicant* shall maintain a separate register showing consumption of chemicals used in pollution control systems.

25. The *Applicant* shall get the samples of hazardous wastes/leachates analysed at least once in ..... from the laboratory recognised of the West Bengal Pollution Control Board and ensure that they conform to the limits stipulated. Test reports shall be sent to the Board.

26. The *Applicant* shall provide adequate and safe facility for collection of air, wastewater and solid waste samples by the *State Board's* staff as well as *State Board's* authorised agencies.

27. The *Applicant* shall submit to the *State Board* by the 30th September of every year the Environmental Statement Report for the financial year ending 31st March of the current year in the prescribed form (Form-V) as required under the provisions of rule 14 of the Environment (Protection) [Second Amendment] Rules, 1992.

28. The *Applicant* shall allow the Officers of the *State Board* to enter into the applicant's premises at any reasonable time to inspect the pollution control systems as well as monitoring and measuring devices in connection with prevention & control of pollution.

29. The *Applicant* shall maintain an Inspection Book in the factory premises which shall be made available to Officers & employees of the *State Board* for inspection, review and to write down any direction or observation as is deemed necessary during the inspection from time to time.

30. The *Applicant* shall furnish to the *State Board* all information in respect of quality, quantity, rate of discharge, place of discharge of liquid effluent and air emissions.

31. The *Applicant* shall maintain adequate number of qualified and trained personnel among his staff for proper maintenance and operation of the effluent treatment and/or pollution control devices and for overall environment management of the industry.

32. The *Applicant* shall have to make registration for the use of groundwater, if any, with Central Ground Water Authority.

33. The *Applicant* shall intimate to the *State Board* immediately of any occurrence or apprehension of occurrence of discharge of any poisonous, noxious or pollutants in excess of quality as well as quantity as mentioned earlier to any receiving water body/receiving system or to atmosphere owing to accident or other unforeseen incident / event including natural disaster. The *Applicant* shall (i) take all steps adequate to prevent such accidental discharge / release of poisonous, noxious or pollutants and to limit their consequences to persons and the environment. (ii) provide to the persons working on the site with the information, training and equipment including antidotes necessary to ensure their safety and mitigate the accidental release of poisonous, noxious or pollutants to the environment.

34. The *Applicant* shall make an application to the *State Board* in the prescribed form for renewal of the consent at least 60 (sixty) days before the date of expiry of this Consent.

35. The *Applicant* shall not make any alternation/modification/expansion in the existing manufacturing process and equipment as well as the pollution control system without prior approval of the Board.

36. The Applicant shall comply with the conditions as laid down in the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 and Hazardous Wastes (Management & Handling) Rules, 1989.

Additional Conditions : Please see annexure attached.

(Member Secretary/Chief Engr./Sr. Env. Engr./Env. Engr./Asst.Env.Engr.)
Sr, Env Engineer Planning,

WEST BENGAL

NOTARY KOLKATA SHYAM KARAN PANDEY REGN. NO 13024/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.
Director / Authorised Signatory

Annexure to CFO sl no. CO45580

Additional conditions issued to : M/s.Ramsarup Lohh Udyog Limited.
P.O:Rakhajungle,P.S:Kharagpur(L.)
Dist:Paschim Medinipur,Pin:721301.

1.The unit should strictly abide by the conditions as stipulated in the Environmental Clearance issued by MoEF vide no. J-11011/229/2006-1A II(I) dated 03.10.2006 and NOC issued by the State Board vide memo no. 305-2N-111/2004 dtd. 06.06.08.

2.New emission and effluent standards issued by the MoEF for Sponge Iron Industries vide no. G.S.R.414(E) dated 30th May,2008 have to be complied with.

3. Adequate measures shall be taken to control fugitive emission from all the vulnerable sources. Secondary fugitive emissions from all the sources shall be controlled within the latest permissible limits issued by the Ministry and guidelines/Code of Practice issued by the CPCB shall be followed.

4. All efforts shall be made to reuse and re-circulate the water and to maintain "Zero discharge". Storm water drain shall be provided within the premises of the industry so as to avoid mixing with effluent.

5. Ambient air quality shall be monitored through ambient air quality monitoring stations and report to be submitted to the Board on regular basis. On-line stack monitoring results should be recorded and send to the Board on regular basis.

6. Adequate Green belt shall be developed in and around the plant premises.

7. All the recommendations made in the Charter on Corporate Responsibility for Environment Protection (CREP) for the Steel plants shall be implemented.

8. The unit must comply with the six points directives issued by the State Board as follows and compliance report to be submitted to the Board on time to time basis.

- Under no circumstances the industry shall store any dust, coal char, coal fines etc. in open spaces.
- The dust collection system in the ESP should be provided with pneumatic control system along with silo and pug mill.
- The industry must provide 'Dry Fog Dust Suppression System' for controlling fugitive emission.
- Concrete/ paved road must be provided within the factory premises.
- At least two tankers must be provided by the industry for ensuring continuous water spraying within and outside the factory premises. Contract agreement or documentary proof to be submitted to WBPCB for the same.
- Good housekeeping shall be maintained and the industry shall develop green buffer zone along the inside periphery of the factory premises, covering at least 40 % of total area.

9. Dedicated energy meter must be installed with the emission control equipments .

10. The unit should utilize waste gases in waste heat recovery boiler for power generation.

11. The unit shall develop surface water harvesting structures to harvest the rain water.

12.The unit should install AFBC/CFBC boiler to utilize coal char as per the action plan submitted. Untill then coal char should be disposed off in an environment friendly manner.

02/06/09.

(D.Sarkar)
Senior Environmental Engineer (Planning)

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 10624/2013
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure "R-7"

From: pb.rastogi@nic.in [mailto:pb.rastogi@nic.in]
Sent: Wednesday, June 03, 2009 5:02 PM
To: ashish@ramsarup.com
Cc: ramsarup@cal2.vsnl.net.in
Subject: [!! SPAM] Modernization-cum-expansion of Integrated Steel Plant (0.3 MTPA to 0.7 MTPA) at Kharagpur, West Bengal by M/s Ramsarup Loh Udyog Ltd. – Environment clearance reg.

F. No. J-11011/14/2008- IA II (I)

Government of India

Ministry of Environment and Forests

(I.A. Division)

Paryavaran Bhawan

CGO Complex, Lodhi Road

New Delhi – 110 003

E-mail : pb.rastogi@nic.in

Telefax : 011: 2436 7668

Dated 3rd June, 2009

To,

Managing Director

M/s Ramsarup Loh Udyog Ltd.

7C, Kiran Shankar Roy Road

Hastings Chamber, 2nd Floor

Kolkata – 1, West Bengal

E-mail : ashish@ramsarup.com / ramsarup@cal2.vsnl.net.in ;

NOTARY KOLKATA SHYAM NATH PAL REGN. NO. 1382 GOVT. OF

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Fax No. : 033-22137667;

Subject : Modernization-cum-expansion of Integrated Steel Plant (0.3 MTPA to 0.7 MTPA) at Kharagpur, West Bengal by M/s Ramsarup Loh Udyog Ltd. – Environment clearance reg.

Ref. : Your letter no. RLUL/MOEF/FC/01 dated 17th December, 2008.

Sir,

Kindly refer your letter no. RLUL/MOEF/FC/01 dated 17th December, 2008 alongwith project documents including Application in Form I, draft TORs, Pre-feasibility Report, EIA/EMP Report and subsequent clarifications furnished vide communication dated 1st April, 2009 regarding above mentioned project.

2.0 The Ministry of Environment and Forests has examined your application. It is noted that proposal is for modernization-cum-expansion of Integrated Steel Plant (0.3 MTPA to 0.7 MTPA) at Kharagpur, Paschim Medinipur, West Bengal by M/s Ramsarup Loh Udyog Ltd. The expansion will be carried out in the existing campus only and no additional land will be acquired. Environment clearance for existing plant is accorded vide letter no. J-11011/229/2006-IA II (I) dated 3.10.2008. Total land acquired from WBIDC is 325 acres. Total cost of the project is Rs. 2,058.81 Crores.

3.0 Steel plant will be based on the DRI-BF-EAF-LF-CCM route alongwith captive power plant. During expansion, hot metal production and semi-finished steel products (cast billet) will be enhanced from 0.228 MTPA to 0.456 MTPA and 0.3 MTPA to 0.7 MTPA respectively. Following are the details of the existing and proposed units :

S.N	Units	Capacity (Existing)	Capacity (Proposed)
1	DRI Plant	(1x500 TPD) 150,000 TPA	(1x500 TPD) 150,000 TPA
2	Blast Furnace	(1x350 m^3) 2,64,100 TPA	(1x350 m^3) 310,900 TPA
	Pig casting machine	1x1,000 TPD	
3	EAF Shop	(1x50 T) 300,000 TPA	(1x70 T) 383,200 TPA
4	Ladle Furnace	(1x50 T)	(1x70 T)
5	Billet Caster	(1x2/3 Strand) 291,000 TPA	(1x4 Strand) 372,000 TPA
6	Power Plant WHRB BF Gas fired Boiler CFBC Boiler	20 MW 1x52.5 TPH 1x35 TPH --	45 MW 1x52.5 TPH 1x25 TPH 1x120 TPH

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO: 13624/2016 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

7	Sinter Plant	-	(1x90 m^2) 960,000 TPA
8	Oxygen Plant	-	7300 Nm^3/hr of Oxygen
9	Rolling Mill	--	0.8 MTPA

4.0 Electrostatic precipitator (ESP), bag filters, dry fog dust suppression system and fume extraction system with bag filters will be provided to control particulate matter. Total water requirement for the proposed expansion from Kharagpur municipality water supply system will be 720 m^3/hr and permission for 1,600 m^3/hr is obtained. Process wastewater will be treated in Effluent Treatment Plant and the treated effluent will be used for dust suppression and slag granulation. Char/dolochar will be used in CFBC boiler. BF sludge will be used in the sinter plant. BF flue dust, EAF dusts, mill scales, sinter plant dust and DRI fines will be recycled to sinter plant. Granulated BF slag and fly ash will be sold to cement manufacturers. Scrap will be recycled back. SMS slag will be utilized.

5.0 Public hearing is exempted due to project being located in notified WBIDC industrial area as per Section (iii), Stage (3), Para (i)(b) of EIA Notification 2006.

6.0 The Ministry of Environment and Forests hereby accords environmental clearance to the above project under EIA Notification dated 14th September, 2006 subject to strict compliance of the following conditions:

A. SPECIFIC CONDITIONS :

i) Efforts shall be made to reduce RSPM levels in the ambient air and a time bound action plan shall be submitted. Continuous stack monitoring facilities for all the stacks shall be provided and sufficient air pollution control devices shall be provided to keep the emission levels below 100 mg/Nm^3. At no time, the emission level shall go beyond the prescribed standards. Interlocking facilities shall be provided so that process can be automatically stopped in case emission level exceeds the limit.

ii) Electrostatic precipitator (ESP) shall be provided to DRI kiln, CFBC boiler, WHRB and Sinter Plant to control emissions less than 100 mg/Nm^3. Hot gases from DRI kiln shall be passed through Dust Settling Chamber (DSC) to remove coarse solids and After Burning Chamber (ABC) to burn CO completely and used in Waste Heat Recovery Boiler (WHRB). The gas then shall be cleaned in ESP before leaving out into the atmosphere through ID fan and stack. Fume extraction system with bag filters shall be provided to steel melting shop (SMS). Stack of adequate height shall be provided to rolling mill, BG gas

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13024/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

fired boiler and blast furnace stoves to control emissions less than 100 mg/Nm^3.

iii) Data on ambient air quality, stack emissions and fugitive emissions shall be uploaded on the Company's website and also regularly submitted on-line to the Ministry's Regional Office at Bhubaneswar, West Bengal Pollution Control Board (WBPCB) and Central Pollution Control Board (CPCB) as well as hard copy once in six months. Data on SPM, SO_2 and NO_X shall also be displayed prominently outside the premises at the appropriate place for the information of general public.

iv) Gaseous emission levels including secondary fugitive emissions from all the sources shall be controlled within the latest permissible limits issued by the Ministry and regularly monitored. Guidelines / Code of Practice issued by the CPCB shall be followed. New standards issued by the Ministry for the sponge iron plant in May, 2008 shall be followed.

v) Vehicular pollution due to transportation of raw material and finished product shall be controlled. Proper arrangements should also be made to control dust emissions during loading and unloading of the raw material and finished product.

vi) In-plant control measures for checking fugitive emissions from all the vulnerable sources shall be provided. Dry fog dust suppression system shall be provided to BF stock house. Dust extraction system with bag filters shall be provided at various dust generating points including transfer points. Water spraying system shall be provided to control fugitive emissions in captive power plant. Dust suppression system shall be provided in raw material preparation plant. Fugitive dust emissions from storage, transportation and raw material handling areas shall be controlled by water sprinkling and other dust suppression measures.

vii) Total ground water requirement from Kharagpur municipality water supply system shall not exceed 720 m^3/hr and permission for 1,600 m^3/hr is obtained. Process wastewater shall be treated in Effluent Treatment Plant (ETP). Clarifier, thickener, sludge pond shall be provided to raw water treatment plant and blast furnace gas cleaning plant. Acidic effluent from de-mineralization (DM) plant shall be neutralized in neutralization pit. Settling tanks fitted with oil & grease traps shall be used for treatment of effluent from billet caster and hot rolling mills. All the treated wastewater shall be recycled

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 1332/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

and reused in the process to the maximum extent possible and reused either in the process or for slag granulation, dust suppression, green belt development etc.

viii) 'Zero' effluent discharge shall be strictly followed and no wastewater shall be discharged outside the premises. Domestic effluent shall be appropriately treated in septic tank followed by soak pit and used for green belt development within the premises.

ix) The water consumption should not exceed 16 m^3/Ton of Steel as per prescribed standard..

x) Ground water monitoring around the solid waste disposal site / secured landfill (SLF) shall be carried out regularly and report submitted to the Ministry's Regional Office at Bhubaneswar, CPCB and WBPCB.

xi) Proper utilization of fly ash shall be ensured as per Fly Ash Notification, 1999 and subsequent amendment in 2003.

xii) All the char/dolochar from DRI plant shall be utilized in CFBC boiler of power plant and no char shall be disposed off anywhere else. CFBC boiler shall be installed simultaneously alongwith the DRI plant to ensure full utilization of char from the beginning. All the blast furnace (BF) slag shall be granulated and provided to cement manufacturers for further utilization. BF flue dust, BF sludge EAF dusts, mill scales, sinter plant dust and DRI fines shall be recycled and used Sinter plant. Scrap shall be recycled back to the steel melting shop. SMS slag shall also be properly utilized. All the other solid waste

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13624/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

including broken refractory mass shall be properly disposed off in environment-friendly manner. Oily waste/ lubricants shall be provided to authorized recyclers/reprocessors or properly disposed off as per the Hazardous Waste (Management & Handling) Rules, 1989 and subsequent amendments.

xiii) Coal and coke fines shall be recycled and reused in the process. Iron ore, fluxes, mill scales etc. shall be recycled to sinter plant to produce sinter.

xiv) All the slag including from EAF and SMS shall be used for land filling inside the plant or used as building material only after passing through Toxic Chemical Leachability Potential (TCLP) test. Toxic slag shall be disposed in secured landfill as per CPCB guidelines. Otherwise, hazardous substances shall be recovered from the slag and output waste and be disposed in secured landfill as per CPCB guidelines.

xv) A time bound action plan shall be submitted to reduce solid waste, its proper utilization and disposal.

xvi) Proper handling, storage, utilization and disposal of all the solid waste shall be ensured and regular report regarding toxic metal content in the waste material and its composition, end use of solid/hazardous waste shall be submitted to the Ministry's Regional Office at Bhubaneswar, WBPCB and CPCB.

xvii) Green belt shall be developed in 33 % area within and around the plant premises to mitigate the effects of fugitive emissions as per the CPCB guidelines in consultation with DFO.

xviii) All the recommendations made in the Charter on Corporate Responsibility for Environment Protection (CREP) for the Steel plants shall be implemented.

xix) The company shall provide housing for construction labour within the site with all necessary infrastructure and facilities such as fuel for cooking, mobile toilets, mobile STP, safe drinking water, medical health care, crèche

NOIDA KOUSHAL CHANDRA PANDEY REGN NO. 10004/2016 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director/Authorised Signatory

etc. The housing may be in the form of temporary structures to be removed after the completion of the project.

B. GENERAL CONDITIONS :

i. The project authority shall adhere to the stipulations made by West Bengal Pollution Control Board (WBPCB) and State Government.

ii. No further expansion or modification of the plant shall be carried out without prior approval of this Ministry.

iii. The gaseous emissions from various process units shall conform to the load/mass based standards notified by this Ministry on 19th May, 1993 and standards prescribed from time to time. The West Bengal Pollution Control Board (WBPCB) may specify more stringent standards for the relevant parameters keeping in view the nature of the industry and its size and location.

iv. Ambient air quality monitoring stations shall be set up as per statutory requirement in consultation with the WBPCB. Ambient air quality including ambient noise levels shall not exceed the standards stipulated under EPA or by the State authorities. Monitoring of ambient air quality and shall be carried out regularly in consultation with WBPCB and data submitted to the CPCB and WBPCB regularly. The instruments used for ambient air quality monitoring shall be calibrated time to time.

v. The overall noise levels in and around the plant area shall be kept well within the standards (85 dBA) by providing noise control measures including acoustic hoods, silencers, enclosures etc. on all sources of noise generation. The ambient noise levels shall conform to the standards prescribed under Environmental (Protection) Act, 1986 Rules, 1989 viz. 75 dBA (day time) and 70 dBA (night time).

vi. Occupational health surveillance of the workers shall be done on a regular basis and records maintained as per the Factories Act.

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vii. All the environment management measures given in the EIA/EMP shall be implemented and complied with.

viii. All the recommendations mentioned in the Corporate Responsibility for Environmental Protection (CREP) of CPCB issued for the steel plants shall be implemented.

ix. The company shall develop rain water harvesting structures to harvest the rain water for utilization in the lean season besides recharging the ground water table.

x. Proper house keeping and adequate occupational health programmes shall be taken up.

xi. The company shall undertake eco-development measures including community welfare measures in the project area.

xii. A separate environmental management cell to carry out various management and monitoring functions shall be set up under the control of Senior Executive.

xiii. As proposed, 8 to 10% and 2-3 % of the total project cost viz. Rs. 17,574.00 Lakhs shall be earmarked towards the capital cost recurring cost/annum for environment pollution control measures and used judiciously to implement the conditions stipulated by the Ministry of Environment and Forests as well as the State Government. The funds so provided shall not be diverted for any other purpose.

xiv. The Regional Office of this Ministry at Bhubaneswar / CPCB / WBPCB shall monitor the stipulated conditions. A six monthly compliance report and the monitored data alongwith statistical interpretation shall be submitted to them regularly.

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xv. The Project Authorities shall inform the Regional Office as well as the Ministry, the date of financial closure and final approval of the project by the concerned authorities and the date of commencing the land development work.

xvi. The Project Proponent shall inform the public that the project has been accorded environmental clearance by the Ministry and copies of the clearance letter are available with the W. B. Pollution Control Board and may also be seen at Website of the Ministry of Environment and Forests at http:/envfor.nic.in. This shall be advertised within seven days from the date of issue of the clearance letter at least in two local newspapers that are widely circulated in the region of which one shall be in the vernacular language of the locality concerned and a copy of the same shall be forwarded to the Regional office at Bhubaneswar.

7.0 The Ministry or any other competent authority may stipulate any further condition(s) on receiving reports from the project authorities. The above conditions shall be monitored by the Regional Office of this Ministry located at Bhubaneswer.

8.0 The Ministry may revoke or suspend the clearance if implementation of any of the above conditions is not satisfactory.

9.0 Any other conditions or alteration in the above conditions shall have to be implemented by the project authorities in a time bound manner.

10.0 Any appeal against this environmental clearance shall lie with the National Environment Appellate Authority, if preferred within a period of 30 days as prescribed under Section 11 of the National Environment Appellate Act, 1997.

11.0 The above conditions shall be enforced, inter-alia under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 the Air (Prevention and Control of Pollution) Act, 1981 the Environment (Protection) Act, 1986 and the Public Liability Insurance Act, 1991 along with their amendments and rules.

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(Dr. P. B. Rastogi)

Director

Copy to :-

1. The Secretary, Department of Environment, Govt. of West Bengal, Kolkata, West Bengal.

2. The Chairman, Central Pollution Control Board, Parivesh Bhavan, CBD-cum-Office Complex, East Arjun Nagar, Delhi-110032.

3. The Chairman, West Bengal Pollution Control Board, Parivesh Bhawan, 10A Block-LA Sector-III, Salt Lake, Kolkata - 700091, West Bengal.

4. The Chief Conservator of Forests, Regional Office (EZ), Ministry of Environment and Forests, A-3 Chandrashekharpur, Bhubaneswar – 751 023, Orissa

5. Adviser IA-II(I), Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, New Delhi.

6. Monitoring Cell, Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, New Delhi.

7. Guard File.

8. Monitoring File.

9. Record File.

(Dr. P. B. Rastogi)

Director

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Annexure "R-8"

In the National Company Law Tribunal,
Kolkata Bench, Kolkata

CP (IB) No.349/KB/2017

In the matter of:

Ramswarup Industries Ltd. .....Corporate Applicant/ Corporate Debtor

-Versus-

ICICI Bank Ltd. .....Applicant Bank/Financial Creditor

Order Delivered on 8th Jan 2018

Coram:
V. P. Singh, Member (J)
Jinan K.R., Member (J)

For the Corporate Debtor : 1. Mr Jishnu Chowdhury, Advocate
2. Mr. Rishav Banerjee, Advocate
3. Mr. Sidhartha Sharma, Advocate
4. Ms. Namtra Basu, Advocate
5. Mr. Ratul Das, Advocate

For the Respondent : 1. Ms. Aparajita Rao, Advocate
2. Ms Sudeshna Sen, Advocate
3. Ms Pallabi Ganguly, Advocate

For the Financial Institute : 4. Mr Saubhik Chowdhury, Advocate
5. Mr Dripto Majumdar, Advocate
6. Ms Prapa Ganguly, Advocate
7. Ms Adreeka Pandey, Advocate
8. Ms Satarup Banerjee, Advocate
9. Mr Shaunak Mitra, Advocate
10. Ms Vaibhavi Pandey, Advocate
11. Mr Kuldip Mallik, Advocate
12. Mr D. Mollah, Advocate
13. Mr Debasish Chakraborty, Advocate

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For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 15624/2016 GOVT. OF INDIA

CP No.349/KB/2017

ORDER

This application is filed by the corporate applicant for initiating Corporate Insolvency Resolution Process under Sec.10 of the Insolvency & Bankruptcy Code, 2016 (from now on referred to I & B Code, 2016) read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Corporate applicant is Ramswarup Industries Ltd. whose identification No. is L65993WB1979PLC032113 and Shri Ashish Jhunjhunwala, Managing Director has filed this application on behalf of the corporate applicant on the basis of board resolution dated 18/5/2017 whereby Shri Ashish Jhunjhunwala, Managing Director of the company, has been authorized to file necessary application under the provisions of Insolvency and Bankruptcy Code, 2016. A copy of the Board Resolution dated 18/5/2017 is annexed with the application as Annexure 5.

2. Corporate applicant has also proposed the name of Nilesh Sharma as Interim Resolution Professional nilesh.sharma@irrip.com and also given his details at Part II page 5 of the application.

3. Corporate applicant has filed this application by default in payment to financial creditors, and relevant details of financial creditor whereby default has occurred have been annexed in Annexure 6, page 137A to 137O which shows the total amount of default Rs.3,379.77 crore and outstanding amount is Rs.2,047.70 crore. The chart shows that this default committed on account of loan taken by the corporate applicant from different banks. The details of corporate facilities from different financial creditors are also given from Annexure 7 to 35, pages 138 to 166 of the application. The petitioner has also annexed the document evidencing the existence of debt such as sanction/renewal letter/loan agreement which is Annexure 37 to 64 pages 248 to 393. The petitioner has also annexed a copy of notice along with the correspondence with various assets reconstruction companies; details are annexed as Annexure 37C to 40C, 42C, 43C, 49C, 50C, 52C, 53C, 54C and 66.

4. The petitioner has also annexed the documents evidencing default in payment to the financial creditor which are Annexure 37A, 38A, 39A, 40A, 41A, 42A, 43A, 44A, 45A, 46a, 47A, 48A, 49A, 50A, 51A, 52A, 53A, 54A, 55A, 56A, 57A, 58A, 59A, 60A, 61A, 62A, 63A, 64A, 65A, 50D, 67, 69, 70 and 71.

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For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

5. The petitioner has also annexed a copy of ledger account of the financial creditor in the books of the corporate debtor. These are annexed as Annexure 37B, 38B, 40B, 41B, 42B, 43B, 45B, 46B, 47B, 48B, 52B, 54B, 56B, 60B, 62B, 63B, 64B and 65B.

6. It is further stated in the application that Shri Nilesh Sharma, proposed IRP is fully qualified and permitted to act as an IRP. The petitioner has further stated that as per government notification Sec.4(b) of Sick Industrial Companies (Special Provisions) Repeal Act, 2003 as amended by Sec.252 read with Eighth Schedule of Insolvency and Bankruptcy Code, 2016 a company in respect of which any appeal or reference or inquiry pending before AAIFR or BIFR was abated, may make reference to the NCLT under the I & B Code, 2016 within 180 days from commencement of I & B Code, without fees in accordance with the provisions of I & B Code. A copy of the last BIFR order dated 24/11/2016 is enclosed as Annexure 71 and this petition has been filed on 25/5/2017.

7. ICICI Bank Ltd. as the financial creditor has filed the objection against the application alleging that the applicant has filed this application under Sec.10 of the I & B Code to initiate corporate insolvency process fraudulently and with malicious intent for the purposes other than for the resolution of insolvency. ICICI Bank has further submitted corporate applicant including its promoters have initiated the instant proceedings with an intention to thwart the various lenders including the applicant bank from realising their securities with the sole motive of obtaining a moratorium and displacing all their assets including their secured assets from the clutches of law.

8. It has been further alleged that the conduct of the corporate applicant and its directors is indicative of a mala fide intent and the corporate applicant should not be permitted to take advantage of the protective realms offered by the Code in order to abuse the process of law and to stop bona fide recovery actions which after significant effort, time and expense have culminated to advanced stages. The said application is liable to be rejected.

9. ICICI Bank has also alleged that on account of continued financial stress, the corporate applicant referred to Corporate Debt Restructuring (CDR) in November 2010 which was subsequently admitted in December 2010. Under the same, the applicant bank approved a bilateral Debt Restructuring thereby restructuring of the existing credit facilities were made by Debt Restructuring Agreement dated 2/2/2011. The final proposal for restructuring by the

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corporate applicant was rejected by CDR EG in December 2011. It has been further reported that total outstanding amount of the ICICI Bank on the corporate applicant is Rs.36.03 crore and ICICI Bank has the first charge over the movable and immovable fixed assets of the corporate applicant situated at Shyam Nagar about Ramswarup Utpadak Division. Details of security pledged in favour of ICICI Bank are given in the objection.

10. It is also alleged that the bank has demanded payment Rs.31.2 crore from the corporate applicant on 27/1/2013, but the corporate applicant failed to pay the dues payable by it to the applicant bank. Therefore, vide notice dated 26/2/2013 the Bank invoked the personal guarantee furnished by Ashish Jhunjhunwala in favour of ICICI Bank. On account of such invocation and development of the bank above guarantee, the applicant bank in furtherance to its recall notice dated 28/1/2013, further demanded repayment of all dues payable by the corporate applicant to the applicant bank including the bank above guarantee to vide notice dated 15/1/2014.

11. It is also stated in the objection that the applicant bank has taken all possible steps available to it under law including steps under the SARFAESI Act and Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

12. It has been further alleged by ICICI Bank that the default is a creation and result of fraud and siphoning off funds. The corporate applicant is not a going concern and hence effectively no resolution plan under the Code can be arrived at. Further, the corporate applicant has made no effort to repay its outstanding amount or to honor its commitments even after the restructuring of facilities by the applicant bank. The corporate applicant has been declared as a non-performing asset by various nationalized and private banks including the applicant bank. The corporate applicant and its directors are facing a criminal investigation on account of allegations relating to cheating and defrauding. The conduct of the directors of the corporate applicant does not show that they intend to repay the debts of the bank. On the above basis, ICICI Bank has submitted that the application moved by the corporate applicant be rejected

13. Heard Ld. Counsel for the parties and perused the record. On perusal of the record it appears that as per Government Notification dated 28/5/2016 whereby Sick Industrial Companies [SICA] (Special Provision) Repeal Act, 2003 as amended by Sec.252 read with 8th Schedule of the Insolvency and Bankruptcy Code 2016, a company in respect of which any appeal or reference

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or enquiry pending before BIFR or AAIFR was authorized by the Sick Industrial Companies(Special Provision)Repeal Act that such company may make a reference to the NCLT under the I & B Code 2016 in accordance with the provisions of the I & B Code.

The **Sick Industrial Companies (Special Provisions) Repeal Act, 2003** by Government Notification came into effect from Ist Dec 2016. The Notification is given below for ready reference. This application U/S 10 has been filed within the statutory limit of 180 days as provided under The Sick Industrial Companies (Special Provisions) Repeal Act. By S.O. No 3594 (E) I B Code 2016 came into effect from 1st Dec 2016.

"S.O. 3568(E). — In exercise of powers conferred by sub-section (2) of section 1 of the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 (1 of 2004), the Central Government hereby appoints the 1st day of December, 2016, as the date on which the provisions of the said Act shall come into force."

14. As per provision of The Sick Industrial Companies (Special Provisions) Repeal Act, 2003 any company whose reference was pending before SICA was authorized to file reference to the NCLT under I & B Code, 2016. Relevant provision of the Act, for ready reference, is given below:-

THE EIGHTH SCHEDULE

Amendment to the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 (1 of 2004)

In Section 4, for sub-clause (b), the following sub-clause shall be substituted, namely—

"(b) On such date as may be notified by the Central Government in this behalf, any appeal preferred to the Appellate Authority or any reference made or inquiry pending to or before the Board or any proceeding of whatever nature pending before the Appellate Authority or the Board under the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) shall stand abated:

Provided that a company in respect of which such appeal or reference or inquiry stands abated under this clause may make reference to the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016 within one hundred and eighty days from the commencement of the Insolvency and

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Bankruptcy Code, 2016 in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016:

Provided further that no fees shall be payable for making such reference under Insolvency and Bankruptcy Code, 2016 by a company whose appeal or reference or inquiry stands abated under this clause."

15. Applicant has filed the reference under sub-rule (1) of rule 7 of Adjudicating Authority Rules 2016 and application have been submitted in Form 6 as prescribed in Adjudicating Authority Rules 2016. Relevant provision of the rule, for ready reference, is given below:-

Rule 7. Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

> 7. Application by corporate applicant.— (1) A corporate applicant shall make an application for initiating the corporate insolvency resolution process against a corporate debtor under section 10 of the Code in Form 6, accompanied with documents and records required therein and as specified in the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
>
> (2) The applicant under sub-rule (1) shall dispatch forthwith, a copy of the application filed with the Adjudicating Authority, by registered post or speed post to the registered office of the corporate debtor.

16. On perusal of the above rule, it is clear that corporate applicant may make an application for initiating corporate insolvency process against the corporate debtor under Sec.10 of the I & B Code 2016 in Form 6 accompanied with documents and records required therein.

17. It is important to mention that Rule 7 of the Adjudicating Authority Rules, 2016 is applicable for that corporate applicant who wants to initiate corporate insolvency process against a corporate debtor. It is pertinent to mention that corporate applicant is defined in Sec.5 sub-rule (5) of I & B Code, 2016 which is given below for ready reference:-

Sec 5 (5) Insolvency and Bankruptcy Code 2016

"corporate applicant" means—

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(a) corporate debtor; or

(b) a member or partner of the corporate debtor who is authorized to make an application for the corporate insolvency resolution process under the constitutional document of the corporate debtor; or

(c) an individual who is in charge of managing the operations and resources of the corporate debtor; or

(d) a person who has the control and supervision over the financial affairs of the corporate debtor;

On perusal of the definition of corporate applicant provided in Sec 5(5) of I&B Code, it appears that corporate applicant may be corporate debtor or a partner of the corporate debtor who is authorized to make an application for the corporate Debtor for initiation of corporate insolvency resolution process

Ld. Counsel for the Corporate Applicant in the course of hearing has relied on the principles of law laid down by the Hon'ble NCLAT in case of Leo Duct Engineers & Consultants Ltd. vs Canara Bank ,Company Appeal 100/2017. In the above-mentioned case, Hon'ble NCLAT has held that :

"21. In an application under section 10, the Financial Creditor or the Operational Creditor may dispute that there is no default or that the debt is not due and is not payable by law or fact. They may also oppose admission on the ground that Corporate Applicant is not eligible to make application given ineligibility under section 11 of the I.B. Code. The Adjudicating Authority on hearing the parties and on perusal of record, if satisfied that there is a debt and default has occurred, and the Corporate Applicant is not ineligible under section 11, the Adjudicating Authority has no option but to admit the application, unless it is incomplete, in which case the Corporate Applicant is to be granted time to rectify the defects.

22. Section 10 does not empower the Adjudicating Authority to go beyond the records as prescribed under section 10 and the information as required to be submitted in Form VI of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules 2016 subject to ineligibility prescribed under section 11. If all information is provided by an applicant as required under

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section 10 and Form VI and if the Corporate Applicant is otherwise not ineligible under section 11, the Adjudicating Authority is bound to admit the application and cannot reject the application on any other ground.

23. Any fact unrelated or beyond the requirement under IB Code or forms prescribed under Adjudicating Authority Rules (Form VI in the present case) are not required to be stated or pleaded. Non-disclosure of any facts, unrelated to section 10 and Form-VI cannot be termed to be suppression of facts or to hold that the Corporate Applicant has not come with clean hand except the application where the Corporate Applicant has not disclosed disqualification if any under section 11.."

18. It is also clear that for initiation of corporate insolvency resolution process by corporate applicant U/S 10 following requirements are necessary to be fulfilled.

1) Where a corporate debtor has committed a default, a corporate applicant thereof may apply to initiating corporate insolvency resolution process with the Adjudicating Authority.

(2) The application under sub-section (1) shall be filed in such form, containing such particulars and in such manner and accompanied by such fee as may be prescribed.

(3) The corporate applicant shall, along with the application furnish the information relating to—

(a) its books of account and such other documents relating to such period as may be specified; and

(b) the resolution professional proposed to be appointed as an interim resolution professional.

(4) The Adjudicating Authority shall, within fourteen days of the receipt of the application, by an order—

(a) admit the application, if it is complete; or

(b) reject the application, if it is incomplete:

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Provided that Adjudicating Authority shall, before rejecting an application, give a notice to the applicant to rectify the defects in his application within seven days from the date of receipt of such notice from the Adjudicating Authority.

(5) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (4) of this section.

19. In the case in hand, the application has been moved by corporate applicant under Sec.10 of the I &B Code 2016 and as per the details given in the application and on the basis of documents submitted in support of that, it reveals that corporate debtor has debt liability of about Rs.3,379.77 crore and has failed to make payment to the financial and operational creditors. The corporate debtor has given a chart which shows the amount of default is Rs.3,379.77 crore of about 41 banks, and details of all the lenders are given in Annexure 6 from pages 137A to 137O.

20. It is also important to mention that ICICI Bank who happens to be one of the creditors has filed an objection and has stated in the objection that corporate applicant has filed this application with fraudulent intent of exploiting the moratorium provisions under the I & B Code and application has been filed with mala fide intent and ICICI Bank made a request that corporate applicant should not be permitted to take advantage of the protective realms offered by the Code in order to abuse the process of law and to stop bona fide recovery actions which, after significant effort, time and expense, have culminated to advance stage. It is also mentioned in the objection that corporate applicant referred to Corporate Debt Restructuring (CDR) in November 2010. Finally, the proposal for restructuring by the corporate applicant was rejected by CDR EG in December 2011.

21. ICICI Bank has stated in the objection that to affecting recovery of the substantial sum of money advanced to the corporate applicant and owned to the applicant bank, which has taken all possible steps available to it under the law including SARFAESI Act, 2002 and RDDBFI Act, 1993. It is also stated in the objection, that corporate applicant had filed a reference before BIFR in November 2012 on the ground that more than 75% of secured creditors had already taken possession of the secured immovable properties under the provisions of SARFAESI Act. The said reference was dismissed by BIFR vide order dated 19/2/2014. A corporate applicant aggrieved by such order preferred an appeal before the AAIFR to further stall the ongoing proceedings

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initiated by the secured financial creditors. It is also mentioned in the objection that Appellate Authority remanded the case back to BIFR vide order dated 3/12/2014 with a specific direction to consider the submission of all the parties and pass an order afresh after giving specific findings through a reasoned order.

22. Above mentioned reference was pending before BIFR which was abated on account of coming into effect of SICA Repealing Act and by virtue of that corporate applicant, i.e. Corporate Debtor was given authority to file reference within 180 days before NCLT under I & B Code and in compliance with that the applicant has filed this petition under Sec.10 of the I & B Code.

23. It is pertinent to mention that there are more than 41 banking and financial institutions whose outstanding dues, as per statement, is about Rs.3,379.77 crore and the argument has been advanced on behalf of corporate applicant that ICICI Bank has exposure of Rs.36.03 crore, which happens to be approximately less than 0.93% of the total outstanding amount. Therefore, the objection of ICICI Bank should not be taken into consideration and application under section 10 should be admitted.

24. In the case in hand, the applicant has filed this application under Sec.10 of the I & B Code is in nature of reference which was pending before BIFR and abated on account of coming into effect of SICA Repealing Act. The learned counsel of the corporate applicant has relied upon the law laid down by the Hon'ble NCLAT in the case of Leo Duct Engineers & Consultants Ltd. -vs- Canara Bank Company Appeal 100/2017. In this case, Hon'ble NCLAT has held that **Section 10 does not empower the Adjudicating Authority to go beyond the records as prescribed under section 10** and the information as required to be submitted in Form VI of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules 2016 **subject to ineligibility prescribed under section 11**. If all information is provided by an applicant as required under section 10 and Form VI and if the Corporate Applicant is otherwise not ineligible under section 11, the Adjudicating Authority is bound to admit the application and cannot reject the application on any other ground.

25. As per Sec.11 of the I & B Code deals with the persons not entitled to make application.— The following persons shall not be entitled to make an application to initiate corporate insolvency resolution process under this Chapter, namely—

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(a) a corporate debtor undergoing a corporate insolvency resolution process; or

(b) a corporate debtor having completed corporate insolvency resolution process twelve months preceding the date of making of the application; or

(c) a corporate debtor or a financial creditor who has violated any of the terms of resolution plan which was approved twelve months before the date of making of an application under this Chapter; or

(d) a corporate debtor in respect of whom a liquidation order has been made.

Explanation.— For this section, a corporate debtor includes a corporate applicant in respect of such corporate debtor.

26. It is undisputed that corporate debtor is not ineligible U/S 11 of the I B Code to file application U/S 10 of the Code. The financial creditors have filed separate application U/S 7 of the code for initiation of corporate insolvency process against the same corporate debtor but after filing of the application by the corporate debtor under Sec.10 of the I & B Code, when notices were issued against the financial creditors.The application filed by the corporate applicant U/S 10 of I B Code, has been submitted earlier to those applications which have been filed subsequently U/S 7 by Financial creditors when notices were issued against them. Every ingredient of Sec 10 is complete, and all the information is provided by an applicant as required under section 10 in Form VI. The Corporate Applicant is otherwise not ineligible under section 11. Thus application filed U/S 10 deserves to be admitted.

ORDER

The petition filed by the corporate applicant under Sec.10 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Resolution Process against the corporate debtor. We pass an order for a declaration of the moratorium and public announcement U/S Sec.13 of the IBC, 2016.

The moratorium is declared for the purposes referred to in Sec.14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Sec.15. The public announcement

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referred to in clause (b) of sub-section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.

Moratorium under Sec.14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

c) Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

d) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.

The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.

The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

The order of moratorium shall affect the date of such order till the completion of the corporate insolvency resolution process.

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Sec.31 or passes an order for liquidation of corporate debtor under Sec.33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

Necessary public announcement as per Sec.15 of the IBC, 2016 may be made.

Mr Nilesh Sharma as Interim Resolution Professional email address nilesh.sharma@irrip.com and also given his details at Part II page 5 of the application is appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a meeting of Committee of Creditors for evolving a resolution plan.

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The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors.

Let the certified copy of the order be issued upon compliance with requisite formalities and a copy of the order may also be sent to the Applicant/Financial Creditor as well as Corporate Debtor and IRP through email.

List the matter on 31st January 2018 for filing of the progress report.

Sd

Jinan K.R.,
Member(J)

Sd

V. P. Singh,
Member (J)

Signed on 8th January 2018

NOTARY KOLKATA SHRI [illegible] PANDEY REGN. NO. [illegible]/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure "R-9"

CA(IB) Nos. 37,343,349,352, 424, 440, 460, 462, 461, 497, 511, 522, 523, 527, 636, 637, 685, 921, & 1026/KB/2019
In
CP(IB) No. 349/KB/2017
Ramsarup Industries Limited

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

CA(IB) NO. 37/KB/2019
CA(IB) NO. 343/KB/2019
CA(IB) NO. 349/KB/2019
CA(IB) NO. 424/KB/2019
CA(IB) NO. 440/KB/2019
CA(IB) NO. 460/KB/2019
CA(IB) NO. 461/KB/2019
CA(IB) NO. 462/KB/2019
CA(IB) NO. 497/KB/2019
CA(IB) NO. 511/KB/2019
CA(IB) NO. 522/KB/2019
CA(IB) NO. 523/KB/2019
CA(IB) NO. 527/KB/2019
CA(IB) NO. 636/KK/2019
CA(IB) NO. 637/KB/2019
CA(IB) NO. 685/KB/2019
CA(IB) NO. 921/KB/2019
CA(IB) NO. 1026/KB/2019
IN
CA(IB) NO. 352/KB/2019
IN
CP(IB) NO. 349/KB/2017

In the matter of:

An application under section 30(6) Section 31 read with section 60(5) of the Insolvency and Bankruptcy Code, 2016 for submission of Resolution Plan.

Sd

NOTARY KOLKATA SHASHI BHUSHAN PANDEY REGN. NO. 10324/2019 GOVT. OF INDIA

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

CA(IB) Nos. 37,343,349,352, 424, 440, 460, 462, 461, 497, 511, 522, 523, 527, 636, 637, 685, 921, & 1026/KB/2019
In
CP(IB) No. 349/KB/2017
Ramsarup Industries Limited

In the matter of:

Resolution plan dated March 6, 2019 approved by the Committee of Creditors of the Corporate Debtor on 16th March, 2019.

And

Corporate Insolvency Resolution Process (CIRP) of **Ramsarup Industries Limited**

And

Section 10 of the Insolvency and Bankruptcy Code, 2016 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

And

In the matter of:

M/S. RAMSARUP INDUSTRIES LTD., a Public Limited Company limited by shares registered under the provisions of the Companies Act, 1956 bearing CIN No. L65993WB1979PLC032113 having its registered office at 7C, Kiran Shankar Ray Road, Hastings Chambers, 2nd Floor, Kolkata – 700001, West Bengal.

And

In the matter of:

MR. KSHITIZ CHHAWCHHARIA, Son of Shri Sushil Chhawchharia, aged about 43 years, the Resolution Professional having registration number

Sd/-

NOTARY SHRI [illegible] PANDEY REGN. NO. 1302/2018 GOVT. OF INDIA

Sd/-

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

IBBI/IPA-001/IP-P00358/2017-18/10616 B and residing at 10A, Alipore Park Place, Kolkata 700027.

Applicant/Resolution Professional

AND

In the matter of:

Ramsarup Industries Limited

And

In the matter of:

M/S. VINAR SYSTEMS PRIVATE LIMITED, having its registered office at 9C, lord Sinha Road, Kolkata 700071.

Applicant/Operational Creditor

AND

In the matter of:

M/S. IFGL REFRACTORIES LIMITED, a Company incorporated under the provisions of the Companies Act, 1956 and existing within the meaning of the Companies Act, 2013 and having its head and corporate office at 3, netaji Subhas Road, Kolkata 700001 in the State of West Bengal under the aforesaid jurisdiction and registered office at Sector B, Kalunga Industrial Estate, P.O. Kalunga 770 031, District Sundergarh, Odisha outside the aforesaid jurisdiction.

Applicant

Versus

NOTARY OF INDIA
SHYAM NARAYAN PANDEY
KOLKATA
REGN NO 13824/2018

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

CA(IB) Nos. 37,343,349,352, 424, 440, 460, 462, 461, 497, 511, 522, 523, 527, 636, 637, 685, 921, & 1026/KB/2019
In
CP(IB) No. 349/KB/2017
Ramsarup Industries Limited

Ramsarup Industries Limited & Ors

Respondents

AND

In the matter of:

M/S. GODAVARI COMMODITIES LIMITED, a Company within the meaning of Companies Act, 2013 and carrying on business from 18, Netaji Subhash Road, 2nd Floor, Kolkata 700001.

Operational Creditor

Versus

Ramsarup Industries Ltd.

Corporate Debtor

AND

In the matter of:

M/S. SSS LOHA MARKETING PRIVATE LIMITED, an existing company within the meaning of the Companies Act, 2013 having its Registered Office at 18/1, Maharshi Debendra Road, 7th Floor, Room No. 1A, Kolkata 700007

Applicant/Operational Creditor

Versus

Mr. Kshitiz Chhawchharia, Resolution Professional

Respondent

Sd

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NOTARY KOLKATA SHYAM KUMAR PANDEY REGN. NO. 13024/2018 GOVT. OF INDIA

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

CA(IB) Nos. 37,343,349,352, 424, 440, 460, 462, 461, 497, 511, 522, 523, 527, 636, 637, 685, 921, & 1026/KB/2019
In
CP(IB) No. 349/KB/2017
Ramsarup Industries Limited

And

Ramsarup Industries Limited

Corporate Debtor/Corporate Applicant

Versus

ICICI Bank Limited

Applicant Bank/Financial Creditor

AND

In the matter of:

M/S. TRANTER INDIA PRIVATE LIMITED, a Company incorporated under the Companies Act, 1956 having its registered office at Gat No. 127 & 128, Dingrajwadi, Taluka – Shirur, Pune – 412208, Maharashtra (India).

Operational Creditor

Versus

Mr. Kshitiz Chhawchharia, Resolution Professional

Respondent

Ramsarup Industries Limited

Corporate Debtor

Versus

ICICI Bank Limited

Financial Creditor

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 1352/2019 GOVT. OF INDIA

Sd/-

Sd/-

For RAMSARUP INDUSTRIES LTD.

Authorised Signatory

CA(IB) Nos. 37,343,349,352, 424, 440, 460, 462, 461, 497, 511, 522, 523, 527, 636, 637, 685, 921, & 1026/KB/2019
In
CP(IB) No. 349/KB/2017
Ramsarup Industries Limited

AND

In the matter of:

M/S. GUPTA POWER INFRASTRUCTURE LIMITED, a Company incorporated under the provisions of the Companies Act, 1956 and a company within the meaning of the provisions of the Companies Act, 2013 having its registered office at EN 62, Sector V, 7th Floor, Salt Lake City, Kolkata 700091

Applicant

Versus

Mr Kshitiz Chhawchharia, Resolution professional

Respondents

Ramsarup Industries Limited

Corporate Debtor

Versus

ICICI Bank Limited

Financial Creditor

AND

In the matter of:

M/S. FURNACE AND FOUNDRY EQUIPMENT COMPANY, a partnership firm registered under the provisions of the indian Partnership Act, 1932, having its office at Plot No. 4, Sub Survey No. 1, Off Saki Vihar Road, Chandvli Farm, Mumbai 400072, india.

Applicant/Operational Creditor

Sd

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NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13824/2018 GOVT. OF INDIA

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

CA(IB) Nos. 37,343,349,352, 424, 440, 460, 462, 461, 497, 511, 522, 523, 527, 636, 637, 685, 921, & 1026/KB/2019
In
CP(IB) No. 349/KB/2017
Ramsarup Industries Limited

Ramsarup Industries Ltd.

Corporate Debtor

AND

In the matter of:

M/S. FAFECO ENGINEERS PRIVATE LIMITED, a Company registered under the provisions of the Companies Act, 2013, having its registered office at Plot No. 4, Sub Survey No. 1, Off Saki Vihar Road, Chandvli Farm, Mumbai 400072, India

Applicant/Operational Creditor

Ramsarup Industries Limited

Corporate Debtor

AND

In the matter of:

ECKO Cables Pvt. Ltd., a Company incorporated under the Companies Act, 1956 having its registered office at 7B/4, Poorvi Marg, N.E.A. Old Rajinder Nagar, New Delhi – 110060.

Applicant/Operational Creditor

Versus

Mr. Kshitiz Chhawchharia, Resolution professional

Respondent

And

Ramsarup Industries Limited

Corporate Debtor/ Corporate Applicant

Sd

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 13024/2018
GOVT. OF INDIA

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

CA(IB) Nos. 37,343,349,352, 424, 440, 460, 462, 461, 497, 511, 522, 523, 527, 636, 637, 685, 921, & 1026/KB/2019
In
CP(IB) No. 349/KB/2017
Ramsarup Industries Limited

Versus

ICICI Bank Limited

Applicant Bank/Financial Creditor

AND

In the matter of:

S.M. Electric Trading Co. Pvt. Ltd., an existing Company within the meaning of the Companies Act, 1956 having its registered office at 54, Ezra Street, Kolkata 700001.

Applicant/Operational Creditor

Versus

Mr. Kshitiz Chhawchharia, Resolution Professional

Respondent

Ramsarup Industries Limited

Corporate Debtor/Corporate Applicant

Versus

ICICI Bank Limited

Applicant Bank/Financial Creditor

8

Sd

NOTARY
KOLKATA
SHYAM SUNDER PANDEY
REGN. NO. 15624/2016
GOVT. OF INDIA

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

CA(IB) Nos. 37,343,349,352, 424, 440, 460, 462, 461, 497, 511, 522, 523, 527, 636, 637, 685, 921, & 1026/KB/2019
In
CP(IB) No. 349/KB/2017
Ramsarup Industries Limited

AND

In the matter of:

ICICI BANK LIMITED, having its office at ICICI Bank House, 3A, Gurusaday Road, Kolkata 700019

Financial Creditor

And

Ramsarup Industries Limited

Corporate Debtor

Bank of India, having its office at Large Corporate Branch, 5 BTM Sarani, Kolkata 700001

Applicant/Financial Creditor

Versus

Mr. Kshitiz Chhawchharia & Ors.

Respondents

AND

In the matter of:

SBI GLOBAL FACGTORS LIMITED, having its registered office at Metropolitan Building, 6th Floor, Bandra-Kurla Complex, Bandra East, Mumbai – 400051.

Applicant

Versus

Mr. Kshitiz Chhawchharia, Resolution Professional & Ors.

Respondents

Sd

9

NOTARY
KOLKATA
BHWAN SHANKAR PANDEY
REG. NO. 10024/2018
GOVT. OF INDIA

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

CA(IB) Nos. 37,343,349,352, 424, 440, 460, 462, 461, 497, 511, 522, 523, 527, 636, 637, 685, 921, & 1026/KB/2019
In
CP(IB) No. 349/KB/2017
Ramsarup Industries Limited

ICICI Bank Limited

Financial Creditor

Ramsarup Industries Limited

Corporate Debtor

AND

In the matter of:

Pegasus Assets Reconstruction Pvt. Ltd. through its Authorised Representative Office: Free Press House, 55-56, 5th Floor, Nariman Point, Mumbai – 400021.

Financial Creditor

In the matter of:

1. KSHITIZ CHHAWCHHARIA,

Resolution Professional

2. Ramsarup Industries Limited

Corporate Applicant/ Respondents

AND

In the matter of:

Indian Renewable Energy Development Agency Limited, having its registered office at CORE 4A, East Court, Ist Floor, Indian Habitat Centre, Lodhi Road, New Delhi – 110003 and having its Corporate Office at 3rd Floor, August Kranti Bhawan, Bhikaji Cama Place, New Delhi – 110066.

Applicant

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Sd

NOTARY KOLKATA SHIVAM UPADHYAY PANDEY REGN. NO 13/34/2018 GOVT. OF INDIA

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

CA(IB) Nos. 37,343,349,352, 424, 440, 460, 462, 461, 497, 511, 522, 523, 527, 636, 637, 685, 921, & 1026/KB/2019
In
CP(IB) No. 349/KB/2017
Ramsarup Industries Limited

M/s. Ramsarup Industries Limited **Corporate Applicant**

Respondents

AND

In the matter of:

WEST BENGAL INDUSTRIAL DEVELOPMENT CORPORATION LIMITED, a Company within the meaning of the Companies Act, 2013, having its registered office at "Protiti", 23, Abamniomndranath Thakur Sarani (Camac Street), kolkata 700017.

Applicant

Versus

Mr. Kshitiz Chhawchharia, Resolution professional

Respondent

AND

Aashish Jhunjhunwala & Ors

Applicants

Kshitiz Chhawchharia

Respondent

Versus

ICICI Bank Limited

Financial Creditor/Applicant Bank

Ramsarup Industries ltd.

Corporate Debtor

NOTARY KOLKATA GOVT. OF INDIA

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For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

CA(IB) Nos. 37,343,349,352, 424, 440, 460, 462, 461, 497, 511, 522, 523, 527, 636, 637, 685, 921, & 1026/KB/2019
In
CP(IB) No. 349/KB/2017
Ramsarup Industries Limited

AND

In the matter of:

M/S. VANGUARD CREDIT & HOLDING PVT. LTD., a Company incorporated under the Companies Act, 1956 having its registered office at 7C, Kiran Shankar Roy Road, Hastings Chambers, 2nd Floor, Room No. 1, Kolkata 700001

Applicant

Versus

Mr. Kshitiz Chhawchharia, Resolution Professional

Respondent

ICICI Bank Limited

Applicant Bank/Financial Creditor

Ramsarup Industries Limited

Corporate Applicant/Corporate Debtor

AND

In the matter of:

M/S. ORISSA METALIKS PRIVATE LIMITED, a company within the meaning of the Companies Act, 2013 having its registered office at 1, Garstin Plaxce, "Orbit House", 3rd Floor, Room No. 3B, Kolkata 700001.

Applicant

Mr. Kshitiz Chhawchharia & Ors

Respondents

Ramsarup Industries Limited

Corporate Debtor/Corporate Applicant

Sd

Sd

NOTARY GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

CA(IB) Nos. 37,343,349,352, 424, 440, 460, 462, 461, 497, 511, 522, 523, 527, 636, 637, 685, 921, & 1026/KB/2019
In
CP(IB) No. 349/KB/2017
Ramsarup Industries Limited

Coram: Shri Jinan K.R., Hon'ble Member (Judicial) &
Shri Harish Chander Suri, Hon'ble Member (Technical)

Counsels on record:

1. Mr. Anuj Singh, Advocate 2. Mr. R. Sarkar, Advocate 3. A. Das, Advocate	] For SS Natural Resource] Pvt. Ltd.]
1. Mr. D.N. Sharma, Adv. 2. Mr. Indranil Karfa	] For IREDA]
1. Mr. Abhik Sarkar, Advocate	] For SREI Multiple Asset Investment Trust Fund
1. Mr. Ramesh Chandra Prusti, Adv. 2. Ms. Mahuya Ghosh, Adv.	] For SBI Global Factors] CA(IB)/1026/2019
1. Ms. Manju Bhuteria, Adv. 2. Mr. Varun Kedia, Adv. 3. Ms. Urvi Mitra	] For Kotak Mahindra] Bank]
1. Mr. Shaunak Mitra, Adv. 2. Mr. Soumabho Ghose 3. Mr. Pratik Mukhopadhyay	]] For Financial Creditor] Bank of India
1. Mr. Kaushik Saha, Adv. 2. Mr. Basabraj Chakraborty, Adv. 3. Ms. Kashmira Das, Adv.	] For J.M. Financials]]
1. Mr. Pramit Bag, Adv. 2. Mr. Anuj Kumar Mishra, Adv.	]] For ARCIL

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NOTARY KOLKATA GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

CA(IB) Nos. 37,343,349,352, 424, 440, 460, 462, 461, 497, 511, 522, 523, 527, 636, 637, 685, 921, & 1026/KB/2019
In
CP(IB) No. 349/KB/2017
Ramsarup Industries Limited

1. Mr. Aniruddh Poddar, Adv. 2. Ms. Moumita Bhattacharya, Adv	] For CA(IB) Nos. 460, 511, 522 & 523/KB/2019] SSS Loha Marketing Pvt. Ltd,] Ecko Cables, S M Electric &] Tanter India
1. Mr. Kshitiz Chhawchharia, RP 2. Mr. Ratnanko Banerjee, Sr. Adv. 3. Mr. Sidhartha Sharma, Adv. 4. Ms. Ujjaini Chatterjee, Advocate 5. Mr. Diprani Thakur, PCS	]]] For Resolution] Professional]
1. Mr. Abhrajit Mitra, Sr. Adv. 2. Mr. R.N. Ghose, Adv. 3. Ms. Urmila Chakraborty, Adv. 4. Ms. Ankita Mukherjee	]] For OMPL]]
1. Ms. Swapna Choubey, Adv 2. Mr. Aditya Kanodia, Adv.	] For Operational Creditor] Vinar Systems Pvt. Ltd.
1. Mr. Reetobroto Mitra, Adv. 2. Mr. Vikram Wadehra, Adv. 3. Ms. Vidushi Chokhani 4. Mr. Soumava Ghosh, Adv.	]]] For the CoC]
1. Mr. Rishav Banerjee 2. Mr. Zeeshan Haque	] Applicants in CA(IB) Nos. 1039, 1063, 461 & 462/KB/2019

Date of pronouncement of the Order: 04/09/20109

Sd/-

NOTARY SHYAM PRAKASH PANDEY REGN. NO. 10824/2018 GOVT. OF INDIA

Sd/-

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

CA(IB) Nos. 37,343,349,352, 424, 440, 460, 462, 461, 497, 511, 522, 523, 527, 636, 637, 685, 921, & 1026/KB/2019
In
CP(IB) No. 349/KB/2017
Ramsarup Industries Limited

ORDER

Per Jinan K.R., Member (Judicial):

All the above applications taken together for convenience and for avoiding repetition of facts and since common questions arises for consideration.

CA(IB)No. 352/KB/2019

1. This is an Application filed by the Resolution Professional for approval of the Resolution Plan of M/s. Ramsarup Industries Limited/ Corporate Applicant which has been approved by the Committee of Creditors by a voting share of 74.41%. The Corporate Applicant/ M/s. Ramsarup Industries Limited had filed the **CP(IB) No. 349/KB/2017** for initiating Corporate Insolvency Resolution Process(in short CIRP) on the allegations of inability to pay the debt.

2. The Application was admitted vide Order dated 08-01-2019 by appointing Mr. Nilesh Sharma as the Interim Resolution Professional. However at the request of the CoC vide order dated May 2, 2018 Resolution Professional Mr. Nilesh Sharma was replaced by Mr. Kshitiz Chhawchharia. Upon appointment of the Resolution Professional, the CIRP commenced against the Corporate Applicant, M/s. Ramsarup Industries Limited. While continuing with the Resolution Plan, the extended period of CIRP also expired on 04-10-2018. Due to various reasons, including pending litigation,

Sd

NOTARY KOLKATA SHYAMSUNDAR PANDEY REGN. NO. 1362/2018 GOVT. OF INDIA

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

certain unutilized period has been excluded for the purpose of counting the period of CIRP, for enabling the Resolution Professional to complete the process and CIRP period was finally extended to 23.03.2019. In the meanwhile, the Committee of Creditors succeeded in approving the Resolution Plan in the meeting held on 16-03-2019 and it is that Resolution Plan that has been placed before us for consideration and approval.

3. Innumerable Applications (30 in number) have been filed by various stakeholders including the Operational Creditors, Financial Creditors, unsuccessful bidders and Promoter Director of the suspended Board of Directors of the Corporate Applicant objecting to the approval of the Resolution Plan.

4. The Operational Creditors challenged the approval of the Resolution Plan by filing individual applications **CA (IB) No.343/KB/2019, CA(IB) No. 349/KB/2019, CA(IB) No. 440/KB/2019, CA(IB) No. 460/KB/2019, CA(IB) No. 523/KB/2019, CA(IB) No. 636/KB/2019, CA(IB) No. 637/KB/2019 & CA(IB) No. 685/KB/2019.**

5. **CA(IB)No.511/KB/2019** is filed by **Ecko Cables Private Limited/Operational Creditor** claiming priority in payment of claims of the Operational Creditor over the claims of the Financial Creditors. According to the Ld. Counsel for the Ecko Cables, the Resolution Professional should

Sd

NOTARY KOLKATA SHYAM KISHORE PANDEY REGN. NO. 43824/2018 GOVT. OF INDIA

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

make provision in the resolution plan for payment to the Operational Creditors prior to the payment of claims of the Financial Creditors.

6. **CA(IB)No.522/KB/2019** is an application filed by another Operational Creditor, **SM Electric**, claiming that Operational Creditors should be given priority in payment over Financial Creditors. All the other operational creditors raised similar contentions mainly contending that the Operational Creditors were being discriminated in regard to distribution of resolution bid amount.

7. Since all the operational creditors have raised similar objections, their objection is dealt with together and not separately, for convenience. According to the Ld. Counsels for the Operational Creditors, their claim must get similar treatment as being given to the dues of the Financial Creditors and that equality of treatment has not been proposed to be done in regard to distribution of bid amount. Therefore, the Resolution Plan cannot be approved.

8. One another contention on the side of the Operational Creditors is that they were not given priority in payment over the Financial Creditors. Some of the Operational Creditors also raised objection that none of the Operational Creditors were given notice in participating the meeting and no copy of the Resolution Plan has been given to the Operational Creditors and therefore, there is flagrant violation of the provisions of the Insolvency &

NOTARY KOLKATA SHYAM KISHAN PANDEY REGN. NO. 10624/2018 GOVT. OF INDIA

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Bankruptcy Code, 2016 (in the Code) and Regulations and therefore, the Resolution Plan cannot be approved.

9. The RP has objected all these applications. Upon hearing the arguments on both sides and considering the evidence and on perusal of the resolution plan, we come to the following conclusions:-

(i) The amount claimed by the operational creditors need not be given priority in payment over financial creditors, but the amount due to the operational creditors under a resolution plan must be given priority in payment over financial creditors as per Regulation 38(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("CIRP Regulations"). As per the plan under consideration the amount found due to the operational creditors under the resolution plan was given priority in payment over financial creditors. Therefore the said objection of the OC's are found devoid of any merit.

(ii) As per the amendment to Section 30 (2) of the Code, OCs shall be paid not less than the amount payable to them in the event of liquidation of the CD or the amount payable to them if realisation under the resolution plan were distributed in accordance with the priority in the liquidation waterfall, whichever is higher. The resolution professional seems to have examined the resolution plan so as to ensure that the amounts payable to the operational creditors under the resolution plan is not lesser than the amount to be paid to the operational creditors in the event of a liquidation of the corporate debtor. The distribution of the bid amount in respect of the OCs under

Sd

NOTARY KOLKATA SHYAM KISHORE PANDEY REGN. NO. GOVT. OF INDIA

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

challenge is found in accordance with the said provisions and thus there is no violation of S.30(2) (b) as is attempted to be established on the side of the OCs.

(iii) Some of the operational creditors contend that there should not be any differentiation between OCs and financial creditors. According to them distribution must be equal irrespective of classification of creditors as FC and OC. There is no provisions under the code enabling us to hold that the distribution of bid amount would be equal to the OCs and to the FCs. On the other hand, in Binani Industries Ltd & **Adhunik Alloys & Power Ltd:** differential treatment is found permissible if creditors are not similarly situated. **In Swiss Ribbons v. Union of India** it was held that Financial Creditors and Operational Creditors are positioned differently in view of nature of transactions and nature of debt. In view of the abovesaid discussions, we are unable to accept any one of the objections of the OCs.

(iv) One among the OCs also contends that non service of notice in attending the COC's meetings and non furnishing of copies of the resolution plan makes the proceedings illegal. In **Vijay Kumar Jain v. Standard Chartered Bank and Ors.** The Hon'ble SC has held that *"only those operational creditors may participate in the meeting of the committee of creditors (that is, the operational creditors to whom the amount due is more than ten percent of the total debt of the Corporate Debtor), must be furnished with copies of the resolution plan."* The applicant OCs have failed in proving any violation of S.24(3) (c) of the Code, so we also do not find any merit in the above said objection on the side of the OCs.

NOTARY GOVT. OF INDIA SHRI [illegible] PANDEY REGN. NO. [illegible]

Sd

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

10. Upon perusal of the proposed offer of the resolution applicant, it is understood that the very same treatment is proposed to be given to the OCs as is seen given to the Financial creditors as per the resolution plan. This is a case in which FCs have agreed to have a haircut of 94% and they would get 5.8% of their admitted claim of Rs.5853.00 crores, and OCs in total would get 10.50 Crores out of the total admitted claim of 224.05 crores. That would come to 38.82%. The payment to the workmen is 90% of the admitted claim. The Statutory Authorities have been offered Rs. 3,00,00,000/- (Rupees Three Crores Only). Thus total percentage of aggregated claim of Operational Creditors inclusive of statutory Authorities would come to 5.82%. The above sad distribution of the bid amount clearly indicates that the Operational Creditors are given similar treatment as being given to the Financial Creditors. In the above said peculiar nature and circumstances of the case, we are of the view that the objections raised on the side of the OCs are devoid of any merits.

11. As regards priority in the payment, the RP is seen to have followed Regulation 38(1) of the CIRP Regulation. As per Regulation 38(1), the liquidation value due to the operational creditors should be paid in priority to the FCs. Provision is seen made in the resolution plan to pay the amount found offered in any event one day prior to the date of the payment to the

Sd

NOTARY KOLKATA SHIVAM HARIOM PANDEY REGN. NO. 10924/2018 GOVT. OF INDIA

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

FCs. In view of the above-said, we hold that none of the objections of any one of the OCs are sustainable under law.

12. The next objectors are a batch of Financial Creditors. Their main challenge is against the methodology approved by the Committee of Creditors in regard to distribution of the bid amount on the basis of security interest. According to them it is not in accordance with the provisions of the Code and therefore, there is discrimination among the very same class of Financial Creditors. The Ld. Counsel appearing for the objecting Financial Creditors unanimously submits that the methodology adopted for distribution of the resolution bid amount is to be as per voting share and not on the basis of security interest and according to them there was no unanimous approval of the distribution methodology on the basis of security interest by the Committee of Creditors.

13. Bank of India filed **CA(IB)No.527/KB/2019** challenging the resolution plan that the methodology of distribution of process as per security structure and interest contravenes and in derogation of the provisions of the Insolvency and Bankruptcy Code, 2016 and results in creation of arbitrary clause amongst the Financial Creditors on the nature of security interest held by Financial Creditors. According to the Ld. Counsel appearing for Bank of India, the distribution methodology must be as per voting share as the Code does not specify any specific provision for the distribution in accordance with security interest.

Sd

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO. 13324/2018 GOVT. OF INDIA

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

14. **SBI Global Factors Limited** filed **CA(IB)No.1026/KB/2019** is contending similar objections of State Bank of India and other Financial Creditors. According to the Ld. Counsel appearing for the applicant, the distribution methodology adopted for distributing the resolution bid is not in accordance with law and not equitable to all Financial Creditors and it would create arbitrary classification and, therefore, is liable to be set aside. According to him, the Resolution plan is liable to be set aside.

15. **Kotak Mahindra Bank filed** affidavit in the form of objection objecting to the approval of the resolution plan challenging the methodology. The Kotak Mahindra Bank and Bank of India have not voted in favour of the Resolution Plan and therefore, they are dissenting Financial Creditors. The challenge against the distribution methodology on the basis of security interest is not at all sustainable under law for two reasons.

16. Firstly, this methodology as per the available records and as per the averments advanced on the side of the Resolution Professional, has been deliberated within the Committee of Creditors from 02-02-2019 onwards till the final deliberation in regard to voting for approval of the Resolution Plan, held on 16-03-2019. The copy of resolution brought to our notice also proves that the distribution methodology on the basis of security interest was approved by the Committee of Creditors by a vote of 74.41%. This distribution cannot be challenged under law by the dissenting Financial

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Creditors who are Kotak Mahindra Bank and Bank of India. Moreover, this methodology is not in violation of Section 30 of the Code which has been amended vide notification dated 06-08-2019. The relevant portion of Section 30(b) reads as follows :

"(b) in sub-section (4), after the words "feasibility and viability", the words, brackets and figures "the manner of distribution proposed, which may take into account the order of priority amongst creditors as laid down in sub-section (I) of Section 53, including the priority and value of the security interest of a secured creditor" shall be inserted."

17. So as of now, value of the security interest of the secured creditors can be considered as a methodology for the distribution of the bid amount. Therefore, we do not find any force in the argument advanced on the side of the above said Financial Creditors.

18. Two other Financial Creditors, **M/s. Pegasus Assets Reconstruction Pvt. Ltd.**, by filing **CA 424/KB/2019** and **M/s. JM Financial Assets Reconstruction Co. Pvt. Ltd.** by filing objection in the form of affidavit have also come forward for challenging the approval of the Resolution Plan. M/s. Pegasus Assets Reconstruction Pvt. Ltd. filed CA(IB) No. 424/KB/2019 contending that there has been an error in the calculation done by the process advisers to the Committee of Creditors in the methodology of distribution of proceeds and that the distribution of proceeds in respect of

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the two plants has wrongly been allocated to IDBI and therefore, Resolution Professional has failed in considering that M/s. Pegasus Assets Reconstruction Pvt. Ltd. has an exclusive charge over the Air Suppression Plant and sinter Plant of the Corporate Debtor.

19. **M/s. JM Financial Assets Reconstruction Co. Pvt. Ltd.** also raised same objections. On perusal of the records and letters exchanged in between the Consortium Lead Bank Merger and the Promoter Director, (Pages 58 & 70), it is understood that the assigners who assigned the debt of the Corporate Applicant in favour of the above said two FCs, have been assigned the debt to the above said two Financial Creditors by creating security interest over the Plants belonging to the Corporate Applicant and the Corporate Applicant has consented to the said arrangement.

20. **M/s. Pegasus Assets Reconstruction Pvt. Ltd.** has failed in proving that it has an exclusive charge on Air Suppression Plant and Sinter Plant. Admittedly, IDBI had also issued loans to the Corporate Applicant which was subsequently assigned in favour of ARCIL and ARCIL, inter alia, had charge over the Kharagpur Unit. The Resolution Professional had seen examined the mortgage deed executed by IDBI and according to Ld. Counsel for the Resolution Professional, the Mortgage Deed executed by IDBI indicates that IDBI had a charge of the property of the Corporate Applicant situated at Kharagpur.

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21. Both these objectors are the members of the Committee of Creditors and it is also understood that the security interest recorded for each Creditors has been made available to all the members of the Committee of Creditors before finalization of the approval of the Resolution Plan. Therefore, the challenge raised by the above said Financial Creditors claiming exclusive charge over the above said Plants is found devoid of any merits. They are estopped from contending that the RP has erred in recording the value of security interest of FCs after the approval of the methodology by the required majority wherein they were parties and participated in the discussions. On the other hand, the records available in the case proves that the position in regard to pari passu charges has been accepted and acted upon by the members of Committee of Creditors themselves including the Financial Creditors who came forward objecting to the methodology and therefore, the attempt of the Financial Creditors who had dissented the approval of the Resolution Plan can be considered as an attempt to protract the proceedings by raising untenable contentions.

22. On perusal of the deed of Mortgage executed by IDBI indicates that IDBI had the first pari passu charge over the movable fixed assets of the Corporate Applicant and the second pari passu was set with the working capital lenders over the current assets. Allahabad Bank assigned the debt to M/s. Pegasus Assets Reconstruction Pvt. Ltd.(Destining creditor) and UCO Bank had assigned the debt of the Corporate Applicant to M/s. JM

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Financial Assets Reconstruction Co. Pvt. Ltd.(Assenting Creditor). The **CA(IB) No. 424/KB/2019** requires no consideration and it is liable to be **dismissed.**

23. None of the Banks comes forward to raise a contention that they have had first pari passu charge over the Plant as the FCs alleged in the objections and in the applications. On the other hand, they are members of Consortium of Banks wherein the fact remains that IDBI has got the first pari passu charge and it has been acceded to by the Lenders. The Ld. Counsel for the JM Financial Assets Reconstruction Co. Pvt. Ltd submits the reason for the delay in raising the objection is that the assignee was not aware of the charge arrangement, but it was brought to its notice by the promoter director who is hotly contesting the application for approval. So JM Financial Assets Reconstruction Co. Pvt. Ltd comes before us as instigated by the promoter and not as of any of its right in respect of distribution of bid amount is affected. Voting in favour of the resolution plan and coming forward to challenge the plan also cannot be permitted in the nature of the case in hand. We do not find any justifiable reason to uphold the contentions raised on the side of the above said Financial Creditors.

24. The **CA (IB) No. 37/KB/2019** is an Application filed by **IREDA** seeking leave to intervene in the present proceedings, staying the

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proceedings for approval of the Resolution Plan by the Adjudicating Authority, on the ground that the schedule of assets included as the assets provided in the Resolution Plan is to be excluded as it belongs to it. The Ld. Counsel appearing for the Applicant submits that the Wind power Project of the Corporate Applicant is to be excluded from the Resolution Plan since the said assets were already recovered by Enforcement Directorate under the SARFAESI Act, 2002 and that the sale of the assets has been confirmed and the Applicant has realized the sale value. The Ld. Senior Counsel appearing for the Resolution Professional submits that the above said objection is unsustainable because the Debt Recovery Tribunal, Aurangabad stayed the sale stating that it was not conducted in accordance with the provisions of the SARFAESI Act, 2002 and that an Appeal preferred against the order of stay is pending before the Debt Recovery Appellate Tribunal. He further submits that the information memorandum includes the details of the pending litigation. Therefore, the Resolution Applicant is aware of the proceedings initiated under the SARFAESI Act, 2002. According to him, the Applicant IRDAI has been invited to be a member of the Committee of Creditors of the Corporate Applicant in regard to its claim against the Corporate Applicant and therefore, no prejudice is even caused to the Applicant herein in approving the Resolution Plan.

25. Being satisfied that the claim of the IRDAI is being considered by the RP, inclusion of the assets which were evidently sold illegally would in no

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way affect the right of the corporate applicant to hold it as its own assets until its right if any is reversed in the appeal. The above being the circumstance brought out in the case in hand, the relief sought for by the Applicant here in this case, cannot be allowed. Therefore, the objection raised by the Applicant as against the approval of the Resolution Plan is found unsustainable and accordingly, we are inclined to reject the objection of IRDAI by dismissing the application. Accordingly **CA(IB) No. 37/KB/2019** is liable to be **dismissed.**

26. One another objector is **West Bengal Industrial Development Corporation Limited(WBIDCL).** It filed **CA(IB) NO 921/KB/2019.** The Ld. Counsel appearing for the Applicant, WBIDCL submits that it is not disputing the approval of the Resolution Plan. According to him, the Applicant submitted its claim in prescribed Form C under Regulation (A) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 , 2016 as a Financial Creditor and contends that the Applicant being the first charge holder in respect of Saimanagar Unit of the Corporate Applicant, deployed security guards in the said premises from 30-07-2012 to 31-10-2018 against which the Applicant has incurred substantial expenses to the tune of Rs.1,14,25,806/-(Rupees One Crore Fourteen lakh twenty five thousand eight hundred six only) and another expenses of Rs.17,10,476/-(Rupees Seventeen lakh ten thousand four hundred seventy six only) and that security expenses have been incurred by the Financial Creditor. The

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Applicant has not been included in the portion of upfront amount payable by the successful Resolution Applicant to the Creditors. He would further submit that the security expenses incurred by the Financial Creditor, ARCIL, has been included as an upfront payment amount in priority of payment of bid amount to be distributed among the Creditors and that amounts to discrimination. He prays for issuing directions to successful Resolution Applicant to pay the security expenses incurred by the Applicant as an upfront payment.

27. The Ld. Senior Counsel for the Resolution Professional submits that the applicant has not made any request for distribution of the expenses by including in the upfront amount and raising the request first time by filing this application and that RP has no objection in issuing directions to the Resolution Applicant to pay the security expenses incurred by the Applicant which has been admitted in the Resolution Plan to be included in the upfront payment. The Ld. Counsel, appearing for the Resolution Applicant, also showed his readiness to pay the admitted amount of security expenses incurred by the Applicant as an upfront amount. Having regard to the above we are inclined to issue directions as prayed for. The said Application can be disposed of accordingly.

28. **CA(IB)No. 461/KB/2019** is an Application filed by **Shri Aashish Jhunjhunwala,** Promoter Director of the Corporate Applicant/corporate

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NOTARY KOLKATA SHYAM SUNDAR BAJORIA REGN. NO. 10624/2018 GOVT. OF INDIA

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Debtor challenging the approval of the Resolution Plan on the following grounds:-

(i) The resolution bid amount is substantially below the liquidation value of the Corporate Debtor of which Resolution Plan does not conform to the maximization of the assets of the Corporate Debtor for the Financial Creditors and other stakeholders,

(ii) The distribution modification must be on the basis of voting share and not on the basis of security share,

(iii) Charge of ARCIL with respect to IDBI Bank has been recorded erroneously.

(iv) The Resolution Plan approved by the Committee of Creditors must be unconditional. However, the Resolution Plan submitted with the Adjudicating Authority for its approval is not unconditional.

(v) The Resolution Applicant is not eligible to submit the resolution Plan as per section 29A of the Code.

(vi) The entire Resolution Plan deserves to be rejected since the entire CIRP has been manipulated and the same has not been conducted in accordance with the legal provisions of the Code as the voting time has

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been extended without any provision and without any basis whatever to suit the Resolution Applicant and to accommodate the Resolution Applicant.

29. **CA(IB) No. 462/KB/2019** is one another Application filed by the **Vanguard Credit Holding Limited**, a guarantor who is none other than the Promoter Director who filed the CA(IB) No. 461/KB/2019 contending that Vanguard Credit Holding Limited is the owner of the land situated at Durgapur and has allowed the Corporate Debtor to use the said land for setting up, establishing and running of the factory. Therefore, the approval of title of the property as per the Resolution Plan in favour of the Resolution Applicant is illegal. That proceedings under the Insolvency & Bankruptcy Code, 2016 have been initiated against the Corporate Debtor and that the Resolution Plans were formulated on the basis of the fact that the land belonged to the Corporate Debtor and not in accordance with the provisions of the Code and the Regulations. The land cannot be transferred by way of any scheme of Resolution of the Corporate Debtor without an express consent of the Applicant.

30. Though the above said grounds were taken in the above said CAs, an argument note was filed on the side of the applicant limiting the grounds under challenge as under:-

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(a) That the bid amount payable by the Resolution Applicant is substantially below the liquidation value and the Resolution Plan does not call for maximization of the assets of the Corporate Debtor and therefore, liable to be rejected,

(b) That distribution pattern under the Resolution Plan is discriminatory and contrary to the principle laid down in Binani Industries Limited Vs. Bank of Baroda by the Hon'ble NCLAT and therefore, liable to be either modified or to be rejected,

(c) The resolution plan cannot be conditional or contingent in nature.

(d) The resolution applicant is disqualified u/s.29A of the Code as the resolution applicant is a related party to one BRG iron and steel Company Ltd in respect of which CIRP is already initiated.

(e) The resolution plan deserves to be rejected since the entire CIRP has been manipulated and has been conducted not in accordance with the provisions of the Code and regulations.

31. Although several contentions are raised in the application filed by the Aashish Jhunjhunwala promoter Director of corporate

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applicant/corporate debtor, at the hearing of the applications (CA 461 and 462) Ld. Sr. Counsel Mr. Abhrajit Mitra restricted his argument to the following objections:-

(a) The upfront amount payable by the Resolution Applicant is substantially below the liquidation value and the Resolution Plan does not call for maximization of the assets of the Corporate Debtor and therefore, liable to be rejected

(b) That the charge in favour of ARCIL which has given 55% voting shares among the members in the Committee of Creditors has been recorded incorrectly. ARCIL is only holding second charge over the movable and fixed assets of the Corporate Applicant. According to him the AXIS Bank and Punjab National Bank who were the original lenders to whom Vanguard Credit Holding Private Limited stood as a guarantor cannot hold first charge over the property and therefore, the distribution of bid amount considering the security interest held by the ARCIL is wrong

(c) The distribution pattern under the Resolution Plan is discriminatory and contrary to the principle laid down in Binani Industries Limited Vs. Bank of Baroda by the Hon'ble NCLAT and therefore, liable to be either modified or to be rejected,

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(d) The approval of the Resolution Plan by the Committee of Creditors, is contrary to Section 37(a) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 read with Section 18(1)(f) and Explanation (b) of the Code and therefore, liable to be rejected.

32. Coming to the first objection that the upfront amount offered to be paid is less than the Liquidation value is not at all a ground to reject the plan. So also we do not find any merit in the submission of the Ld. Sr. Counsel for the promoter director that the resolution plan requires modification by raising upfront amount. According to the Ld. Sr. Counsel for the promoter director of the corporate debtor (CD), the offer for payment of upfront amount if it is less than the liquidation value is against the principle of law set out in **Padmanavan Venkatesh Vs. Venkatachalam and Others, CA AT (Insol) 128 of 2019** and against the objectives of the Code. However he submits that if the Resolution Applicant is willing to modify the Resolution Plan in regard to payment of upfront amount and agrees to ensure to maximize the value of the assets of the Corporate Debtor by increasing the resolution bid, the Applicant has no objection in regard to upfront amount proposed to be paid by the Resolution Applicant.

33. The following is the list of claims received and admitted by the Resolution Professional based on the last updated List of Creditors :

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CA(IB) Nos. 37,343,349,352, 424, 440, 460, 462, 461, 497, 511, 522, 523, 527, 636, 637, 685, 921, & 1026/KB/2019
In
CP(IB) No. 349/KB/2017
Ramsarup Industries Limited

Creditor Claims*(INR Crore)	Amount Claimed (Rs. in crore)	Claim Admitted (Rs. in crore)
Financial Creditors	6046.77	5853.09
Operational Creditors(other than Workmen and employee)	284.23	216.17
Operational Creditors(only Workmen and employees)	20.31	7.88
Total Claims	**6351.31**	**6077.14**

*Shall be subject to change if any till the Cut-Off Date

34. The following table summarizes the proposed offer as a part of the Resolution Plan to the financial creditors of the Corporate Debtor ("Financial Creditors") as well as other creditors specified under the Code :

Particulars	Amount (in Rs. Crores)
CIRP Process cost *	[*]
Sustainable Debt to be paid upfront to the Financial Creditors	351.0
Payment to Operational Creditors	3.50
Payment to Workmen	7.00
Payment towards Statutory Liabilities	3.00
Capex/Working Capital	306.00

*To be paid at actual

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35. The above being the offers based on the admitted claim of the creditors, the distribution of the resolution bid amount is found not in contravention of any of the provisions of the Code or Regulations. The total bid amount comes to 670.50 Crores which is higher than the liquidation value of Rs. 610.29 crores. The facts in the given case being not similar to the **Padmanavan Venkatesh** case above referred, the principle of distribution if any in the said case cannot be applied in the case in hand.

36. An argument also was advanced that the Operational Creditors were treated differently and thereby discriminated among similar class of Creditors. According to the Ld. Sr.Counsel the distribution among workmen and operational creditor is not equal and therefore there is evidence of discrimination.

Ld. Sr. Counsel appearing for the Resolution Professional while referring to **Essar Steel Ltd. & Ors. (Company Appeal (AT) (Ins.) No. 242 of 2019)** submits that treatment in regards to distribution of resolution bid is equal in respect of 'financial creditors' and "operational creditors" and there is no discrimination as alleged. He refers to paragraph 177 of the above said judgement, which reads as under :-

"For the aforesaid reasons, if the employees are given 100% of their dues or those who have 'supplied goods' and 'rendered services' having claim less than Rs. 1 Crore are provided with 100% dues of their claim amount as provided in the present case, the other 'Operational Creditors' whose claim are more than Rs. 1 Crore or the 'Central Government' or the "State Government' or the 'Local Authority', who raise their claim on the basis of the statutory dues, they cannot ask for same treatment as allowed in favour of the aforesaid class of 'Operational Creditor'."

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37. The Hon'ble Appellate Tribunal in Essar Steel case as referred to above has observed that there are three classes of 'operational creditor', - (a) who have supplied goods and rendered services, (b) employees who have rendered services and (c) the Central Government, the State Government and Local Authority, who has not rendered any services but derived the advantage of operation of the corporate debtor pursuant to existing law and held that operational creditors can be classified in three different classes for determining the manner in which amount is to be distributed to them. However, they are to be given the same treatment, if similarly situated. The observation in paragraph 177 referred to above made it clear that workmen cannot be equated with the class of operational creditors who have supplied goods and rendered services and, therefore, the contentions on the side of the Ld. Counsel appearing for the promoter-directors that the treatment given to the operational creditors and the workmen being different and they are similarly situated is found unsustainable. In view of the above-said discussion, we find no merits in the objections on the side of the promoter director as regards distribution of the bid amount.

38. The Ld. Sr.Counsel appearing for ARCIL brought our attention to the observations of IBBI advisory board who recommended amendment to the CIRP regulation. He read over its para no.7 as under:-

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"7. Regulation 38(1)(c) provides that the liquidation value due to dissenting financial creditors shall be paid before any recoveries are made by the financial creditors who voted in favour of the resolution plan. Though the enterprise value (resolution value) is usually higher than the liquidation value, the reverse is possible in some cases, Moreover, liquidation value, as estimated, may not be realizable and realised value is usually liquidation value minus cost of realisation. It may be difficult to pay out liquidation value in all cases, that too, before any payment to other financial creditors. In a sense, this becomes an incentive for a financial creditor to dissent. Further, it may be difficult to arrange liquid cash to pay upfront to dissenting creditors and such payment may impinge on resolution of the corporate debtor. However, the Advisory Committee felt that those who remain vested in the future of the debtor should give way to those who would like to exit. It is, therefore, proposed to leave the regulations as they are in this regard."

39. Referring to the above said observation the Ld.Sr.Counsel attempted to convince us that generally a plan is approved wherein resolution bid amount is higher than the liquidation value and that the board never recommended that the resolution bid amount must be above the liquidation value. He suggested instances of approval of plan wherein resolution bid amount is lesser than liquidation value and that the judgment of Padmanavan Venkatesh not at all laid down a principle that upfront amount in all cases to be above the liquidation value. Here is a company not functioning more than ten years prior to CIRP and that the resolution bid being above the liquidation value, the plan must be approved if it does not contravene any of the provisions of the Code and the regulation. He argued. He also relied upon **K.Sashidhar v.Indian Overseas Bank and Ors.** to stress an argument that the plan under consideration being passed by vote of 74.41% the distribution of bid amount approved by the CoC cannot be re-appreciated and cannot be altered unless there is any cogent evidence of discrimination among the same class of creditors. In the said case, the Hon'ble Supreme court has held that *"the commercial wisdom of the CoC is given paramount status"*. Bearing in mind the above said

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objective and the principles laid down by the Hon'ble Supreme Court, we are of the considered view that there is no error, illegality or any discrimination among the same class of creditors or there is no dissimilar treatment as attempted to be proved on the side of the promoter director and that the upfront amount offered by the Resolution Applicants though less than the liquidation value, it itself is not a ground for rejection of the Plan. We find no merit in the above said objection on the side of the promoter director of the Corporate Debtor.

40. The second objection stressed on the side of the promoter Director by the Ld. Senior Counsel is that the approval of the Resolution Plan only benefits the ARCIL and never balances the interest of all other stakeholders including the Financial Creditors and Operational Creditors because the ARCIL only held second charge over the security interest created to the assignors of the ARCIL and that if the Corporate Applicant Company goes into liquidation, the other Financial Creditors who dissented the approval of the Resolution Plan, would be more benefitted and thereby, the ARCIL who is having dominating voting percentage over others, decided to vote in favour of the Resolution Plan.

41. The above-said objection was also raised by the dissenting financial creditors and we found that the said objections are not sustainable as per the records available in this case. The Corporate guarantee and the mortgage deeds executed by the CD and Vanguard in the case in hand prove

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that the assignors, who are Axis Bank, and Punjab National Bank were given pari passu charge over the movable and immovable properties of the Corporate Debtor and Vanguard Credit Holding Private Limited (vanguard). Vanguard is a Company owned by the Promoter Director. He is holding 99.9% of the total shareholding of the Corporate guarantor, Vanguard Credit Holding Private Limited. The lenders, namely, Axis Bank, Punjab National Bank on the strength of mortgaging the land of the Corporate Applicant as well as the land owned by Vanguard Credit Holding Private Limited, (Vanguard) provided the loan on the basis that the repayment by the Corporate Applicant of the loan was secured by way of mortgage over the land provided by Vanguard Credit Holding Private Limited and by way of corporate guarantee provided by the Applicant itself. Therefore, the evidence submitted in the case in hand proves that Vanguard Credit Holding Private Limited has, by creating the mortgage over the land belonging to it, created security interest over the land in favour of Punjab National Bank which has been subsequently transferred to ARCIL and Axis Bank. The above said circumstances lead us to the conclusion that the land admittedly belonged to Vanguard Credit Holding Private Limited, wherein the Corporate Applicant has set up the Durgapur Plant, which has been encumbered by the Applicant to be utilized for the repayment of the debts of Punjab national Bank and Axis Bank. So, whatever right, interest etc. is held by the Punjab National Bank, and Axis Bank over the land belonging to

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Vanguard Credit Holding Private Limited has been legally transferred to the assignor, ARCIL. So also the deed of hypothecation executed by IDBI Bank indicates that the IDBI has the first pari passu charge over the movable fixed assets of the borrower and second pari passu charge is shared with the working capital lenders over the current assets. Therefore, the mortgage deed executed by the IDBI indicates that IDBI has the charge over the properties situated at Kharagpur. Therefore, there is nothing brought out on the side of the Applicant, Promoter Director of the Corporate Applicant that the charge in favour of ARCIL considered by the Committee of Creditors in the case in hand, has been recorded incorrectly.

42. An attempt is made on the side of the promoter-directors referring to a judgement of NCLT, Mumbai Bench in the matter of **Edelweiss Assets Reconstruction Co. Ltd. -vs- Bharati Defence and Infrastructure Ltd.** that title of a property cannot be transferred in favour of resolution applicant. The facts in the above said judgment is not similar to the facts in the case in hand. Here in the instant case, the owner of Durgapur land, namely, Vanguard Credit Holding Pvt. Ltd. had already created mortgage over the land in favour of the Axis Bank and Punjab National Bank and since Vanguard Credit Holding Pvt. Ltd. has created mortgage over the land; created security interest over the land in favour of the Bank the right, interest and title in respect of the mortgaged land can be assigned in favour

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of the Resolution Applicant. Accordingly, that argument does not hold good in the context of objections raised in the case in hand.

43. At this juncture, an argument is also advanced from the side of the Promoter/Director of the Corporate Applicant referring to Section 18(1) (f) and Explanation (b) of section 8 of the Code and Regulation 37(a) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, that the mortgagee has no right to transfer title of the properties of vanguard and therefore resolution plan is liable to be rejected. According to him, as per the Resolution Plan, Clause 15.1, a mechanism for the transfer of the land to the Resolution Applicant has been laid down in regard to Durgapur land owned by the Vanguard Credit Holding Private Limited. According to him, Section 18, Explanation (b) of the Code and Regulation 37(a) of (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 restricts transfer of title of a third party or subsidiary of the Corporate Applicant in favour of the Resolution Applicant and therefore, is contrary to the said provisions and therefore, the Resolution Plan is liable to be rejected.

44. **Vanguard Credit Holding Private Limited**, admittedly, a Corporate guarantor, provided corporate guarantee dated April 23, 2009 to Axis Bank Limited and Corporate guarantee dated 30-07-2009 and May, 2009 to the Punjab national Bank. The Vanguard Credit Holding Private Limited has

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admittedly executed the guarantee deeds too. Thereby, the mortgaged land owned by it in Durgapur, measuring about 54 acres, named in the Resolution Plan as Durgapur land, by way of equitable mortgage in favour of Punjab National Bank, limited to secure the indebtedness of the Corporate Applicant which has subsequently been transferred to ARCIL on pari passu basis with Axis Bank Limited. Therefore, evidently, Vanguard Credit Holdings Private Limited, is a mortgagor. As a mortgagor, Vanguard Credit Holding Private Limited has its right to redeem its property after payment of the debt amount. Admittedly, the Vanguard Credit Holding Private Limited is a defaulter. So, Vanguard Credit Holding Private Limited was holding right to buy back the property without any encumbrance by paying the loan amount due to the Punjab National Bank and Axis Bank. That was not done in the case in hand. Therefore, upon approval of the Resolution Plan, the right to redeem held by the mortgagor/ Vanguard Credit Holding Private Limited would be lost. That being so, Durgapur land belonging to Vanguard Credit Holding Private Limited can be transferred to the Corporate Applicant. On the other hand such a sale is not restricted under Regulation 37(b). As per 37(b) CIRP Regulation *"sale of all or any part of the assets whether subject to any security interest is permissible."*

45. One more argument also was advanced on the side of the Ld. Senior Counsel appearing for the Promoter Director/ Corporate Applicant that the

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action taken by Punjab National Bank as per Section 13 of the SARFAESI Act, 2002 and that taking possession of the land in exercise of its powers under Section 13(4) of the SARFAESI Act, 2002 will not give rise to any right over the Bank or ARCIL to transfer the right, interest of the mortgagee by way of assignment or sale. Section 13(4) of the SARFAESI Act, 2002, permits the secured Creditors to take possession of the secured assets including the right to transfer by way of lease, assignment or sale for realizing the secured assets. According to Ld.Sr.Counsel for the RP, the Bank referred to in the section includes its transferees and assignee's, and they will have the right to enforce possession under the SARFAESI Act, 2002 and therefore, transfer of all rights and interests in the Durgapur land and its marketable title to the Resolution Application, is perfectly legal and valid.

46. The third objection is about the distribution methodology which has been approved by the CoC by 74.41 % vote. According the Ld. Sr. counsel, the distribution of bid amount as per the Resolution Plan is discriminatory and contrary to the judgment of the **Hon'ble NCLAT in Binani Industries Limited Vs. Bank of Baroda** and another and that the Resolution Applicant has discriminated between the same set of group, such as, Financial Creditors or the Operational Creditors and the Operational Creditors are not getting the same treatment as that of Financial Creditors. The above said objection seen raised by the Operational Creditors. By

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answering their objection in this regard, we have already come to a conclusion that the Resolution Applicant has not discriminated between the Financial Creditors on the basis of charge held by the respective Financial Creditors and the Operational Creditors have not been differently treated as per the Resolution Plan. From a reading of the citation of Binani Industries Limited, what we understood is that differential treatment is permissible if the creditors are not similarly situated. The contention that the Financial Creditors to be equated with Operational Creditor is not sustainable even under the principles of law as settled in Binani Industry's case referred to and relied upon on behalf of the Promoter Director/Corporate Applicant. So also in Adhunik referred to above the differential treatment is permissible if creditors are not similarly situated. On the other hand in the case of Swiss Ribbons Vs. Union of India, the Hon'ble Supreme Court made it clear that Financial Creditors and Operational Creditors are positioned differently in view of the nature of transactions and nature of debt. Applying the above said principles of law settled in the above said decisions cited and referred to us, we do not find any justifiable reasons to hold that the distribution pattern under the Resolution Plan is discriminatory as is being tried to be set up by the promoter director.

47. The next and final objection raised by the Ld. Senior Counsel, appearing for the Applicant is that the Resolution Applicant is not eligible

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to submit the Resolution Plan in the light of the bar contained in Section 29A(j) of the Code. According to him the resolution applicant is ineligible on account of their connection with BRG iron & Steel Private Company Limited, of which CIRP is already initiated or going on.

48. The above-said objection seems to have been raised for the sake of raising objection so as to prevent this Adjudicating Authority and delaying the approval of the Plan. It is a bare contention without any supporting materials. The attempt on the side of the promoter director is that SSPL and SS naturals (resolution applicant) to be ineligible as a result of actions of a connected persons who was declared as NPA. But here in this case there is no proof to prove that resolution applicant is in any way connected to the company undergoing CIRP. The burden is heavy on the side of the objector to prove that the resolution applicant has direct control over the company undergoing CIRP for at least a period of one year from the date of commencement of CIRP. Such an evidence is lacking in the case in hand. So the said objection is found devoid of any merit. The resolution applicant is found eligible u/s 29A (j) of the Code. The above said discussions leads to a legitimate conclusion that any one of the objections on the side of the promoter director of the CD and Vanguard are sustainable under law and both applications deserve dismissal.

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49. An argument was advanced at this juncture on the side of the Resolution Professional as well as on the side of the ARCIL that the Promoter Director is only attempting to waste the precious time of this Tribunal by filing malicious applications. According to them, the resolution process has been completed and conducted legally and diligently and conducted the voting among the members of Committee of Creditors in accordance with Section 26 of the Code. All the objections including ineligibility of the resolution applicant was raised by the promoter before the CoC and the CoC deliberated the said issue and found the objections are not sustainable for want of supporting evidence. The only attempt on the side of the Promoter Director/Corporate Applicant is to see that the Resolution Plan could not be approved so as to see the Adjudicating Authority to pass an order of liquidation of the Corporate Applicant. They would further submit that the Promoter Director/Corporate Applicant has concocted and misrepresented the facts and to further prejudice the confidentiality undertaking, thereby jeopardizing the entire CIRP process for not only the present Corporate Applicant but for other Corporate Debtors as well as that are currently undertaking CIRP. He has approached this Tribunal with unclean hands and the present Application deserves to be dismissed with imposition of heavy cost on the Applicant, argued by the Ld. Senior Counsel.

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50. This is a unique case wherein the promoter director of the Corporate Debtor had filed the CP for CIRP under Section 10 of the Code showing his inability to pay. After admission and when the CIRP period expired and the application filed by the RP came up for consideration, the attitude of the promoter-director was seen changed. He filed **CA 461 of 2019** challenging the approval of the resolution plan. Filed **CA 1039 of 2019** challenging non admission of his claim by the resolution professional. Vide separate order, we dismissed the **CA 1039 of 2019**. It has come out in evidence that the promotor director had circulated among the financial creditors about the security interest they hold allegedly not within the knowledge of the Financial creditor. The Ld Counsel for the JM Financial Asset Reconstruction Company Pvt. Ltd admitted at the time of hearing that he had raised the objection against the distribution methodology because the Financial Creditor was in receipt of an e-mail sent by the promoter director that there is erroneous computation and concealment of facts pertaining to actual position of charges over the assets of the Corporate Debtor in favour of the ARCIL. In answering its objection, we hold that RP has not committed any error in recording the security interest hold by the Financial Creditors as per the available records brought to his notice. There was no traces of concealment of facts on the side of the RP but there are suppression of material facts on the side of the promoter director.

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51. Ld. Sr. Counsel, Mr. S. N. Mookherjee, appearing for ARCIL submits that the promoter-director, who has filed **CA(IB) No. 461/KB/2019**, has instigated Vanguard Credit Holding Pvt. Ltd., by filing **CA(IB) No. 462/KB/2019** wherein he had 99.99% shareholding to see that the resolution plan cannot be approved and his company is ordered to be liquidated. He further would submit that the promotor director did not come with clean hands to this Tribunal and the above said application is liable to be dismissed with exemplary costs.

52. In order to highlight his conduct in dealing with the shares he holds in the Ramsarup Industries Ltd/Corporate Applicant, he has cited an **Adjudication Order (SS/AS/2018-19/1625)** of the **Securities and Exchange Board of India** and referred to paragraph 14 in the above judgement, which is worthwhile to read, which reads as follows :-

> *"In this case, from the material available on record, any quantifiable gain or unfair advantage accrued to the Noticee or the extent of loss suffered by the investors as a result of the default cannot be computed. It is noted that the Noticee has not paid the disgorgement amount and interest thereof. It is to be noted that the Noticee had avoided potential loss of Rs. 98,11,465.32 by trading on the basis of Unpublished Price Sensitive Information ("UPSI") regarding un-audited financial results of the Company. Apart from such heinous act of insider trading, misusing the UPSI and abusing the fiduciary position of the Chairman and Managing Director of the Company, he has also disobeyed, disregarded and defied the directions of SEBI as confirmed by the Hon'ble SAT. Further, such defaults seriously compromise the regulatory framework. The Noticee has submitted that his demat account has been attached in the Recovery Proceedings and has assured cooperation in the process."*

53. The Adjudicating Authority by the said order imposed a penalty of Rs.5 lakh under section 15 HB of SEBI Act. Truly we are not influenced by the said order. However, by considering the above-said circumstances

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discussed in detail and considering the peculiar nature of defence taken by the promoter director and some of the FCs at his instances, we are of the considered view that the **CA 461 0f 2019 & CA 462 of 2019** is to be dismissed with a cost not less than 25 Lakh fixing liability to pay on the promoter director Mr. Aashish Jhunjhunwala. The overall conduct of the applicant in filing multiple applications cannot be considered as with genuine object to get a relief as prayed for, but with the object to protract the matter. In our view is an abuse of the process of this Tribunal. If this kind of approach is not prevented, it would air a wrong message to the similarly situated directors of a CD companies. Filing of CAs by some of the financial creditors and belatedly challenging the qualification of the resolution applicant by two of the unsuccessful bidders at the instigation of this director also cannot be ruled out from the circumstances brought out in the case in hand. In our view fixing cost at 25 lakh is fair and just and it would meet the ends of justice in this case.

54. **CA(IB) No. 497/KB/KB/2019** is an application filed by **Orissa Metaliks Private Limited (OMPL)** challenging the eligibility of H-1 bidder S.S. Natural Resources Pvt. Ltd. (SS Natural) (Successful Resolution applicant) u/s. 29A of the I & B Code, 2016. The Ld. Sr. Counsel, Mr. Abhrajit Mitra, appearing for and on behalf of the OMPL submits that one of the directors of the SS Natural Mr. Bajranglal Agarwal is a common director in

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the SS Natural, Shyam Emco Infrastructure Limited and Emco Power Limited and since Emco Ltd. is a defaulter in repayment of loan and interest and as the account of Emco Ltd. has become NPA is being under the management or control of the SS Natural or its promoters, the SS Natural has become ineligible to submit a resolution in respect of the Corporate Debtor u/s. 29A of the Code. No material has been brought to substantiate the said contention that Mr. Bajranglal Agarwal has got control over the management of Shyam Emco Infrastructure Limited. From the available records and arguments advanced on both side what we understood is that the applicant is trying to set up a case that Mr. Bajranglal Agarwal is a shareholder in BRG Iron & Steel Company Private Ltd. which has been declared as NPA and CIRP proceedings has already been initiated against the BRG Iron & Steel Company Private Ltd., SS Natural is connected with the said company and, therefore, is ineligible.

55. According to him, SS Natural's shareholders are also shareholders in Shyam Emco Infrastructure Ltd. along with the Emco Power Ltd. and therefore, SS Natural is ineligible. For strengthening the above arguments no materials was brought in. Admittedly, Shyam Emco Infrastructure Ltd. is not an NPA company and does not have any investment in a company, who was declared as NPA. So also there are no allegations that Shyam Emco Infrastructure Ltd. or Emco Power Limited is declared as a NPA company.

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There are no allegations that the above company has any investment in a company declared as NPA. Therefore, in the absence of any evidence to prove the averments in the application, it enables us to understand that some of the shareholders in SS Natural have some shareholding in some group companies referred to above. Having shareholding in a group company does not in any way disqualify SS Natural u/s. 29A of the Code. Admittedly, the alleged shareholders do not have any shareholding in a company which has been declared as NPA. The eligibility criteria as provided u/s. 29A of the I & B Code never prescribed a restriction upon a shareholder of a resolution applicant, to be a shareholder in a group company wherein one of the companies is declared as NPA, in which the shareholders have no direct control or direct communication. Accordingly, we do not find any violation of Section 29A as attempted to establish on the side of the OMPL the unsuccessful bidder.

56. Ld. Counsel appearing for the Resolution Professional also submits that the challenge and objections raised by the OMPL, the H-2 bidder against the SS Natural have been dealt with by the CoC in the 23rd meeting held on 02/03/2019 and it came to the conclusion that SS Natural cannot be disqualified u/s. 29A of the Code as alleged by the OMPL.

57. Here in the case in hand during the resolution process at the final round, there were 4 resolution applications, SS Natural, OMPL, Srei

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Multiple Assets Investment Trades Vision India Fund (SMAIT-VIF) and Liberty House Group Private Limited. The copy of the minutes produced on the side of the Resolution Professional enable us to hold that OMPL was the successful bidder during the first round. In the initial period of bidding process, the CoC after deliberation agreed to re-consider the resolution applicants bid and decided to re-conduct the out-bid process with all the eligible bidders. In the said out-bid process OMPL did not improve its bid and thereby SS Natural out-bid the OMPL and became H-1 bidder. It is thereafter that the above said challenge came from the side of the OMPL/resolution applicant. So the conduct of the OMPL who had failed in out-bidding at the re-conducting outbid process, who also failed in convincing the CoC that SS Natural is not eligible under Section 29A of the Code filed this application challenging the very same objection, knowing well that its objections were over-ruled by the CoC, without any additional evidence over and above the evidence led in before the Resolution Professional and CoC, approached this Tribunal and interfered in the process of approval of the plan without any justifiable or sufficient cause. In the said circumstances, we are of the considered view that this application deserve dismissal with costs. Considering the nature and circumstances of the contentions raised, awarding a cost of Rs. 5 lakh would be fair and just.

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58. **CA(IB) NO 1093/KB/ 2019** is one another application filed by **SREI Multiple Asset Investment Trust-Vison India Fund(SREI),** an unsuccessful bidder challenging the approval of the resolution plan. The SREI contends that Mr. Anoop Krishna, is an employee of Grant Thornton India LLP Process advisers to the RP. He had leaked information regarding the offers of bid to the SS Naturals (SSN) and SSN had access to bids of the other resolution applicants and thereby influenced the outcome of the outbidding process that was conducted to finalize selection of successful bidder.

59. One another allegation also raised by the Ld. Counsel appearing for the SREI is that the said Mr. Anoop Krishna is a director of the flagship company of the group to which SSN belonged since 18.02.2019 onwards. According to him SSN is a consortium company including Shyam Metaliks and Energy Limited and thereby a conflict of interest existed in the CIRP and therefore the entire process is vitiated and hence the plan is liable to be rejected.

60. The Ld.Sr. Counsel for the RP objected to this application. Since this application came up for consideration on the last day of hearing of the CP, for want of time we direct the RP to file written submissions and not reply affidavit. According to him, this application is a frivolous application filed at the instigation of the promoter director as the last attempt to derail the CIRP for enabling him to pass an order of liquidation. He also contends that there is no merit in the contention. He would submit that Mr. Anoop

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Krishna is not an employee of the process adviser LLP, but worked for it as a consultant and to support the said contention, a copy of the agreement entered into in between them is produced for our perusal. He further submits that the out bidding process was conducted openly and there is no question of leaking the details of outbidding data.

61. Having heard the parties on both sides and perusal of the records, we are satisfied that the outbidding process was openly conducted by the CoC at the meetings of creditors, in the presence of members of the CoC and all the four resolution applicants including SREI who reached upto the final round. We also understood that multiple rounds of outbidding took place and each participating resolution applicant was given same opportunity to outbid the other resolution applicant. The above said factors brought out from the copies of minutes is self explanatory. Possibility of leaking any data for enabling the bidders to increase its bids never, ever arose in the said process adopted by the CoC. None of the resolution applicants is to be influenced by an insider or outsider. The outbidding process was conducted transparently and diligently. It is significant to note here that other than SREI, none other raised the said contention. The contention of the applicant is frivolous and raised only for the purpose of abusing the process by the unsuccessful bidder. Though an allegation was raised that it was instigated by the promoter director, we

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were not supplied any data, but we could not rule out that possibility too in the peculiar circumstances of the case in hand. The promoter director was present in the Tribunal on all days of hearing this CP, and he rushed in front of us denying the allegation and submits that he never wished to have an order liquidating his company. He also sought permission to make his submissions in person which we declined since Sr. Counsel was already appearing for him.

62. We also do not find any merit in the submission of the Ld. Counsel for the SREI that Mr. Anoop Krishna being a director of Shayam Metalics and Energy Limited SSN is a disqualified resolution applicant. It is significant to note here that Shayam Metalics and Energy Limited is not a successful resolution applicant. Truly the successful resolution applicant is a consortium of SSN and Shayam SEL and Power Ltd. In the absence of any materials brought out to prove that he is connected in any manner with SSN or its consortium members we are unable to hold that Mr. Anoop Krishna is connected with a company allegedly a group company of SSN and thereby entire process is vitiated by undue influence of an employee.

63. The above-said circumstance leads us to a legitimate and irresistible conclusion that this CA which was filed two days before the final hearing of the pending applications in the case in hand is to be dismissed with heavy costs but we are limiting it to Rs.10 Lakh. In our view awarding the said cost

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is just and proper to keep the proceedings in a time bound manner so as to achieve the objective of the Code. If we do not do so, it would give a wrong message to the similarly situated applicants who wish to come forward to raise challenge without any right cause. We accordingly **dismiss this CA** with a cost of Rs.10 Lakh.

64. To sum up, we are unable to uphold any one of the objections submitted on the side of the Operational Creditors, Financial Creditors and from the side of the Promoter Director Mr. Aashish Jhunjhunwala and the two unsuccessful bidders viz., OMPL and SREI.

65. From the above said discussions, we have already come to a conclusion that the distribution methodology considering the value of security interest held by the FC's adopted by the CoC for distributing the resolution bid amount which has been approved by a vote of 74.41% is not contrary to any of the provisions of the Code or regulations and any of the principle of law settled by NCLAT and Hon'ble Supreme Court. This is a case wherein the Financial Creditors have taken a hair-cut of 94% by receiving about 6% of admitted claim and the Operational Creditors as a class were treated similarly. Therefore, none of the objections of the Operational Creditors are found sustainable. So also two of the unsuccessful resolution applicants challenging the approval of the resolution plan were found devoid of any merit. Being satisfied that none of the objections raised on

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the side of the objectors are worth consideration except CA filed by WBIDCL (CA 921 of 2019), are ordered to be dismissed. In the said circumstances, let us take the resolution plan.

66. The question is whether the application filed by the RP (CA 352 of 2019) for the approval of the resolution plan of consortium of SSN and Shyam SEL and Power Ltd. approved by the CoC by vote of 74.41% deserves to be approved?.

67. Though a form H is not required to be filed in this case since this application was filed before the amendment to CIRP regulation came into being, we directed the RP to file a Form H and he filed the same. The resolution plan that came up for our consideration is a plan approved by the CoC by a vote of 74.41%. Except certain wavier clause like, procedural requirement under the companies Act, waiver of any fee payable to any stock exchange, statutory liabilities other than operational debt specified in the information memorandum, Stamp duty and ROC fees in case of increase in the authorised capital etc., claimed as per the plan which according to us cannot be approved for the reason that those statutory fees, and taxes claimed in the case in hand are liable to be paid by the resolution applicant in accordance with applicable law. Any exemption for payment would be dealt with by the respective authorities if applied for. With the above observations, we are not inclined to approve the waiver as prayed for in

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the plan. It is left open for determination by the appropriate authorities if applied for the wavier/exemption as prayed for in the Plan.

68. As per clause 15.3 of the resolution plan, the resolution applicant has given an undertaking that "***if the approvals, extinguishments and waivers sought under Annexure 3 are not granted, it will not any way jeopardize the implementation of the Resolution Plan, and the resolution applicant shall remain responsible for such implementation of the resolution plan.***" The Ld. Counsel appearing for the resolution applicant was asked about the possibility of increasing the distribution percentage offered to the operational creditors other than workmen's dues. He would submit that the resolution applicant is unwilling to vary and modify the plan and that the waiver asked for if not granted, the resolution applicant may withdraw from implementing the plan. We are afraid, the said submission is unmindful of the consequences of the clause 15.3 in the Plan.

69. A careful screening of the Form-H produced on the side of the Resolution Professional proves that all the requirements to be meted out under sub-section (2) of section 30 have been complied by the Resolution Professional. The resolution applicant S.S. Natural is a Consortium of SSNRPL and Shyam SEL & Power Limited. SSNRPL is the lead partner of the Consortium. All the Consortium members have given Affidavit in compliance of Section 29A of the Code. They have given declaration in

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conformity with Regulation 38(3) of the CIRP Regulation that the resolution applicant confirms that it is eligible to submit the resolution plan in accordance with Section 29A of the Code.

70. An undertaking under regulation 39(1)(c) of the CIRP Regulations (in Form VI) has already been submitted while submitting the Plan according to the Resolution Professional. Upon screening of the documents, we are of the considered view that the Resolution Plan is not contravening any of the provisions of the applicable law.

71. The Corporate Debtor company was incorporated in the year 1979. It was involved in the business of manufacturing Steel, TMT Bars and Steel Wires. Its manufacturing units are situated in Kharagpur, Durgapur, Shyamnagar and Kalyani. It also owned a windmill located at Dhule. However its manufacturing units had not been in operation for more than 10 years. According to the Resolution Applicant, the assets of the Corporate Debtor, including the plant and machinery are not in a working condition and considerable investment is required to be made before the factory and the plant and machinery of the Corporate Debtor can be made operational. This facts brought to our notice is unchallenged. It is in the said circumstance we found that out of 670.50 crore of the resolution bid amount keeping Rs.306.00 crore included in the resolution bid as

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Capex/Working Capital for enabling it to run the CD Company as an on going concern is not unreasonable.

72. The resolution applicant is experienced in Iron and Steel/Ferro alloys Sector. As per the data furnished the group company namely Shayam group has an established position in the ferro-alloy industry with track record of around two decades and huge experience of successful running and scaling up operations. Having run similar business like that of the corporate debtor the choosing of resolution applicant appears to us is a wise selection and we believe that the Corporate Debtor is to be transferred to safer and healthy hands. It would benefit all its stakeholders inclusive of its workmen and employees.

73. As per Regulation 39A of the CIRP Regulations, liquidation value due to the operational creditors should be paid in priority to the Financial Creditors. Provision is seen made in the plan to pay aforesaid amount within 30 days from the Effective Date and in any event 1(one) day prior to the payment to the Financial Creditors.

74. Insolvency resolution cost is agreed to be paid in full in priority over payments to be made of any other debt as per the Code. It is also made clear that resolution applicant and its group companies have sufficient funds and do not envisage any challenge in terms of source for the payment. Payment to workmen's admitted due also is agreed to be paid

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by the resolution applicant and it is made clear that in any event any further due is admitted under the category, all the workmen and employees shall be paid pro rata based on the admitted claims by the RP.

75. While hearing the CA 921 of 2019, it is agreed by the Ld Sr. Counsel for the RP as well as the ld. Counsel for the Resolution Applicant that they have no objection in including the portion of security expenses incurred by the Financial Creditor/ West Bengal Industrial Development Corporation Limited(WBIDCL) which is admitted by the RP in the upfront amount payable by the Resolution Applicant to the Creditors. Accordingly the plan approved by this AA must include provisions for inclusion of portion of security expenses incurred by the Financial Creditor and admitted by the RP in the upfront amount payable by the Resolution Applicant to the Creditors.

76. The CoC by voting in favour of approval of resolution plan by a vote share of 74.41% after considering its feasibility and viability and that all other requirement specified by the CIRP regulation seen meted out by the CoC we are bound by the approval as per the principle of law settled in **K. Sasidhar case** referred to above.

77. Before parting with this case, it is fair and just for us to appreciate the herculean task done by the Ld. Resolution Professional who has succeeded in resolving the stressed assets of the Corporate Debtor. The Corporate

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Debtor has been taken over by a Resolution Applicant who can safeguard the Company by infusing some healthy blood in to the dying flesh.

78. Having regard to what has been said above we hereby approve the resolution plan upon the following directions:-

ORDERS

i) The **Resolution Plan of Ramsarup Industries Ltd.**, which is approved by the CoC with 74.41% voting share, is hereby **approved** under provisions of sub-section(1) of Section 31 of the Insolvency and Bankruptcy Code, 2016, which shall be binding on the Corporate Debtor, **M/s. Ramsarup Industries Limited,** its employees, members, creditors, guarantors, the central Government, any State Government or any local authority and other stakeholders involved in the Resolution Plan subject to the below mentioned modification.

ii) The Resolution Plan approved by the CoC shall include the portion of security expenses incurred by the Financial Creditor/ West Bengal Industrial Development Corporation Limited(WBIDCL) which is admitted by the RP in the upfront amount payable by the Resolution Applicant to the Creditors.

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iii) The Resolution Plan, shall come into force from the date of pronouncement of this order.

iv) The moratorium order passed under Section 14 shall cease to have effect.

v) The Resolution Professional shall forward all records relating to the conduct of the Corporate Insolvency Resolution Process and the Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.

vi) **CA(IB) No. 352/KB/2019 is allowed.**

vii) **CA (IB) No 921/KB/2019** is **disposed of** as directed above.

viii) **CA (IB) No.343/KB/2019, CA(IB) No. 349/KB/2019, CA(IB) No. 440/KB/2019, CA(IB) No. 460/KB/2019, CA(IB) No. 523/KB/2019, CA(IB)No.636/KB/2019, CA(IB)No. 637/KB/2019, CA(IB) No. 685/KB/2019, CA(IB)No.511/KB/2019, CA(IB) No. 522/KB/2019, CA(IB) No. 37/KB/2019, CA(IB) No. 424/KB/2019, CA(IB) No. 1026/KB/2019 & CA(IB) No. 527/KB/2019** are **dismissed.** However, without costs.

NOTARY KOLKATA SHYAM SUNDAR PANDEY REGN. NO. 13824/2018 GOVT. OF INDIA

Sd

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

ix) **CA(IB) No. 461/KB/2019** and **CA(IB) No. 462 /KB/2019** **is dismissed** with cost of Rs.25 lakh payable by the promoter director **Mr. Aashish jhunjhunwala** within 45 days from the date of receipt of this order to the account of the Corporate Debtor either by e-payment facility into bank account of Corporate Debtor or by way of DD.

x) **CA(IB) No. 1093/KB/2019 is dismissed** with a cost of Rs.10 lakh directing **SREI Multiple Asset Investment Trust-Vison India Fund(SREI)** to pay the said amount within 45 days from the date of receipt of this order to the account of the Corporate Debtor either by e-payment facility into bank account of Corporate Debtor or by way of DD.

xi) **CA(IB) No. 497/KB/KB/2019 is dismissed** with cost of Rs. 5 lakh directing the **Orissa Metalics Private Limited** (OMPL) to pay the said amount within 45 days from the date of receipt of this order to the account of the Corporate Debtor either by e-payment facility into bank account of Corporate Debtor or by way of DD.

xii) If the cost as directed is paid the said amount is to be added to 3.50 Crores payable to operational creditors other than

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13824/2018 GOVT. OF INDIA

Sd

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

workmen and the Monitoring Agency shall pay the said amount in accordance with the percentage of distribution approved in the plan to the operational creditors.

xiii) **CP (IB) No 349/KB/2017** is disposed of by listing **CA (IB) NO. 716/KB/2018 and CA (IB) NO. 346/KB/2019** separately for hearing and disposal on **15/11/2019.**

xiv) Registry is hereby directed to communicate the order to all the Applicants, Respondents and to the Resolution Applicant through e-mail and free copy .

xv) Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

(Harish Chander Suri)
Member (T)

(Jinan K.R.)
Member (J)

Signed on this, the 4th day of September, 2019

VC

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13824/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH,
KOLKATA

Coram : Shri Jinan, K.R., Hon'ble Member (Judicial)
Shri Harish Chander Suri, Hon'ble Member (Technical)

CA(IB) No. 877/KB/2019 & CA(IB) No. 1051/KB/2019
in
C.P. (IB) No. 349/KB/2017

In the matter of:

An application application under Rule 11 and 153 of the National Company Law Tribunal Rules, 2016;

-And-

In the matter of:

RAMSWARUP INDUSTRIES LIMITED, a Company within the meaning of the Companies Act, 2013 and having its registered office at 7C, Kiran Shankar Roy Road, Hasting Chambers, 2nd Floor, Room No. 1, Kolkatta 700001;

... ... **Corporate Debtor**

-And-

In the matter of:

EDELWEISS FINVEST PRIVATE LIMITED, a Non-Banking Financial Institution and having its registered office at Edelweiss House, Off. CST Road, Kalina, Mumbai 400098;

... ... **Applicant**

-Versus-

KSHITIZ CHHAWCHHARIA, being Resolution Profession appointed in C.P. No. 349/KB/2017

... ... **Respondent/Resolution Professional**

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13024/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Counsels appeared:

1.	Mr. Kshitiz Chhawchharia	] Resolution Professional
2.	Mr. Ratnanko Banerji, Sr. Advocate	]
3.	Mr. Sidhartha Sharma, Advocate	] For the Resolution
4.	Ms. Ujjaini Chatterjee, Avocate	] Professional
5.	Ms. Diprani Thakur, Pr. CS	]
1.	Mr. Kuldip Mallik, Advocate	] For Edelweiss Finvest
2.	Mr. Debasri Dutta, Advocate	] Private Limited

Order pronounced on 4th September, 2019.

ORDER

Per Shri Jinan, K.R., Member (Judicial)

1. The CA(IB) No. 877/KB/2019 is an Application filed by Edelweiss Finvest Private Limited, praying for permitting the Applicant/Financial Creditor to participate in the Resolution Process by issuing direction to the Resolution Professional to admit its claim of a sum of Rs. 7,63,28,919=00 (Rupees Seven Crores Sixty three Lakh twenty eight thousand nine hundred nineteen only) which includes interest @ 15% per annum from 11-10-2017 onwards. The Applicant has not chosen to submit its claim in the prescribed format within the time stipulated as per the provisions of the Insolvency & Bankruptcy Code, 2016 and the Regulations.

2. The CP(IB) No. 349/KB/2017 was admitted vide Order dated 08-01-2019 and this Application seen filed on 28-06-2019. The Resolution Plan here in the case in hand, approved by the Committee of Creditors on 16-03-2019 and that Plan is under consideration of this Bench. It is, at this juncture, this Application comes up for consideration. According to the Ld. Counsel for the

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13824/2018 GOVT. OF INDIA

Sd

Sd

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Applicant, the Hon'ble Supreme court, vide Order dated 09-08-2019, issued direction to this Tribunal to consider this application and prays for issuing direction to RP for consideration of its claim. The direction he referred read as under:-

> *"Taking into consideration the peculiar facts and circumstances of the case, the Appellant, with the consent of all the respondents, is permitted to participate in the resolution process which is going on before the National Company Law Tribunal, Kolkata in CP(IB) No. 349/KB/2017."*

3. While this Bench is considering the question of approval of the Resolution Plan submitted by the Resolution Professional, the Ld. Counsel, appearing for the Applicant in this CA, interfered the hearing on many occasions and this Bench, vide Order dated 21-08-2019, made it clear that the argument, if any, in respect of the Application above referred, would be heard after completion of the hearing of the pending CA s., challenging the approval of the Resolution Plan. Accordingly, this Application came up for final hearing on 29-08-2019. Neither the Applicant, nor the Ld. Counsel, has entered appearance for prosecuting the Application. In the meanwhile, a written notes of submission seen filed by the Ld. Counsel for the Applicant on 26-08-2019.

4. The objections seem to have raised in the written submission is that the Applicant, from the commencement of the proceedings initiated by the Corporate Applicant, in the case in hand, raised objections regarding the maintainability of this Petition before this Bench. Overruling the objections and dismissing the Application filed by the Applicant, this bench admitted the

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13824/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

CP(IB) No. 349/KB/2017 and initiated CIRP process as against the Corporate Applicant. Aggrieved by the Order of dismissal, the Applicant went up to Hon'ble Supreme Court. The appeal preferred before the Hon'ble NCLAT was dismissed by the Order dated 14-12-2018. Dissatisfied with the Order of dismissal, the Applicant went up to Hon'ble Supreme Court. The Hon'ble Supreme Court, though stayed all further proceedings in continuing the CIRP process in the case in hand, vide Order dated 06-05-2019, dismissed the Application, however, making the observation referred to above.

5. The Applicant filed this Application allegedly on the strength of the Hon'ble Supreme Court observations in the above said Order that it is permitted to participate in the Resolution Process undergoing before the Tribunal including staying the proceedings so as to enable its claim which has not been submitted before the Resolution Professional till the date of approval of the Resolution Plan by the Committee of Creditors.

6. The CA(IB) No. 1051/KB/2019 is an Application filed on 16-08-2019 for early disposal of CA(IB) No. 877/KB/2019, before the disposal of the remaining pending Applications. Both these applications were opposed by the RP. We heard the Ld. Sr. Counsel for the RP and perused all the records.

7. The request for stay of the proceedings after approval of the Resolution Plan by the Committee of Creditors cannot be taken consideration because the CIRP period was expired on 23.03.2019. As per the objection raised in the written submission, the reason for non-submission of the claim before the resolution Professional is that the Applicant challenged the jurisdictional issue of this Tribunal in considering an Application under Section

NOTARY GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director/Authorised Signatory

10 of the Code. We do not find any justifiable reason to hold that an Applicant, who failed in challenging the jurisdictional issue upto Hon'ble NCLAT, has not chosen to submit its claim before the Resolution Professional within the stipulated period as provided under the provisions of the Code and the Regulations. The pendency of the Appeal challenging the jurisdictional issue in admitting the CP by this Bench not at all prevented the Applicant in submitting its claim before the Resolution Professional for the consideration by the Committee of Creditors. That being so, we do not find any justifiable reason in upholding the contentions on the side of the Applicant that its claim submitted before us is to be referred to the Resolution Professional. There is no provision under the Code and Regulations to enable us to do so and accordingly, both these Applications deserve no consideration and therefore, are liable to be dismissed.

8. In the result both this applications are dismissed. However parties are directed to bare the respective cost.

Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

Sd

(Harish Chander Suri)
Member (T)

Sd
4/9/19

(Jinan K.R.)
Member (J)

Signed on this, the 4th day of September, 2019.

/hb./

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN NO 13824/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONAL BENCH, KOLKATA, WEST BENGAL
FINANCE CENTRE, 3RD FLOOR, NEW TOWN
[Under Section 18 (1) read with Section 14 of the National Green Tribunal Act, 2010]

ORIGINAL APPLICATION NO. 188/2023/EZ

RAJKUMAR DAS

... Applicant

-And-

In the matter of:
MOEF & ORS.

... Respondents

AFFIDAVIT-IN-OPPOSITION FILED ON BEHALF OF THE RESPONDENT NO.4 ABOVENAMED TO THE APPLICATION FILED BY THE APPLICANT UNDER SECTION 18 (1) READ WITH SECTION 14 OF THE NATIONAL GREEN TRIBUNAL ACT, 2010

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(Pages 1 - 160)



SHOUNAK MITRA, Advocate
ZULFIQAR ALI ALQUADERI, Advocate
SHIVANGI THARD, Advocate
C/o **KHAITAN & CO LLP**
Advocates, Solicitors, Notaries
Patent & Trademark Attorneys
Emerald House
1B, Old Post Office Street
Kolkata 700 001

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONAL BENCH, KOLKATA, WEST BENGAL
FINANCE CENTRE, 3RD FLOOR, NEW TOWN
[Under Section 18 (1) read with Section 14 of the National Green Tribunal Act, 2010]

ORIGINAL APPLICATION NO. 188/2023/EZ

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... Applicant

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In the matter of:

MOEF & ORS.

... Respondents

AFFIDAVIT-IN-OPPOSITION FILED ON BEHALF OF THE RESPONDENT NO.4 ABOVENAMED TO THE APPLICATION FILED BY THE APPLICANT UNDER SECTION 18 (1) READ WITH SECTION 14 OF THE NATIONAL GREEN TRIBUNAL ACT, 2010

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NOTARY GOVT. OF INDIA
KOLKATA
SHYAM NARAYAN PANDEY
REG. NO. 19/2842/2018

SHOUNAK MITRA, Advocate
ZULFIQAR ALI ALQUADERI, Advocate
SHIVANGI THARD, Advocate
C/o **KHAITAN & CO LLP**
Advocates, Solicitors, Notaries
Patent & Trademark Attorneys
Emerald House
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Kolkata 700 001

Annexure "R-10"

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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NOTARY KOLKATA SHYAM BABU PANDEY REGN NO. 1992/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Company Appeal (AT) (Insolvency) No. 995 of 2019
&
I.A. No.179 of 2020

[Arising out of Impugned Order dated September 4, 2019, passed by the Adjudicating Authority/National Company Law Tribunal, Kolkata Bench, Kolkata in Company Petition (I.B.) No. 349/K.B./2017]

IN THE MATTER OF:

S.S. Natural Resources Private Limited
Through Mr Gobindram Chandgiram Agarwal
Authorised Signatory
Having its Registered Office at:
2nd Floor, SS Chambers
5 Chittaranjan Avenue
Kolkata - 700072 **...Appellant**

Versus

1. **Ramsarup Industries Limited**
   Through the Resolution Professional
   Mr Kshitiz Chhawchharia
   Having its registered office at:
   Hastings Chamber,
   2nd Floor, Room No.1,
   7C, Kiran Shankar Roy Road
   Kolkata – 700 001 **...Respondent No.1**

2. **Kshitiz Chhawchharia**
   Resolution Professional of
   Ramsarup Industries Limited
   Having his office at:
   C/o B Chhawchharia & Co
   8A & B, Satyam Towers
   3, Alipore Road, Kolkata – 700027 **...Respondent No.2**

3. **Monitoring Agency of Ramsarup Industries Limited**
   Through its Chairman, Kshitiz Chhawchharia
   Having its office at:
   C/o B Chhawchharia & Co
   8A & B, Satyam Towers
   3, Alipore Road, Kolkata – 700027 **...Respondent No.3**

NOTARY KOLKATA SHIVA KUMAR PANDEY REGN. NO 1332/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

4. West Bengal Industrial
Development Corporation
Registered Office:
Protiti 23 Abanindranath Thakur Sarani
Kolkata – 700017
Through its Managing Director ...Respondent No.4

5. Asset Reconstruction Company of India Ltd
Registered office at:
The Ruby, 10th Floor,
29, Senapati Bapat Marg, Dadar (West)
Mumbai – 400028
Through its Managing Director ...Respondent No.5

Present:

For Appellant : Mr Sumant Batra, Mr Sanjay Bhatt, Ms Niharika Sharma, Mr Abhirup Das Gupta and Mr Rahul Mendiratta, Advocates.

For Respondent : Mr Darpan Wadhwa, Sr Advocate with Ms Smiriti Churiwal, Advocates for CoC (R-5)
Mr Rony O. John, Mr Deep Roy, Advocates for R-1
Mr RN Ghosh, Advocates for Impleadment
Mr Krishnendu Datta Sr Advocate with Mr Vikram Mehta, Mr Debolina Roy, Advocates for R-4
Mr Dinkar Singh, Advocate for ARCL
Mr Mahendra Ralhan, Advocate.
Mr Utsav Mukherjee and Mr Jaivir Sidhant, Advocates for CoC

With

Company Appeal (AT) (Insolvency) No. 988 of 2019

IN THE MATTER OF:

Pegasus Assets Reconstruction Pvt Ltd
(Financial Creditor)
Office at:
Free Press House, 55-56
5th Floor, Nariman Point
Mumbai – 400021 ...Appellant

Versus

1. Kshitiz Chhawchharia
Resolution Professional

NOTARY KOLKATA SHYAM SUNDAR PANDEY REGN. NO 13024/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.
Director / Authorised Signatory

Office at:
8A & B, Satyam Towers
3, Alipore Road, Kolkata – 700027 ...Respondent No.1

2. Ramsarup Industries Limited
(Corporate Debtor)
8A & B, Satyam Towers
3, Alipore Road, Kolkata – 700027 ...Respondent No.2

3. Asset Reconstruction Company
(India) Limited
Registered office at:
The Ruby, 10th Floor,
29, Senapati Bapat Marg, Dadar (West)
P.O.& P.S. Dadar (West)
City and District, Mumbai – 400028

Also at:
Regional office at Room No. A-11
8th Floor, Chatterjee International Centre
33A, Jawaharlal Nehru Road ...Respondent No.3
Kolkata – 700071

Present:

For Appellant : Mr Atul Sharma, Mr Shashank Kumar, Mr Sugam Seth, Mr Amit Singh Chadha, Advocates.

For Respondent : Mr Rony O. John and Mr Deep Roy, Advocates for R-1
Mr Sumant Batra, Mr Sanjay Bhatt (Resolution Applicant), Ms Niharika, Mr Mahendra Ralhan and Mr Rahul Mendiratta, Advocates.
Mr Dinkar Singh, Advocate for (ARCL)

With

Company Appeal (AT) (Insolvency) No. 1039 of 2019

IN THE MATTER OF:

1. Aashish Jhunjhunwala
S/o Sri Ambika Prasad Jhunjhunwala
Residing at: 10/4, Alipore Park Place
Kolkata – 700027 ...Appellant No.1

2. Imtihan Commercial Private Limited
A Company incorporated within the

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13824/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.
Director / Authorised Signatory

Meaning of the Companies Act, 2013
and having its registered office at
7C, Kiran Shankar Roy Road
Hastings Chamber, 2nd Floor, Room No.1,
Kolkata – 700 001 ...Appellant No.2

3. N R Mercantile Private Limited
7C, Kiran Shankar Roy Road
"Hastings Chambers", 2nd Floor,
Room No.1, Kolkata – 700 001 ...Appellant No.3

4. Ramsarup Investment Limited
7C, Kiran Shankar Roy Road
"Hastings Chambers", 2nd Floor, Room No.1,
Kolkata – 700 001 ...Appellant No.4

5. Ramsarup Projects Private Limited
7C, Kiran Shankar Roy Road
"Hastings Chambers", 2nd Floor, Room No.1,
Kolkata – 700 001 ...Appellant No.4

Versus

1. Kshitiz Chhawchharia
Resolution Professional of
Ramsarup Industries Limited
Having his Office at:
C/o B. Chhawchharia & Co.
8A & 8B, Satyam Towers
3, Alipore Road, Kolkata – 700027 ...Respondent No.1

2. S.S. Naturals Resources Private Ltd
Having its Office at:
SS Chambers, 5, C R Avenue
2ndFloor, Kolkata - 700072 ...Respondent No.2

3. M/s Asset Reconstruction
Company (India) Ltd
Having its registered office at:
The Ruby, 10th Floor,
29, Senapati Bapat Marg, Dadar (W)
Mumbai – 400028 ...Respondent No.3

4. Committee of Creditors of
Ramsarup Industries Limited
Through their Advocate Vidhi Partners
Having their office at:

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO. 13024/2019 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

F-13, First Floor, Jangpura Extn.
New Delhi – 110014 ...Respondent No.4

Present:

For Appellant : Mr Zeeshan Haque and Mr Ashish Jhunjhunwala, Advocates.

For Respondent : Mr Rony O. John and Mr Deep Roy, Advocates for R-1
Mr Sumant Batra, Mr Sanjay Bhatt, Ms Niharika, and Mr Rahul Mendiratta, Advocates for R-2
Mr Mahendra Rolhan, Advocate.
Mr Dinkar Singh, Advocate for (ARCL)

With

Company Appeal (AT) (Insolvency) No. 1124 of 2019

IN THE MATTER OF:

Aashish Jhunjhunwala
S/o Sri Ambika Prasad Jhunjhunwala
Residing at: 10/4, Alipore Park Place
Kolkata – 700027 ...Appellant

Versus

1. Kshitiz Chhawchharia
Resolution Professional of
Ramsarup Industries Limited
Having his Office at:
C/o B. Chhawchharia & Co.
8A & 8B, Satyam Towers
3, Alipore Road, Kolkata – 700027 ...Respondent No.1

2. Committee of Creditors of
Ramsarup Industries Limited
Through their Advocate Vidhi Partners
Having their office at:
F-13, First Floor, Jangpura Extn.
New Delhi – 110014 ...Respondent No.2

3. S.S. Naturals Resources Pvt Ltd
Having its Office at:
S S Chambers, 5, C R Avenue, 2nd Floor
Kolkata - 700072 ...Respondent No.3

Present:

NOTARY KOLKATA SHRADDHA PANDEY REGN NO 15324/2016 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

For Appellant : Mr Zeeshan Haque and Mr Ashish Jhunjhunwala, Advocates.

For Respondent : Mr Rony O. John and Mr Deep Roy, Advocates for R-1
Mr Sumant Batra, Mr Sanjay Bhatt, Ms Niharika, and Mr Rahul Mendiratta, Advocates for R-2
Mr Mahendra Rolhan, Advocate.
Mr Dinkar Singh, Advocate for (ARCL)

With

Company Appeal (AT) (Insolvency) No. 1125 of 2019

IN THE MATTER OF:

Vanguard Credit & Holdings Private Limited
A company incorporated within the meaning
of the Companies Act, 2013
Having its Registered Office at:
7C, Kiran Shankar Roy Road
Hastings Chamber, 2nd Floor, Room No.1,
Kolkata – 700 001 ...Appellant

Versus

1. Kshitiz Chhawchharia
Resolution Professional of
Ramsarup Industries Limited
Having his Office at:
C/o B Chhawchharia & Co.
8A & 8B, Satyam Towers
3, Alipore Road, Kolkata – 700027 ...Respondent No.1

2. S.S. Naturals Resources Private Ltd
Having its Office at:
S S Chambers, 5, C R Avenue, 2nd Floor
Kolkata - 700072 ...Respondent No.2

3. M/s Asset Reconstruction
Company (India) Ltd
Having its registered office at:
The Ruby, 10th Floor,
29, Senapati Bapat Marg, Dadar (W)
Mumbai – 400028 ...Respondent No.3

4. Committee of Creditors of
Ramsarup Industries Limited
Through their Advocate Vidhi Partners

NOTARY KOLKATA SHYAM PURWAN PANDEY REGN. NO. 13024/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Having their office at:
F-13, First Floor, Jangpura Extn.
New Delhi – 110014 ...Respondent No.4

Present:

For Appellant : Mr Zeeshan Haque and Mr Ashish Jhunjhunwala, Advocates.

For Respondent : Mr Rony O. John and Mr Deep Roy, Advocates for R-1
Mr Abhirup Dasgupta, Advocate for R-2
Ms Smriti Churiwal, Mr Utsav Mukherjee and Mr Jaivir Sidhant, Advocates for R-4 CoC
Mr Mahendra Ralhan, Advocate.
Mr Dinkar Singh, Advocate for (ARCL)

With

Company Appeal (AT) (Insolvency) No. 1159 of 2019

IN THE MATTER OF:

Orissa Metaliks Private Limited
A company within the meaning of the
Companies Act, 2013
Having its Registered office at:
1, Garstin Place, "Orbit House."
3rd Floor, Room No. 3B, Kolkata – 700 001
(Through its Authorised Representative
Mr Kadam Singh) ...Appellant

Versus

1. Mr Kshitiz Chhawchharia
Resolution Professional of
Ramsarup Industries Limited
Having its Office at:
C/o B Chhawchharia & Co.
8A & 8B, Satyam Towers
3, Alipore Road, Kolkata – 700027 ...Respondent No.1

2. S.S. Natural Resources Private Limited
A company Registered under the
Companies Act, 1956
Having its Registered Office at:
S S Chambers, 5, C R Avenue, 2nd Floor
Kolkata – 700072 ...Respondent No.2

NOTARY KOLKATA SHYAM SARAN N PANDEY REGN. NO 13824/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.
Director / Authorised Signatory

Present:

For Appellant : **Mr Abharajit Mitra, Sr. Advocate with Mr RN Ghose, Mr Santanu Ghose and Ms Urmila Chakraborty, Advocates.**

For Respondent : **Mr Rony O. John and Mr Deep Roy, Advocates for R-1**
Mr Dinkar Singh, Advocate for (ARCL)
Mr Sanjay Bhatt, Mr Sanjay Bhatt, Ms Niharika, Ms Sumant Batra and Mr Rahul Mendiratta, Advocates.

With

Company Appeal (AT) (Insolvency) No. 1242 of 2019

IN THE MATTER OF:

Indian Renewable Energy Development Agency Ltd
A company within the meaning of the Companies Act, 1956
Having its registered office at:
Core 4A, East Court, 1st Floor
Indian Habitat Centre, Lodhi Road
New Delhi – 110003 **...Appellant**

Versus

1. **M/s Ramswarup Industries Limited**
   A company within the meaning of the Companies Act, 1956
   Having its registered office at:
   7C, Kiran Shankar Roy Road
   Hastings Chamber,
   2nd Floor, Room No.1,
   Kolkata – 700 001 **...Respondent No.1**

2. **Sri Kshitiz Chhawchharia**
   The Resolution Professional
   C/o B Chhawchharia & Co.
   7 A&B, Satyam Towers
   3, Alipore Road, Kolkata – 700027 **...Respondent No.2**

3. **S S Natural Resources Pvt Ltd**
   A company within the meaning of the Companies Act, 1956
   Having its Registered Office at:

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. K5524/2016 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

S S Chambers, 5, C R Avenue, 2nd Floor
Kolkata, West Bengal– 700072 ...Respondent No.3

4. Suzlon Global Services Ltd
Left-Wing, Level' O', Aqua Lounge
Suzlon One Earth
Opp. Magarpatta City
Hadapssar, Pune – 411028 ...Respondent No.4

Present:

For Appellant : Ms Varsha Banerjee, Advocate

For Respondent : Mr Rony O. John and Mr Deep Roy,
Advocates for R-1
Mr Sumant Batra, Mr Sanjay Bhatt, Ms Niharika,
and Mr Rahul Mendiratta, Advocates for R-2
Mr Mahendra Rolhan, Advocate.
Mr Dinkar Singh, Advocate for (ARCL)

With

Company Appeal (AT) (Insolvency) No. 468 of 2020

IN THE MATTER OF:

Edelweiss Finvest Private Limited
Having its registered office at:
02nd Floor, M B Towers
Plot No. 5, Road No.2
Banjara Hills, Hyderabad – 500 034 ...Appellant

Versus

1. Mr Kshitiz Chhawchharia
Having Registration No.
IBBI/IPA-001/IP-P00358/2017-18/10616B
10A, Alipore Park Place, Kolkata – 700027
Resolution Professional for ...Non-Applicant/
Ramswarup Industries Limited Respondent

2. Ramswarup Industries Limited
Having its office at:
7C, Kiran Shankar Roy Road
Hastings Chambers, 2nd Floor,
Room No.1, Kolkata – 700 001 ...Corporate Debtor

NOTARY KOLKATA SHYAM KRISHNA PANDEY REGN. NO. 10324/2013 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Present:

For Appellant : **Mr Shatadru Chakraborty, Ms Sonia Dube, Ms Kanchan Yadav and Ms Surbhi Anand, Advocates.**

For Respondent : **Mr Rony O. John and Mr Deep Roy, Advocates for R-1**
Ms Smriti Churiwal, Advocates for R-2(CoC)
Mr Utsav Mukherjee & Mr Jaivir Sidhant, for CoC
Mr Sumant Batra, Mr Sanjay Bhatt, Ms Niharika, and Mr Rahul Mendiratta, Advocates for R-3

J U D G M E N T

[Per; V. P. Singh, Member (T)]

These eight Appeals emanate from the common Order dated September 4, 2019, passed by the Adjudicating Authority/National Company Law Tribunal, in Company Petition (I.B.) No.349/K.B./2017, Kolkata Bench, Kolkata, whereby the Adjudicating Authority has approved the Resolution Plan submitted by S S Natural Resources Private Limited (in short 'SSN') under Section 31of the Insolvency and Bankruptcy Code, 2016 (in short 'I&B Code'). Their original status in Company Petition represents the Parties in all these appeals for the sake of convenience.

Civil Appeal (AT) (Ins.) No. 995 of 2019

2. The brief facts of the case are as follows:

The Appellant in this Appeal is the Successful Resolution Applicant whose Plan is approved by the Adjudicating Authority by the Impugned Order. Appellant has challenged the impugned Order only to the extent of not allowing the terms contemplated in Clause 15.15.5 of the Resolution Plan, thus making the entire Plan unviable and unfeasible.

NOTARY KOLKATA REGN NO. 10/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

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3. The Appellant contends that the Adjudicating Authority has while purportedly approving the Resolution Plan dated March 11, 2019, submitted by the Appellant under Section 31(1) of the Code, unilaterally made certain modifications to the Plan and increased the outflow of the Appellant beyond the sum of ₹400 Crore offered by the Appellant in the Plan, without the consent of the Appellant/Resolution Applicant.

4. The Appellant has, in Clause 15 of the Plan, as a part of the additional terms of the Plan, inter-alia, transfer of the lease of 315 acres of land lying in Kharagpur, granted by West Bengal Industrial Development Corporation (in short 'WBIDC') to Ramsarup Loh Udyog, a unit of the Corporate Debtor, to the Respondent No.1 Ramsarup Industries Limited being the Corporate Debtor, without the payment of any fee, consideration or premium or arrears of lease rent or penalty or interest. However, the Adjudicating Authority has in its impugned Order failed to sanction the same. Consequent to the refusal of the Adjudicating Authority to sanction this term, the Appellant will have to incur an additional sum of ₹40 Crores towards transfer charges as well as arrear lease rents, penalty and interest, which shall result in the increase in the outflow of the Appellant/Successful Resolution Applicant, from ₹400 crores (being the maximum sum the Appellant had agreed to pay under the approved Plan) to beyond ₹440 crores, thus rendering the Plan unviable and unfeasible.

5. The Appellant has taken the ground as follows:

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For RAMSARUP INDUSTRIES LTD.

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- The Adjudicating Authority is not authorised to modify the Plan by imposing additional financial obligation other than what has accepted by the Appellant in the Plan.

- The Adjudicating Authority has materially changed and altered the Resolution Plan, which was duly approved by the 'CoC' by refusing to sanction the conditions in Clause 15.15, i.e. a mandatory part of the Plan. This resulted in an increase in significant financial costs, which has adversely affected the plan's very basis and substratum, affecting the feasibility and viability of the Plan, making it incapable of being implemented.

- The Adjudicating Authority has no power to unilaterally modify or change the Plan without the Appellant's approval.

- The Adjudicating Authority has failed to notice Clause 11 of the Plan, which clearly states that if the Plan is approved with variation, the 'SSN' shall be bound by the Plan only if the variation is acceptable in the Plan.

6. The Appellant further contended that the 'CoC' in the commercial wisdom approved the Resolution Plan. However, while approving the Resolution Plan, the Adjudicating Authority modified the core commercial terms of the Resolution Plan, making the same commercially unviable and unworkable for the Appellant. It is submitted that the modifications made are contrary to express assumptions made by the Appellant in the Resolution Plan

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 10324/2012 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

and against the CoC's commercial decision. It is further contended that the Hon'ble Supreme Court in case of K. Sashidhar v Indian Overseas Bank (2019) 12 SCC 150 has settled the law that the Adjudicating Authority's discretion is limited to the extent of satisfaction that the Resolution Plan meets the requirements specified in Section 30(2) of the I&B Code. Such commercial considerations are outside the scope of judicial review. If there is a contravention of the provision of Section 30(2) of I&B Code, including a decision on the Resolution Applicant's eligibility under Section 29 A, then such Plan would be subject to judicial scrutiny. Therefore it is a settled position that the action taken by the 'CoC' with respect to approval/rejection of Resolution Plan is supreme, and the Adjudicating Authority has no jurisdiction to interfere with the commercial decision taken by the 'CoC'. Therefore, the Adjudicating Authority's decision for modification of Resolution Plan is contrary to the law laid down by Hon'ble Supreme Court in the above-mentioned case.

7. The Learned Counsel for the Appellant also emphasised Clause 11 of the Resolution Plan, which reads as under;

> *"not withstanding anything contained in this resolution plan, no part of the resolution plan shall become effective or enforceable until either (i) the resolution plan is approved by the COC and the Adjudicating Authority in its entirety; or (ii) if approved by the adjudicating authority with any variance, then in the form and substance acceptable to the COC and the Resolution Applicant".*

NOTARY KOLKATA SHIVAJI NARAYAN PANDEY REGN NO. 13824/2018 GOVT. OF INDIA

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Director / Authorised Signatory

Therefore, on account of the Resolution Plan's modifications, while approving the same vide impugned Order, the Appellant cannot be forced to implement the same on account of non-satisfaction of the above condition precedent.

8. The Learned Counsel for the Appellant also argued that the Covid 19 global pandemic had added further to the Appellant's woes. Due to the ongoing pandemic, India's Government imposed a nationwide Lockdown by suspending all sorts of economic and commercial activities from March 21, 2020, which still exist in some areas. Considering that the Covid 19 has caused a substantial drop in overall market valuation, the Resolution Plan has become unfeasible and unviable.

9. The Appellants also seek to bring on record subsequent events, including the Force Majure Clause's invocation under the Resolution Plan by way of an additional affidavit. In the wake of invocation of the Force Majure Clause, the Appellant prays that the impugned Order approving the Resolution Plan be set aside as the Appellant has since withdrawn the Resolution Plan due to subsequent events which have made the Resolution Plan financially, economically and operationally unviable for the reasons beyond the control of the Appellant.

10. In reply to the above, Resolution Professional contends that the Appeal is solely premised on the ground that a waiver sought from the Adjudicating Authority in its Resolution Plan has not been granted. The 'SSN' had sought

NOTARY KOLKATA SHYAM NARAIN PANDEY REGN NO. 19/24/2015 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director/ Authorised Signatory

transfer of the lease of the land of about 315 acres lying in Kharagpur to 'Ramsarup Industries Ltd'. The 'SSN' has contended that the Adjudicating Authority has not sanctioned the waiver on transfer about payment of any fee, consideration, premium, arrears of lease rent or penalty or interest; therefore, the Resolution Plan has purportedly become unviable and unfeasible.

11. As per Clause 15.3, Clause 15.12 and Clause 15.14 (vi) (g) of the Resolution Plan, if the waiver sought are not granted or the assumptions made are not true, it will not have a bearing on the successful implementation of the Resolution Plan. The 'CoC' has approved the Resolution Plan, fully aware of these clauses in the Resolution Plan. The Adjudicating Authority has not in any manner mandated or directed 'SSN' to make payments of the transfer fee, consideration, premium, arrears of lease rent, penalties, interest, or any other payment to 'WBIDC'.

12. The Adjudicating Authority as noted in its Order that "*any exemption for payment would be dealt with by the respective authorities if applied for. With the above observations, we are not inclined to approve the waiver as prayed for in the Plan. It is left open for determination by the appropriate authorities if applied for the waiver/exemption as prayed for in the plan*". (verbatim copy)

13. As per Clause 15.3 of the Resolution Plan, the Resolution Applicant has given an undertaking that;

NOTARY KOLKATA SHRI HARI RAM PANDEY GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

> "*if the approvals, extinguishment and waiver sought under Annexure 3 are not granted, it will not in any way jeopardise the implementation of the Resolution Plan, and the resolution applicant shall remain responsible for such implementation of the Resolution Plan.*"

14. The Resolution Professional further contends that the Learned Counsel appearing for the Resolution Applicant was asked about the possibility of increasing the distribution percentage offered to the Operational Creditors other than workmen's dues. It was then submitted that the Resolution Applicant is unwilling to carry and modify the Plan. The waiver asked for if not granted; the Resolution Applicant may withdraw from implementing the Plan.

15. It is further submitted that there is no transfer requirement to the Corporate Debtor, as the lease is already in favour of the Corporate Debtor. Hence the need for payment of any transfer fee does not arise. It is pertinent to note that the appointed date of Ramsarup Loh Udyog's merger with the Corporate Debtor is April 1, 2007. The lease over the Kharagpur land has been granted in favour of the Corporate Debtor vide indenture of sub-lease executed on September 13, 2009,i.e after the merger. Therefore, when providing the lease, the Corporate Debtor was the legal entity, and Ramsarup Loh Udyog was merely its unit.

16. The Resolution Professional further contends that there is no requirement for payment of any arrears of lease rent, penalty interest to West

NOTARY YOKITA SHAD CHAND PANDEY REGN. NO. 13024/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Bengal Industrial Development Corporation by 'SSN' because no claim has been submitted by 'WBIDC' about arrears of lease rentals, interest or premium, for a period before the commencement of the Corporate Insolvency Resolution Process of the Corporate Debtor. As per the Resolution Plan, such amounts will be written off in full and shall be deemed to be permanently extinguished by the Order approving the Resolution Plan. The 'SSN' or the Corporate Debtor at no point in time be directly or indirectly held responsible or liable about it.

17. It is further contended that it is neither established nor borne out from the records that 'SSN' is required to pay an amount higher than ₹ 400 crores. The alleged assumption of an amount higher than ₹ 400 crores is based on presumptions only. Therefore, after the Resolution Plan's approval, the alleged payment is not required to be made as claimed of 'SSN.

18. The Resolution Professional further contends the transfer of Kharagpur land to the Corporate Debtor under Clause 15.15 of the Resolution Plan is not a mandatory condition of the Resolution Plan and are covered under the approvals, extinguishment and waiver sought under Annexure 3 of the Resolution Plan. The following items of Annexure 3 cover the extinguishments sought by Appellant in Clause 15.15;

> Item 11- "*waiver of any dues of what so ever nature towards the Railways, water authorities or any such infrastructure provider and waiver of all statutory liabilities as the liquidation value is nil.*"

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 16824/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

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Item 17-"*specific waiver of transaction costs related to implementation of the resolution plan including but not limited to any incidence of a stamp duty, ROC fees, income tax, any statutory levy,* ***renewal charges****, etc. The resolution plan envisages increase in the authorised capital for the implementation. The ROC fees towards the same shall be a specifically waived.*"

Item 19-"permitting waiver of all liabilities arising out of implementation of the transactions is contemplated in the resolution plan and instructing the relevant authorities concerned accordingly."

Item 21-"directions from adjudicating authority to the relevant parties concerned to ensure continuity of critical infrastructure contracts/arrangements."

19. The Resolution Professional further submitted that the Adjudicating Authority has approved the Resolution Plan and has merely directed 'SSN' to seek waivers, if necessary, from the relevant authorities. The Adjudicating Authority has not unilaterally altered the Resolution Plan. The 'SSN' had sought certain waivers, approvals, and extinguishment in its Resolution Plan. Instead of approving or rejecting the same, the Adjudicating Authority stated that they might be sought by 'SSN' from the relevant authorities. Therefore, it cannot be concluded that the Adjudicating Authority has unilaterally altered or modified the Resolution Plan.

20. It is pertinent to mention that as per the terms of the approved Resolution Plan Monitoring Agency was constituted. After that 1st Meeting of the Monitoring Agency took place on September 13, 2019.

NOTARY KOLKATA SANJAY KUMAR PANDEY REGN. NO. 19024/2018 GOVT. OF INDIA

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Director / Authorised Signatory

21. The Learned Counsel for Respondent No. 5 'WBIDC' submitted that the Appeal is misconceived and premature. The Appellant has neither any actual cause of action nor is aggrieved by the impugned Order in any manner. The Appeal is entirely premised on the Appellant's apprehension that it may have to incur additional expenses provided it has to comply with the statutory obligation under the Resolution Plan.

22. The Learned Counsel for 'CoC' contended that the waiver from payment of transfer fees, penalties and arrears are payable under sub-lease deed, as the sublease right of the Kharagpur land ("the land in question") was granted by the 'WBIDC' to one unit of the Corporate Debtor namely Ramsarup Loh Udyog, which was merged with the Respondent No. 1 way back on September 18, 2008. Therefore, there cannot be any requirement of payment of any transfer fees as contended in the absence of any transfer. Accordingly, the objections raised by the Appellants are untenable. The Lease Deed entered into between the 'WBIDC' and the Corporate Debtor's unit does not contemplate any transfer fees. 'WBIDC', being a member of the Committee of Creditors, was aware of all terms and conditions in the Plan and had therefore voted in favour of the Plan. Accordingly, it is now estopped from claiming what it has already waived in the Plan, which has even received the Adjudicating Authority's approval.

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23. The Learned Counsel for the Committee of Creditor's contended that the claim of 'WBIDC' has only been raised pursuant to the filing of the captioned Appeal and includes the following components;

- Transfer fee payable at the rate of 10% of the subleased market value, which it estimates to be around ₹ 9.23 crore.

- ₹ 22.07 Lac, payable towards the outstanding arrears of subleased rent in respect of the subleased property.

- ₹ 33.37 lakhs payable towards interest at the rate of 12% per annum on the outstanding arrears of subleased rent.

- ₹ 4.85 crores payable on account of land revenue and cess in respect of the said property to the District Land and Land Reforms Officer, Government of West Bengal, subject to the Government's confirmation.

24. It is pertinent to mention that the above-mentioned claims from 'WBIDC' are an afterthought as the same was raised after the Appellant apprehended transfer fees payable to be the tune of ₹ 40 crores. It is also important to mention that 'WBIDC', being a Financial Creditor, has not raised any of the claims mentioned above before the Resolution Professional or the Adjudicating Authority. In fact, 'WBIDC' voted in favour of the Resolution Plan without any comment about such claims as stated hereinabove. The same is an afterthought, quantified and submitted only in its Written Submission dated 29 July 2020, and these were never placed before the Resolution

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO. 1552/2018 GOVT. OF INDIA

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Professional. Further, 'WBIDC' had only placed its claim before the 'CoC' regarding security charges, which has been approved. Considering the above, it is clear that WBIDC's claim is an afterthought and barred by estoppel, waiver and acquiescence. No subsequent claims are to be considered after the Adjudicating Authority has approved the Resolution Plan. The Appellant's contentions that the claims of 'WBIDC' are an afterthought should be disregarded in its entirety.

25. The Insolvency and Bankruptcy Code, 2016 has been enacted to facilitate the reorganisation based on an entirely different premise. It is enacted to facilitate the reorganisation and Resolution Process of a company in distress. It empowers creditors, represented by a 'CoC', to rescue a company through resolution when the company experiences a serious threat to its continuity. For this purpose, the 'CoC', in its commercial wisdom, can accept any payments against its outstanding liability to ensure resolution of the Corporate Debtor in accordance with the judgement of the Hon'ble Supreme Court in case of Committee of Creditors of Essar Steel India Ltd v Satish Kumar Gupta 2019 SCC Online SC 1478. Further, after it received the approval of the 'CoC' and the Adjudicating Authority, the entire process of Resolution Plan is to offer a fresh slate, on which the restructuring of the Corporate Debtor can be carried out. Reliance in this regard is placed on the judgement of this Tribunal in case of State of Haryana versus Uttam Strips Ltd in Company Appeal (AT) (Insolvency) No. 319 of 2020 wherein it is observed that the Successful Resolution Applicant is not to be burdened with

NOTARY KOLKATA SHYAM L. PANDEY REGN. NO. 12524/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

undecided claims at the stage of implementation of the Resolution Plan. Further, it is observed that;

> *"A successful Resolution Applicant is to be provided by the company free from past liabilities. It has been rightly understood that a successful Resolution Applicant cannot be saddled with past liabilities indefinitely. Such an Act will make it impossible for the successful Resolution Applicant to run the business of the Corporate Debtor effectively. In fact, saddling a Resolution Applicant with past claims will defeat the entire purpose and mechanism set out under the Code."*

26. Thus in view of the above, the Appellant or 'WBIDC' cannot be permitted to disturb the Resolution Process on the basis of mere apprehensions of the additional cost of erroneous and subsequent claims, which are an afterthought as the same could be against the object of the I&B Code, 2016. Therefore, the principle laid down in the above-mentioned case, which has been relied upon by the Appellant and 'WBIDC', does not find a place in the premise discussed above and is thus not applicable to the facts of the case.

27. Respondent No. 4 'WBIDC' further contended that Clause 15.15.5 of the Resolution Plan is not a mandatory condition. It has to be read along with the other conditions of the Resolution Plan. Particularly, Clause 9(iv), Clause 15.3, Clause 17 and 19 of the Resolution Plan could apply to the sub-lease transfer with respect to the Kharagpur land. A combined reading of these clauses could make it clear that the Appellant had approached 'WBIDC' concerning the transfer of sub-lease and could apply for a waiver of the

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO 1382/2018 GOVT. OF INDIA

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transfer fee and lease rent. But 'WBIDC' was not obliged to grant such waiver. In the event 'WBIDC' refused to grant the transfer fee's waiver, lease rent, even then, the Appellant was bound to execute the Resolution Plan. Furthermore, the outstanding in respect of the land revenue and cess in respect of the Kharagpur land is due and payable to District Land and Land Reforms Officer, Government of West Bengal and not to 'WBIDC', thus 'WBIDC' has no authority to waive the same.

28. It is further contended that 'WBIDC' considers the change of majority shareholding and Directors of the lessee is an event of a transfer of the lease/sub-lease. As such, the transfer fee becomes payable upon such an occurrence. In terms of the Resolution Plan, the measure shareholding and Directors of the Corporate Debtor's, i.e. Ramsarup Industries Private Limited, will change. This constitutes a transfer of the lease/sub-lease of the Kharagpur land, and the transfer fee is chargeable. It is further contended that the present Appeal lacks merit and is liable to be dismissed, to the extent that it pertains to the findings against 'WBIDC'.

Conclusion

29. Successful Resolution Applicant S S Natural Resources Private Limited (In short, 'SSN') has challenged the impugned Order mainly on the ground that a waiver sought from the Adjudicating Authority in its Resolution Plan has not been granted. The Resolution Applicant has sought to transfer 315 acres of land lying in Kharagpur to Ramsarup Industries Ltd. The Appellant has contended that such transfer has been sought without the payment of

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any fee, consideration, premium, arrears of lease rent, penalty interest, and as the Adjudicating Authority has not sanctioned the same, the Resolution Plan has purportedly become unviable and unfeasible for 'SSN'.

30. As per Clause 15.3, Clause 15.12 and Clause 15.14 (iv) (g) of the Resolution Plan, if the waivers sought are not granted, or the assumptions made are not true, it will not have a bearing on the successful implementation of the Resolution Plan. The 'CoC' has approved the Resolution Plan, fully aware of these Clauses in the Resolution Plan. Further, the Adjudicating Authority has not in any manner mandated or directed 'SSN' to make payment of transfer fee, consideration, premium, arrears of lease rent, penalties, interest or any other payment to 'WBIDC'.

31. It is pertinent to mention that the Adjudicating Authority in its Order has specified that "*any exemption for payment could be dealt with by the respective authorities if applied for. With the above observations, we are not inclined to approve the waiver as prayed for in the Plan. It is left open for the determination by the appropriate authorities if applied for the waiver/exemption as prayed for in the Plan.*"

32. The Adjudicating Authority has based its Order on Clause 15.3 of the Resolution Plan. Adjudicating Authority has merely directed 'SSN' to seek waivers, if necessary, from the relevant authorities. The Adjudicating Authority has not unilaterally altered the Resolution Plan. The 'SSN' had sought certain waivers, approvals and extinguishment in its Resolution Plan.

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The Adjudicating Authority has, instead of itself approving or rejecting the same, stated that they might be sought by 'SSN' from the relevant authorities. This cannot in any manner be construed to imply that the Adjudicating Authority has unilaterally altered or modified the Resolution Plan.

33. As per Clause 15.3 of the approved Resolution Plan, if the approval, extinguishment, and wavier sought are not granted, it will not jeopardise the Resolution Plan. The Resolution Applicant shall remain responsible for its implementation.

34. In the instant case, the Adjudicating Authority, instead of approving or rejecting waivers, approvals and extinguishment sought in the Resolution Plan, has only directed the Resolution Applicant to seek such waivers, approvals and extinguishment from relevant authorities. Therefore, it cannot be concluded that the Adjudicating Authority has unilaterally altered or modified the Resolution Plan. Thus, the Appellants contend that the Adjudicating Authority has unilaterally altered the plan duly approved by the 'CoC', without the Resolution Applicant's consent is without any basis. Therefore, the Appellants contend that by not granting the waiver, the Adjudicating Authority has interfered in the 'CoC' commercial decision is misconceived.

35. Further, the Adjudicating Authority has not in any manner mandated or directed 'SSN' to make payments of the transfer fee, consideration, premium, arrears of lease rent, penalties, interest or any other payment to

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'WBIDC'. The 'CoC' has approved the Resolution Plan, fully aware of Clause 15.3, Clause 15.12 and Clause 15.14 (VI)(g). The Resolution Plan explicitly states that if waivers are not granted or the assumptions made are not true, it will not have a bearing on the Resolution Plan's successful implementation.

36. Regarding the objection of the Appellant in context with a transfer fee of Kharagpur land, it is important to mention the Ramsarup Loh Udyog is merged with the Corporate Debtor on the appointed date, i.e. 01 April 2007. The lease over the Kharagpur land has been granted in favour of the Corporate Debtor vide indenture of sub-lease, which was executed on 13 September 2009, after the merger. Therefore, when providing the lease, the Corporate Debtor was the legal entity, and Ramsarup Loh Udyog was merely its unit. The Successful Resolution Applicant 'SSN's allegations that it has to pay an amount higher than ₹400 crores is neither established nor borne out from the records. No calculations or facts have been provided to establish that amount higher than ₹400 crores are required to implement the Resolution Plan.

37. It is also important to mention that the Order dated 25 September 2019, passed by this Tribunal, has stayed the impugned Order's operation so far relating to the payment of the amount excess of ₹ 400 crores. Therefore, the Resolution Plan itself leaves a buffer for certain payments. The Appellant has prematurely and erroneously acted, based on presumptions and made arbitrary calculations in the captioned Appeal with the sole aim of evading its obligations under the approved Resolution Plan and has not paid a single

NOTARY KOLKATA SHRADHA PANDEY REGN NO 10242018 GOVT. OF INDIA

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Director / Authorised Signatory

penny on the pretext of the Order dated 25 September 2019 without there being any stay on the payments up to ₹ 400 crores.

38. Appellant further contended that due to Covid 19 pandemic impact, there is a substantial drop in overall market valuation. Therefore, the Resolution Plan has become unfeasible and unviable. It is further contended that the Force Majure Clause is being invoked. In the circumstances, the Resolution Plan has been withdrawn by the Appellant because subsequent events have made the Resolution Plan financially, economically and operationally unviable for reasons beyond the Appellant's control.

39. It is pertinent to mention that the impugned order relating to the Resolution Plan's approval is dated 04 September 2019. Covid 19 lockdown started from 15 March 2020 onwards. After approval of the Resolution Plan, Monitoring Agency was constituted from the date of approval of the Resolution Plan. Clause 13.1 (i) of the Resolution Plan states that "upon approval of the Resolution Plan, it shall be deemed that the Adjudicating Authority has approved the constitution of the Monitoring Agency in the manner specified in the Resolution Plan". It is pertinent to note that the first meeting of the Monitoring Agency held on 13 September 2019. It is also submitted on behalf of the Committee of Creditors that the Appellant has not attended any of the five meetings conveyed by the Monitoring Committee within 20 days from the date of approval of the Resolution Plan. It appears that the Successful Resolution Applicant 'SSN' does not want to implement the Plan. Therefore, the Appellant has not participated in the Monitoring Agency meetings. After

NOTARY KOLKATA SHYAM SUNDAR PANDEY REGN. NO. 13324/2018 GOVT. OF INDIA

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Director / Authorised Signatory

that, this Appeal is filed to avoid anticipated action on refusal to implement the Approved Plan.

40. In the circumstances as discussed above, we believe that Appeal sans merit and deserves to be dismissed.

Civil Appeal (AT) (Ins.) No.1039 of 2019

41. The Appellants being aggrieved by the Order dated September 4, 2019, in Company Application CA (IB) No. 461/KB/2090, under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, in Company Petition No. 349/KB/2017 has filed this Appeal.

42. The Appellant contends that the Adjudicating Authority by the Impugned Order has allowed and approved the Resolution Plan despite the fact that the total payment to the creditors of the Corporate Debtor under the Resolution Plan is ₹ 364.5 Crores, which is far less and below the liquidation value of the Corporate Debtor, which is ₹ 614 crores and the Resolution Plan has been approved despite the fact that there is no maximisation of the assets of the corporate debtor to satisfy the debts of the all the stakeholders concerned.

43. The Appellant contends that the Adjudicating Authority has failed to appreciate that the Resolution Plan is conditional and contingent in as much as the Applicant has sought for a direction to the effect that upon the Resolution Plan getting sanctioned, the land in Durgapur and Kalyani would be transferred in the name of Resolution Applicant which cannot be allowed.

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44. It is further contended that the Adjudicating Authority has failed to consider that there cannot be any discrimination between the same groups such as Financial Creditors or Operational Creditors and Operational Creditors must get the same treatment as Financial Creditors otherwise; such Resolution Plan ought to be rejected so that the Operational Creditors rights are safeguarded.

45. The Appellant contended that the Adjudicating Authority has failed to appreciate that the Resolution Applicant had sought a waiver of penalty and arrears of lease rent and interest on arrears and a waiver on payment of transfer fee and all such amounts from the West Bengal Industrial Development Corporation. However, such a waiver could not be granted at the time of approval of the Resolution Plan. As such, the Resolution Applicant is statutorily bound to make payment of transfer fees to the West Bengal Industrial Development Corporation under the relevant West Bengal Industrial Development Corporation's Regulations as well as the local laws of West Bengal. The Resolution Applicant is a separate legal entity to whom the Kharagpur land is proposed to be transferred. As such, the Resolution Applicant cannot ask for waivers in respect of payment of transfer fee, and thus, the Resolution Plan ought to be modified or set aside.

46. It is further contended that the Adjudicating Authority has failed to appreciate that the entire 'CIRP' is illegal since the Process Adviser of the Resolution Professional, namely Grant Thornton, had an

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employee/consultant Mr Anup Krishnan who was also a Director of the Group Company of the Resolution Applicant whose Plan has been approved by the Adjudicating Authority.

47. The Appellant further contends that the Adjudicating Authority has failed to appreciate that assignment of financial assistance granted by Phoenix ARC Private Limited to ARCIL at the fag end of the Corporate Insolvency Resolution Process dehors the mandatory provisions of Section 28 of the Insolvency & Bankruptcy Code, 2016 and no approval of the Committee of Creditors was taken at the time of assignment of debt which vitiated the entire CIRP.

48. The Appellant further contends that the Adjudicating Authority has failed to appreciate that the Resolution Applicant is disqualified under Section 29 A of the Insolvency and Bankruptcy Code, 2016, for which the Resolution Applicant could not have submitted a Resolution Plan for the Corporate Debtor.

49. In reply to the above, the Counsel for the 'CoC' contends that in the instant case 'CIRP' initiated on January 8, 2018, and has now reached a stage where the Resolution Plan has been approved by the Adjudicating Authority based on the 'CoC' approval with a vote share of 74.41%.

50. As per the approved Resolution Plan, the upfront payment is ₹ 364.5 crores less than the liquidation value of the Corporate Debtor, which is ₹614 crores. The Resolution Plan could not have been approved given the

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judgement of this Tribunal in Maharashtra Seamless Ltd v Padmnabhan Venkatesh, Company Appeal (AT) (Insolvency) No. 1 to 8 of 2019.

51. However the aforesaid judgement has been overruled by the Hon'ble Supreme Court in case of *Maharashtra Seamless Ltd. v. Padmanabhan Venkatesh, (2020) 11 SCC 467 : 2020 SCC OnLine SC 67 at page 487* wherein it is held that;

> ***"28. No provision in the Code or Regulations has been brought to our notice under which the bid of any resolution applicant has to match liquidation value arrived at in the manner provided in Regulation 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.*** *This point has been dealt with in Essar Steel [Essar Steel India Ltd. Committee of Creditors v. Satish Kumar Gupta, (2020) 8 SCC 531]. We have quoted above the relevant passages from this judgment.*
>
> ***29.*** *It appears to us that the object behind prescribing such valuation process is to assist the CoC to take decision on a resolution plan properly. Once, a resolution plan is approved by the CoC, the statutory mandate on the adjudicating authority under Section 31(1) of the Code is to ascertain that a resolution plan meets the requirement of sub-sections (2) and (4) of Section 30 thereof. We, per se, do not find any breach of the said provisions in the Order of the adjudicating authority in approving the resolution plan.*
>
> ***30.*** *The appellate authority has, in our opinion, proceeded on equitable perception rather than commercial wisdom. On the face of it, release of assets at a value 20% below its liquidation value arrived at by the valuers seems inequitable. Here, we*

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feel the Court ought to cede ground to the commercial wisdom of the creditors rather than assess the resolution plan on the basis of quantitative analysis. Such is the scheme of the Code. Section 31(1) of the Code lays down in clear terms that for final approval of a resolution plan, the adjudicating authority has to be satisfied that the requirement of sub-section (2) of Section 30 of the Code has been complied with. The proviso to Section 31(1) of the Code stipulates the other point on which an adjudicating authority has to be satisfied. That factor is that the resolution plan has provisions for its implementation. The scope of interference by the adjudicating authority in limited judicial review has been laid down in Essar Steel [Essar Steel India Ltd. Committee of Creditors v. Satish Kumar Gupta, (2020) 8 SCC 531], the relevant passage (para 54) of which we have reproduced in earlier part of this judgment. The case of MSL in their appeal is that they want to run the company and infuse more funds. In such circumstances, we do not think the appellate authority ought to have interfered with the Order of the adjudicating authority in directing the successful resolution applicant to enhance their fund inflow upfront."

(Emphasis supplied)

52. This Tribunal, in the case of *Standard Chartered Bank v Satish Kumar Gupta, RP of Essar Steel and Others 2019 SCC online NCLAT 388,* has observed that "*it is important to note that the commercial decisions are not amenable to precise mathematical formula. It is not that a 'Corporate Debtor' is viable, or a resolution plan is viable and feasible, while the realisations for "Financial Creditor" under the plan exceeds 'liquidation value' of the 'Corporate Debtor'.*"

53. The commercial decision of the Committee of Creditors is non-justiciable. Whether a relevant Resolution Plan is feasible, viable, and

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maximising the Corporate Debtors value is a commercial decision. It is to be made by the Committee of Creditors by applying their commercial wisdom, and such a decision is non-justiciable.

54. Hon'ble Supreme Court in case of *K. Sashidhar v. Indian Overseas Bank, (2019) 12 SCC 150 : (2019) 4 SCC (Civ) 222: 2019 SCC OnLine SC 257 at page 183* has held that;

> ***"52.*** *As aforesaid, upon receipt of a "rejected" resolution plan the adjudicating authority (NCLT) is not expected to do anything more; but is obligated to initiate liquidation process under Section 33(1) of the I&B Code. The legislature has not endowed the adjudicating authority (NCLT) with the jurisdiction or authority to analyse or evaluate the commercial decision of CoC much less to enquire into the justness of the rejection of the resolution plan by the dissenting financial creditors. From the legislative history and the background in which the I&B Code has been enacted, it is noticed that a completely new approach has been adopted for speeding up the recovery of the debt due from the defaulting companies. In the new approach, there is a calm period followed by a swift resolution process to be completed within 270 days (outer limit) failing which, initiation of liquidation process has been made inevitable and mandatory. In the earlier regime, the corporate debtor could indefinitely continue to enjoy the protection given under Section 22 of the Sick Industrial Companies Act, 1985 or under other such enactments which has now been forsaken. Besides, the commercial wisdom of CoC has been given paramount status without any judicial intervention, for ensuring completion of the stated processes within the timelines prescribed by the I&B Code.* ***There is an***

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intrinsic assumption that financial creditors are fully informed about the viability of the corporate debtor and feasibility of the proposed resolution plan. They act on the basis of thorough examination of the proposed resolution plan and assessment made by their team of experts. The opinion on the subject-matter expressed by them after due deliberations in CoC meetings through voting, as per voting shares, is a collective business decision. The legislature, consciously, has not provided any ground to challenge the "commercial wisdom" of the individual financial creditors or their collective decision before the adjudicating authority. That is made non-justiciable.

53. *In the report of the Bankruptcy Law Reforms Committee of November 2015, primacy has been given to CoC to evaluate the various possibilities and make a decision. It has been observed thus:*

"The key economic question in the bankruptcy process When a firm (referred to as the corporate debtor in the draft law) defaults, the question arises about what is to be done. Many possibilities can be envisioned. One possibility is to take the firm into liquidation. Another possibility is to negotiate a debt restructuring, where the creditors accept a reduction of debt on an NPV basis, and hope that the negotiated value exceeds the liquidation value. Another possibility is to sell the firm as a going concern and use the proceeds to pay creditors. Many hybrid structures of these broad categories can be envisioned.

The Committee believes that there is only one correct forum for evaluating such possibilities, and making a decision: a creditors committee, where all financial creditors have votes in

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proportion to the magnitude of debt that they hold. In the past, laws in India have brought arms of the Government (legislature, executive or judiciary) into this question. This has been strictly avoided by the Committee. The appropriate disposition of a defaulting firm is a business decision, and only the creditors should make it."

59. *In our view, neither the adjudicating authority (NCLT) nor the appellate authority (NCLAT) has been endowed with the jurisdiction to reverse the commercial wisdom of the dissenting financial creditors and that too on the specious ground that it is only an opinion of the minority financial creditors. The fact that substantial or majority per cent of financial creditors have accorded approval to the resolution plan would be of no avail, unless the approval is by a vote of not less than 75% (after amendment of 2018 w.e.f. 6-6-2018, 66%) of voting share of the financial creditors. To put it differently, the action of liquidation process postulated in Chapter III of the I&B Code, is avoidable, only if approval of the resolution plan is by a vote of not less than 75% (as in October 2017) of voting share of the financial creditors. Conversely, the legislative intent is to uphold the opinion or hypothesis of the minority dissenting financial creditors. That must prevail, if it is not less than the specified per cent (25% in October 2017; and now after the amendment w.e.f. 6-6-2018, 44%). The inevitable outcome of voting by not less than requisite per cent of voting share of financial creditors to disapprove the proposed resolution plan, de jure, entails in its deemed rejection."*

55. Further, the Hon'ble Supreme Court in *Swiss Ribbons Private Limited vs Union of India (2019) 4 SCC 17* has held that ;

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"Since the financial creditors of the in the business of money lending, banks and financial institutions are best equipped to assess viability and feasibility of the business of the corporate debtor. Even at the time of granting loans, these banks and financial institutions undertake a detailed market study which includes a techno-economic valuation report, evaluation of business, financial projection, etc. Since these detailed study has already been undertaken before sanctioning a loan, and since financial creditors have trained employees to assess viability and feasibility, they are in a good position to evaluate the contents of a resolution plan"

56. This Tribunal in case of *Standard Chartered Bank vs Satish Kumar Gupta, RP of Essar steel (supra)* has observed that;

***160.** The 'I&B Code' provides for 'Corporate Insolvency Resolution Process' for reorganisation of 'Corporate Debtors'. It separates commercial aspects from judicial aspects and empowers and facilitates the 'Committee of Creditors' to take commercial decisions in a 'Corporate Insolvency Resolution Process'. The commercial decisions of the 'Committee of Creditors' are not ordinarily open to any analysis, evaluation or judicial review by the Adjudicating Authority or the Appellate Authority and hence not justiciable."*

57. It is contended by the Appellant that the Resolution Plan purportedly discriminates within the Financial Creditors and the Operational Creditors. While approving the Plan, the Adjudicating Authority did not direct the West Bengal Industrial Development Corporation to waive any penalty arrears of lease rent or any interest on the arrears. Hence, the Resolution Plan was

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contingent upon such conditions. Therefore the conditional Resolution Plan could not have been approved by the Adjudicating Authority.

58. It is pertinent to mention that the distinction can be made with creditors that are not similarly situated. Financial Creditors and Operational Creditors must be given roughly the same treatment. Further, there is no bar in making distinctions between the creditors who do not belong to the same class and can be treated differently. The creditors who do not belong to the same class are not similarly situated are treated differently. Judicial precedents make it clear that the Resolution Plan must not discriminate among creditors who are similarly situated and that the creditors must be given roughly the same treatment.

59. Hon'ble Supreme Court in case of *Essar Steel India Ltd. Committee of Creditors vs. Satish Kumar Gupta, (2020) 8 SCC 531 : 2019 SCC OnLine SC 1478 at page 606* held that;

> ***"88.** By reading para 77 (of Swiss Ribbons [Swiss Ribbons (P) Ltd. v. Union of India, (2019) 4 SCC 17]) dehors the earlier paragraphs, the Appellate Tribunal has fallen into grave error. Para 76 clearly refers to the UNCITRAL Legislative Guide which makes it clear beyond any doubt that equitable treatment is only of similarly situated creditors. This being so, the observation in para 77 cannot be read to mean that financial and operational creditors must be paid the same amounts in any resolution plan before it can pass muster. On the contrary, para 77 itself makes it clear that there is a difference in payment of the debts of financial and operational creditors, operational creditors having to receive a minimum*

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payment, being not less than liquidation value, which does not apply to financial creditors. The amended Regulation 38 set out in para 77 again does not lead to the conclusion that financial and operational creditors, or secured and unsecured creditors, must be paid the same amounts, percentage wise, under the resolution plan before it can pass muster. Fair and equitable dealing of operational creditors' rights under the said regulation involves the resolution plan stating as to how it has dealt with the interests of operational creditors, which is not the same thing as saying that they must be paid the same amount of their debt proportionately. Also, the fact that the operational creditors are given priority in payment over all financial creditors does not lead to the conclusion that such payment must necessarily be the same recovery percentage as financial creditors. So long as the provisions of the Code and the Regulations have been met, it is the commercial wisdom of the requisite majority of the Committee of Creditors which is to negotiate and accept a resolution plan, which may involve differential payment to different classes of creditors, together with negotiating with a prospective resolution applicant for better or different terms which may also involve differences in distribution of amounts between different classes of creditors.

89. *Indeed, by vesting the Committee of Creditors with the discretion of accepting resolution plans only with financial creditors, operational creditors having no vote, the Code itself differentiates between the two types of creditors for the reasons given above. Further, as has been reflected in Swiss Ribbons [Swiss Ribbons (P) Ltd. v. Union of India, (2019) 4 SCC 17], most financial creditors are secured creditors, whose security interests must be protected in Order that they do not*

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go ahead and realise their security in legal proceedings, but instead are incentivised to act within the framework of the Code as persons who will resolve stressed assets and bring a corporate debtor back to its feet. Shri Sibal's argument that the expression "secured creditor" does not find mention in Chapter II of the Code, which deals with the resolution process, and is only found in Chapter III, which deals with liquidation, is for the reason that secured creditors as a class are subsumed in the class of financial creditors, as has been held in Swiss Ribbons [Swiss Ribbons (P) Ltd. v. Union of India, (2019) 4 SCC 17]. Indeed, Regulation 13(1) of the 2016 Regulations mandates that when the resolution professional verifies claims, the security interest of secured creditors is also looked at and gets taken care of. Similarly, Regulation 36(2)(d) when it provides for a list of creditors and the amounts claimed by them in the information memorandum (which is to be submitted to prospective resolution applicants), also provides for the amount of claims admitted and security interest in respect of such claims."

60. It is also important to mention that distinction between creditors on the basis of security interest is permitted under Section 30 (4) of the Insolvency and Bankruptcy Code, 2016, which reads as under;

"the Committee of Creditors may approve a resolution plan by a vote of not less than 66%, of voting share of the financial creditors, after considering its feasibility and viability, the manner of distribution proposed, which may take into account the order priority amongst creditors as laid down in sub-section (1) of section 53, including the priority and value of the

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security interest of a secured creditor and such other requirements as may be specified by the board."

61. Undisputedly, the Appellant is the Promoter and Guarantor of the Corporate Debtor. The Resolution Plan offers ₹ 670.50 crores, higher than the liquidation value that is ₹ 610.29 crores. As per the approved Resolution Plan, the Resolution Applicant is to infuse a sum of ₹ 670.50 crores to revive the Company, which had stopped this operation a decade ago. Pertinently, the Resolution Plan has also made provisions for the payment to workers even when the liquidation value receivable by the Operational Creditors has been calculated to be nil. Moreover, the Resolution Plan also makes provision for the payment of ₹ 3.5 crores to the Operational Creditors. Pertinently the Hon'ble Supreme Court's judgment in Maharashtra Seamless (2020 SCC Online SC 67) held that the Adjudicating Authority under the Code should cede ground to the commercial wisdom of the Committee of Creditors rather than assess the Resolution Plan on the basis of quantitative analysis. Hon'ble Supreme Court has further held that the Adjudicating Authority cannot interfere on merits with the commercial wisdom of the Committee of Creditors. It is also apposite to the Hon'ble Supreme Court's recent order passed in *State Bank of India vs Accord life Spec Private Limited,2020 SCC online SC page 554*, reiterating the above position held;

"2. *The impugned judgment dated 13.11.2019 has remitted the matter to the NCLT after a finding that under Section 30(2) of the Insolvency and Bankruptcy Code together with the principle of maximization of assets of the corporate debtor, a*

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resolution plan which is lesser than liquidation value cannot be accepted.

3. *As a matter of law, this judgment has to be set aside in view of our recent judgment dated 22.01.2020 in Civil Appeal No. 4242 of 2019 entitled Maharashtra Seamless Limited v. Padmanabhan Venkatesh in which this Court has categorically held as under:*

> *"26. No provision in the Code or Regulations has been brought to our notice under which the bid of any Resolution Applicant has to match liquidation value arrived at in the manner provided in Clause 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. This point has been dealt with in the case of Essar Steel (supra). We have quoted about the relevant passages from this judgment."*

62. The Resolution Plan proposes that the Financial Creditors get 5.8% of the admitted claim amounting to ₹ 5853 crores; the said Plan also contemplates the payment of ₹ 10.5 crores to the Operational Creditor, which amounts to 4.68% of the admitted claim amount of ₹ 224.05 crores. The workman's payment is 90% of the admitted claim, and the statutory authorities have been offered ₹ 3 crores. Thus the total claim of the Operational Creditor inclusive of statutory authorities would come to 5.82%.

63. In the light of the aforesaid, it is clear that the Resolution Plan give similar treatment to the operational creditor even when the liquidation amount to the Operational Creditors has been calculated to nil.

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64. The Appellant has contended that the Resolution Plan is conditional. Respondent No. 2 will have to expend money towards the transfer charges and arrears of lease rent, penalty, and interest to West Bengal Industrial Development Corporation. Respondent No. 2 is statutorily bound to do so. The aforesaid contention of the Appellant shows that it is only interested in the Corporate Debtor and not in its revival under the Corporate Insolvency Resolution Process, which is the real intention of the Code. The Counsel for the 'CoC' submits that no transfer fees are payable to 'WBIDC' because Ramsarup Loh Udyog is only a unit of the Corporate Debtor. It was a separate company till September 2008, but it has since then merged with the Corporate Debtor prior to the execution of the said sub-lease dated September 3, 2009.

65. It is pertinent to mention that 'WBIDC' had not raised any claim or penalty or arrears of rent concerning Kharagpur land before the Resolution Professional or before the Adjudicating Authority. Thus it cannot raise any further claims after the approval of the Resolution Plan. The only claim of security charges has been approved in the Resolution Plan.

66. It is further contended that the Appellant has no locus to raise the present issue as Resolution Applicant purportedly sought such waiver in the Resolution Plan, which the 'CoC' in all its wisdom has approved with 74.41% of majority. Therefore, the same has also been approved by the Adjudicating Authority.

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67. The Learned Counsel for the 'CoC' further submitted that the object and reason of the Code make it clear that the Corporate Debtor's liquidation is the last resort, and every endeavour shall be made to revive a Company. Further, the maximisation of the Corporate Debtor's value of assets does not necessarily mean and referred to the maximum upfront recovery of dues to the creditor. On many occasions, short-term reduction to pay out the creditors can lead to much better Asset Performance and eventful maximisation of assets' corporate debtor value. Hon'ble Supreme Court in case of Committee of Creditors of Essar Steel India Ltd (supra) has held that it is only the commercial wisdom of the 'CoC' that shall decide upon the feasibility and viability of the Resolution Plan and hence it is up to the 'CoC' to decide whether the upfront payment is to be more or less than the liquidation value.

68. In K. Sashidhar (supra), it is held that the Adjudicating Authority, while approving the Resolution Plan, is only required to satisfy itself that the Resolution Plan meets the requirements specified in Section 30(2) and can do nothing more nothing less.

69. Hon'ble Supreme Court in case of *Arcelormittal India (P) Ltd. vs. Satish Kumar Gupta*, (2019) 2 SCC 1 : 2018 SCC OnLine SC 1733 at page 88 has held that;

> ***"84.*** *If, on the other hand, a resolution plan has been approved by the Committee of Creditors, and has passed muster before the adjudicating authority, this determination can be challenged before the appellate authority under Section*

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61, and may further be challenged before the Supreme Court under Section 62, if there is a question of law arising out of such Order, within the time specified in Section 62. Section 64 also makes it clear that the timelines that are to be adhered to by the NCLT and NCLAT are of great importance, and that reasons must be recorded by either the NCLT or NCLAT if the matter is not disposed of within the time-limit specified. Section 60(5), when it speaks of the NCLT having jurisdiction to entertain or dispose of any application or proceeding by or against the corporate debtor or corporate person, does not invest the NCLT with the jurisdiction to interfere at an applicant's behest at a stage before the quasi-judicial determination made by the adjudicating authority. The non obstante clause in Section 60(5) is designed for a different purpose: to ensure that the NCLT alone has jurisdiction when it comes to applications and proceedings by or against a corporate debtor covered by the Code, making it clear that no other forum has jurisdiction to entertain or dispose of such applications or proceedings.

83. *It is the Committee of Creditors which will approve or disapprove a resolution plan, given the statutory parameters of Section 30. Under Regulation 39 of the CIRP Regulations, sub-regulation (3) thereof provides:*

> *"**39. (3)** The committee shall evaluate the resolution plans received under sub-regulation (1) strictly as per the evaluation matrix to identify the best resolution plan and may approve it with such modifications as it deems fit:*
>
> *Provided that the committee shall record the reasons for approving or rejecting a resolution plan."*

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This Regulation shows that the disapproval of the Committee of Creditors on the ground that the resolution plan violates the provisions of any law, including the ground that a resolution plan is ineligible under Section 29-A, is not final. ***The adjudicating authority, acting quasi-judicially, can determine whether the resolution plan is violative of the provisions of any law, including Section 29-A of the Code, after hearing arguments from the resolution applicant as well as the Committee of Creditors, after which an appeal can be preferred from the decision of the adjudicating authority to the appellate authority under Section 61."***

70. Hon'ble Supreme Court in case of *Swiss Ribbons Private Limited vs Union of India (2019)4 SCC 17* has held that; the Financial Creditors are in the business of money lending, Banks and Financial Institutions are best equipped to assess viability and feasibility of the business of the Corporate Debtor, and since Financial Creditors have trained employees to assess viability and feasibility, they are in a good position to evaluate the contents of the Resolution Plan.

71. The Appellant contended that the Adjudicating Authority failed to notice that the entire 'CIRP' has been conducted illegally from the very inception since the Process Adviser for the Resolution Professional, namely Grant Thornton, has a consultant Mr Anup Krishna, who was also a Director of the group company of the Resolution Applicant, whose Plan has been approved by the Learned Adjudicating Authority by the Impugned Order dated September 4, 2019. In its reply affidavit in the instant Appeal, the Resolution

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Professional has admitted the fact that Mr Anoop Krishna was appointed as Additional Independent Director of Shayam Metallics and Energy India Ltd under a letter of appointment dated February 18, 2019, for a tenure of 5 years. Mr Anoop Krishna continued in the said Shayam Sel and Energy Ltd office from April 18, 2019, till September 5, 2019. It is contended that 'CIRP' was manifestly illegal and void ab initio, and the entire process of selecting the Successful Resolution Applicant was vitiated by fraud. Since fraud vitiates all transactions, the entire process has to be set aside, and fresh Resolution Plans should be called for. It is alleged that the Successful Resolution Applicant was favoured and there was a bias towards the Successful Resolution Applicant for which a Resolution Plan with such a low bid amount has been accepted and approved by the 'CoC' and the Resolution Professional.

72. In reply to the above objection, Learned Counsel for the Committee of Creditors submits that there is no conflict of interest just because Mr Anoop Krishna is a consultant of Grant Thornton India. It is pertinent to note that this issue was not brought up by the Appellants before the Adjudicating Authority. But it was raised by Srei Multiple Asset Investment Trust Vision India Fund.

73. It is stated that Mr Anoop Krishna is not an employee of Grant Thornton India but is merely a Grant Thornton India consultant. However, Mr Anoop Krishna is a consultant of Grant Thornton (who backed the advisers to the Resolution Professional). He had no role in the Corporate Debtor's Corporate

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Insolvency Resolution Process of the Corporate Debtor and was not a part of the Resolution Professional team of 'Grant Thornton India.

74. There has been no interaction or communication between the Resolution Professional and Mr Anoop Krishna in relation to the 'CIRP' of the Corporate Debtor. Mr Anoop Krishna became a director of the group company of the Resolution Applicant. The process of selecting the Successful Resolution Applicant had been conducted fairly and transparently. All three outbidding processes that were conducted, where open processes, were conducted in the presence of Members of the Committee of Creditors and Resolution Applicants. In each process, multiple rounds of outbidding took place and each participating Resolution Applicant was given the same opportunity to outbid the other Resolution Applicant's. Therefore it was not possible for any single Resolution Applicant to influence the outbidding process.

75. It is essential to point out that the Appellant is the Promoter and Guarantor of the Corporate Debtor. He has been involved in the Corporate Insolvency Resolution Process. Still, he never raised such an objection before the Adjudicating Authority. The Adjudicating Authority in paragraph 50 of the impugned Order has taken note of the fact that the Appellant had deliberately circulated among the financial creditors, misinformation regarding the security interests, erroneous computation and suppression of facts pertaining to the actual position of charges over the assets of the corporate debtor which were not within the knowledge of financial creditors. The learned Adjudicating

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Authority further went forward to hold that not only was there is no concealment of facts on the part of the resolution professional, but the Appellant had suppressed material facts pertaining to the corporate debtor. The Appellant has not come with clean hands, and the present appeal is only a desperate attempt to jeopardise the entire resolution process. The adjudicating authority further noted in his Order that;

> *"the overall conduct of the applicant in filing multiple applications cannot be considered as with genuine object to get the relief as prayed for, with object to protract the matter..... If this kind of approach is not prevented, it would air a wrong message to the similarly situated directors of the corporate debtor company".*

76. Therefore, in view of the, it appears that instant appeal is a mala fide attempt on the part of the Appellant to disturb the Resolution Process, and the same cannot be sustained. In the circumstances as stated above, we believe that the Appeal sans merit and deserves to be dismissed.

Civil Appeal (AT) (Ins.) No.1242 of 2019

77. The Appellant, being aggrieved by the Resolution Plan's approval, has filed this appeal on the ground that the Adjudicating Authority has erred in holding that the Respondent No.1 Corporate Debtor is the owner of the Wind Mill Project at Dhule, Maharashtra.

78. The Appellant contends that the above finding is beyond the Adjudicating Authority's jurisdiction under the Insolvency & Bankruptcy Code, 2016. The Appellant is seeking deletion of Wind Mill Project's name from the Resolution Plan as an asset of the Corporate Debtor. The ownership of the

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same is the subject matter of proceedings before the Court of appropriate jurisdiction and the same is pending before the Debt Recovery Tribunal, Mumbai.

79. The Appellant contends that the impugned Order suffers from patent illegality to the extent it failed to note that the Wind Mill Project at Dhule, Maharashtra, is to transferred to the third party. In view of the fact that the Appellant having exercised its right on April 7, 2017, under Section 13(4)(a) of the Securitisation and the Reconstruction of Financial Assets Act, 2002 and Enforcement of Security Interest Act, 2002. The Impugned Order has been passed in complete disregard of the material facts and documents placed on record.

80. The Appellant further contends that the Adjudicating Authority has approved the Resolution Plan of Respondent No. 3, which wrongly includes the Wind Mill Project, the title of which had already passed in favour of the third party as of April 7, 2017. Section 18(1) explains that the term 'assets' does not include the third party's assets and the Corporate Debtor's possession under a contractual arrangement. The Wind Mill Project was secured asset of the Appellant, upon the wilful default of the Corporate Debtor, auctioned the same in terms of Section 13(4) of SARFAESI Act, 2002 and the title thereof was transferred in the name of a third party as on April 7, 2017, i.e. before the commencement of 'CIRP'. Therefore the Impugned Order has also been passed in violation of the provisions of the Code.

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81. Further, Class VII of the Resolution Plan envisages all litigations against the Respondent No.1 Corporate Debtor, existing before or after the effective date, which may adversely affect the Respondent No. 1 Corporate Debtor, shall be deemed to have been withdrawn ,once the Adjudicating Authority approves the Resolution Plan. The Impugned Order not only wrongly declares the 'Wind Mill Project' as an asset of Respondent No.1, Corporate Debtor, but the ramification of approving the Resolution Plan without deleting the said asset, despite the issue pending before the DRAT, ranks direct prejudice to the Appellant.

82. The Appellant further contends that Clause VII aims to circumvent the proceedings as pending before the insolvency commencement date and closes the Appellant's rights and the subsequent purchasers right in the garb of the approved Resolution Plan. The provisions of Clause VII of the approved Resolution Plan ought to have been deleted by the Adjudicating Authority as the Appellant stand to lose its legitimate and admitted claim and its right to recover the same under the law, leaving the Appellant effectively remediless.

83. The Appellant contends that the Adjudicating Authority erred in dismissing the Application filed under Section 60(5) of the I&B Code. The Adjudicating Authority has failed to take note of the fact that the 'Wind Mill Project' at Dhule, Maharashtra was hypothecated by Respondent No.1/Corporate Debtor, against the grant of the loan of ₹ 12.48 crores in favour of the Appellant, by executing the Deed of Hypothecation dated July 20, 2005. The charge was duly registered with the Registrar of Companies on

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August 5, 2005. The Respondent Corporate Debtor having defaulted in repayment of the loan amounts thus constrained the Appellant to proceed in terms of Section 13(4) of the SARFAESI Act, 2002, resulting in the sale of the secured asset, i.e. the Wind Mill at Dhule, Maharashtra on March 24, 2017, to one Suzlon Global Services Ltd for a sum of ₹ 5.15 crores and the said certificate was accordingly issued on April 7, 2017. The Impugned Order fails to deal with these material facts and dishonestly proceeds to declare the Wind Mill Project to be the asset of the Corporate Debtor when as a matter of fact, the Respondent No.1 Corporate Debtor was not in possession and use of the said Wind Mill on the date of commencement of 'CIRP'.

84. In reply to the above, the Resolution Professional contends that the issues raised by Appellant herein 'Indian Renewable Energy Development Agency Ltd' (in short 'IREDA') is that the 'Wind Mill' asset has been sold and cannot be made part of the resolution process of Ramsarup Industries Ltd. The RP submits that the matter is sub-judice before the 'DRAT', and accordingly, the Resolution Applicant has been made aware of the same. The Resolution Applicant has provided its bid, keeping in mind that the asset's title is subject to the proceedings.

85. It is submitted that the Debt Recovery Tribunal, Aurangabad stayed the sale of Wind Mill asset, stating that it was not conducted by the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002. The Appeal is currently pending before the Debt Recovery Appellate Tribunal. Given the Appeal's pendency, it is clear

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that the issue about the sale of Wind Mill asset of the Corporate Debtor has not attained finality and is sub-judice. The said valuable assets were included in the list of assets of the Corporate Debtor in its Corporate Insolvency Resolution Process.

86. The Information Memorandum of the Corporate Debtor provided to all the Resolution Applicants and Members of the 'CoC' has mentioned the Appeal's pendency before Debt Recovery Appellate Tribunal. Therefore, it is clear that all Resolution Applicants have been made aware of the Appeal's pendency. Successful Resolution Applicant is to be bound by order of the Appeal, which may either confirm or set aside the sale of Wind Mill asset.

87. The Adjudicating Authority has also mentioned the above things in its Order and stated that the Corporate Debtor's right to hold the 'Wind Mill' asset is not affected unless the Debt Recovery Appellate Tribunal reverses it. Thus it is clear that the Adjudicating Authority has neither exceeded its jurisdiction nor has determined the title of the property but has merely taken note of the facts at hand in passing the impugned Order.

88. In the circumstances as discussed above, we find no merit in the Appeal; hence deserves to be dismissed.

Civil Appeal (AT) (Ins.) No.1159 of 2019

89. The present Appeal is filed against the Resolution Plan's approval because of the Appellant's Application CA (I.B.) No.497/K.B./2019 under Section 29A read with Section 60(5) of the Insolvency and Bankruptcy Code,

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2016 challenging the eligibility of 'S.S. Natural Resources Private Limited' a Successful Resolution Applicant (from now on referred to as the H-1 Bidder) to submit a Resolution Plan regarding Ramsarup Industries Ltd (from now on referred to as the Corporate Debtor) was rejected.

90. The Appellant (Orissa Metallics Private Limited) was the H-2 bidder and submitted a bid for a total sum of ₹ 1014.99 crores with an upfront payment of ₹ 281.90 Capex and working capital of ₹ 733.09 crores. Despite being much above the Corporate Debtor's liquidation value, such Plan of the Appellant, i.e. ₹ 610.29 crores, was not accepted. The CoC accepted the Resolution Plan of the H-1 bidder for a total bid amount of ₹ 670.50 crores solely on the ground that H-1's upfront payment of ₹ 351 crore is higher than the upfront payment of ₹ 281.90 crores. However, while rejecting the H-2's Resolution Plan, they conceded that the upfront payment proposed by the H-1 bidder and their contribution by Capex and working capital should be taken into consideration. This amount to gross discrimination between the H-1 and H-2 bidder, which has assumed even greater significance as it has come to light in the course of hearing of Company Application No. 1092 and 1093 of 2019 that the person associated with the M/S Grant Thornton LLP engaged by the RP as Process Adviser is a Director of Shyam Ferro Limited, an associate concern of H-1.

91. It is further contended that the H-1 bidder is ineligible to submit any Resolution Plan about the Corporate Debtor. The H-1 bidder is a Special-Purpose Vehicle of Shyam Group, as would be evident from the Approved

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Resolution Plan. H-1, Shayam Emco Infrastructure Ltd, Shyam Sel and Power Ltd, Emco Power Ltd, Emco Ltd are all Companies under the Shyam Group. They are directly or indirectly owned, controlled and managed by the promoter group. The key managerial persons and shareholders of H-1, Emco Ltd, have defaulted in repaying bank loan and interest thereon. As such, its accounts with several banks have become NPA as of March 31, 2017. Hence, H-1 became ineligible to submit a Resolution Plan regarding the Corporate Debtor under Section 29 A (c) and (j) of the I&B Code. Shyam Group ostensibly controls Shyam Ferro Alloys Ltd and BRG Irony Steel Private Limited, which is now in liquidation, by common shareholding and key managerial person's. The account of 'BRG Iron And Steel Private Limited' was also classified as NPA by UCO Bank on March 31, 2018. Shyam Ferro Ltd and BRG Iron & Steel Private Limited have common shareholders. On this ground also, H-1 is disqualified from being a Resolution Applicant under Section 29 A of the I&B Code.

92. The Appellant further contends that Clause 15.3 of the Approved Resolution Plan of H-1 bidder is only a part of the waiver and extinguishments of the claim through the Resolution Plan. There are other inbuilt waivers and extinguishment's into the said Resolution Plan. Upon approval of the Resolution Plan by the Impugned Order dated September 4, 2019, those other waivers are deemed to have been allowed. However, such waiver and extinguishment's could not have been allowed.

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93. Appellant further contends that during the hearing before the Adjudicating Authority, the Learned Counsel appearing on behalf of the H-1 bidder submitted that the H-1 is unwilling to vary and modify its Plan. Further, if the waiver is not granted, the actual bidder may withdraw from implementing the said Plan. Such submission was recorded in the Impugned Order. Given the undertaking recorded in Clause 15.3 of the said Plan, the Learned Adjudicating Authority has rejected such an offer. The Appellant has prayed that the H-1 bidder should be declared as ineligible to submit its Resolution Plan in respect of the Corporate Debtor.

94. The Learned Counsel for the Appellant further placed reliance on the Hon'ble Supreme Court's judgment in Embassy Property Developer's Private Limited v State of Karnataka and others, reported in 2019 SCC online SC 1542, wherein it is held that whenever the Corporate Debtor has to exercise a right that falls outside the purview of the I&B Code, especially in the realm of public law, they cannot, through the Resolution Professional, take a bypass and go there before NCLT for the enforcement of such a right.

95. The Appellant has filed additional written submission stating that waivers sought for in the Resolution Plan by the H-1 bidder were not granted by the Adjudicating Authority. The actual bidder now wants to resile and withdraw from the implementation of the Resolution Plan. The Resolution Applicant whose Resolution Plan stands approved cannot be permitted to alter this position to the detriment of various stakeholders after pushing out all potential rivals during the bidding process. This is fraught with disastrous

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consequences for the Corporate Debtor, which may be pushed into liquidation as the 'CIRP' period may by then be over, thereby setting at nought all possibilities of Insolvency Resolution Process of the Corporate Debtor, more so when it is a going concern. This apart, there is no express provision in the I&B Code, allowing a successful Resolution Applicant to stage a U-turn and frustrate the entire exercise of the Corporate Insolvency Resolution Process. To date, H-1 has not taken any steps for the implementation of the approved Resolution Plan. The Resolution Plan incorporates contractual terms, binding the H-1. As such, the H-1 is estopped from wrigging out of the liability incurred under the approved Resolution Plan, and the principles of estoppel by conduct would apply to it.

96. The value of the assets of the Corporate Debtor is bound to have depleted because of the passage of time consumed in the Corporate Insolvency Resolution Process and in the event of Successful Resolution Applicant being permitted to walk out with impunity, the Corporate Debtor's depleting value would leave all stakeholders in a state of devastation.

97. In reply to the above the Resolution Professional submits that he has followed all necessary procedure to check the eligibility of 'S.S. Natural Resources Ltd' (in short 'SSN') under Section 29 A of the I&B Code. The 'SSN' has submitted an affidavit stating that it is eligible to submit a Resolution Plan under Section 29 A of the Code as required under Section 30(1) of the Code. The 'CoC' also discussed the matter and checked the Resolution Applicant 'SSN' eligibility under Section 29 A of the Code.

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98. The Appellant contends that the Successful Resolution Applicant 'SSN' is ineligible under Section 29 A of the Code. Because one of the 'SSN' Group Companies, namely Shyam Ferro Alloys Ltd, has a shareholder that is also a shareholder in a Non-Performing Asset entity, namely 'BRG Iron and Steel Co Private Limited', and therefore SSN is ineligible. It is also pleaded that some of 'SSN' shareholders are also shareholders in an entity, namely Shyam Emco Infrastructure Ltd and Emco Power Ltd (a subsidiary of an NPA company, namely Emco Ltd), and therefore 'SSN' is ineligible.

99. The Resolution Professional submits that Shyam Ferro Alloys is not an NPA and does not have an investment in a company that is an NPA. Neither Shyam Emco Infrastructure Ltd nor Emco Power Ltd is NPA, and they do not have an Investment in a Company that is NPA. By merely having a group Company (which is not an NPA entity), which has shareholders that are also shareholders in an NPA entity, does not in any way disqualify Resolution Applicant 'SSN'. Further by merely having shareholders in a non-NPA company, along with a shareholder that is not an NPA entity but a subsidiary of an NPA entity, does not in any way disqualify 'SSN'.

100. We have considered the argument advanced by both parties. We find that a Shyam Ferro is not an NPA and does not have an investment in a company that is an NPA. Neither Shyam Emco Infrastructure Ltd nor Emco Power Ltd is NPA. They do not have an investment in an NPA company. By merely having a group company, which has shareholders, who are also

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shareholders in an NPA entity, does not disqualify the Successful Resolution Applicant 'SSN'.

101. Therefore eligibility criteria under Section 29 A of the Code are not violated, and 'SSN' is eligible under Section 29 A of the Code to submit a Resolution Plan for the Corporate Debtor.

102. Based on the above discussion, we are of the considered opinion that the Adjudicating Authority's finding that the Successful Resolution Applicant 'SSN' is not disqualified under Section 29 A of the Code to submit a Resolution Plan needs no interference from this Appellate Tribunal. Other issues which have been raised here are also discussed in Company Appeal (AT) ((Ins.) No. 995 of 2019 S.S. Natural Resources Private Limited v Ramsarup Industries Ltd is also part of this order.

103. In the circumstances, we believe that the Appeal sans merit and deserves to be dismissed.

Civil Appeal (AT) (Ins.) No. 468 of 2020

104. The Applicant files the instant Appeal on being aggrieved by the rejection of I.A. No. 877/K.B./2019. The only ground for rejection of the Application is that the Committee of Creditors had already approved the Resolution Plan. The Appellant had not submitted its claim before the Resolution Professional within the time stipulated by the Code.

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105. The Appellant further contends that Hon'ble Supreme Court vide order dated May 6, 2019, had interalia directed as follows;

> *"Taking into consideration the peculiar facts and circumstances of the case, the Appellant, with the consent of all the respondents, is permitted to participate in the resolution process which is going on before the National company law tribunal, Kolkata in C.P. (I.B.) No. 349/K.B./2017."*

In pursuance of the above Order, the Applicant had moved the Application before the Adjudicating Authority, but by the impugned Order, the Adjudicating Authority rejected it.

106. The Appellant has assailed the Impugned Order on the basis that the direction passed by the Hon'ble Supreme Court on May 6, 2019, in the peculiar facts and circumstances of the case in exercise of extraordinary jurisdiction under Article 142 of the Constitution of India read with its power as Appellate Court under Section 62 of the Insolvency and Bankruptcy Code, 2016 is binding on the Adjudicating Authority and all the parties appearing before it. The directions were passed by the Hon'ble Supreme Court post-approval of Resolution Plan by the Committee of Creditors, and the Hon'ble Supreme Court was informed about these developments. This explains why the Hon'ble Supreme Court order dated May 6, 2019, was passed in peculiar circumstances and with all the parties' consent.

107. The Hon'ble Supreme Court direction of participation would be rendered utterly meaningless if the Appellant were not permitted to submit

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its claim before the Resolution Professional. As a Financial Creditor, there was nothing else, that the Appellant could achieve by participating in the proceedings before the NCLT, except for a consideration of its claim.

108. In reply to the above Learned Counsel representing 'CoC' submits that the Appellant never filed its claim with the Resolution Professional from the admission order till date. The present appeal filed by the Appellant forms a part of the second round of litigation between the same parties before this Tribunal on the same set of facts, which has been dealt with vide judgement dated December 14, 2018, of this Tribunal, which went up to the Hon'ble Supreme Court and had accordingly, attained finality on May 6, 2019.

109. It is further submitted that the appeal is barred by limitation as prescribed under the Code. The Impugned Order was available on September 4, 2019, itself. However, the present Appeal was preferred only on February 24, 2020, beyond the Limitation period of 45 days (30+15 days).

110. The Appellant on September 25, 2019, after a lapse of 51 days from September 4, 2019, preferred SLP before the Hon'ble Supreme Court, challenging the Order dated September 4, 2019. The Appellant was well aware that the limitation to file an Appeal before this Tribunal had already expired. By Order dated February 3, 2020, the SLP mentioned above came to be withdrawn by the Appellant with the liberty to participate in the 'CIRP'. The said Order neither condones any delay nor extends the statutory limit for filing such Appeal. It also does not extend any benefit under Section 14 of the

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Limitation Act, 1963. The simply liberty granted by the Hon'ble Supreme Court has to be read within the contours and time prescribed under the Code. Accordingly, the present Appeal and an Application for Condonation of Delay have been filed beyond the limitation period prescribed under the Code and ought to be rejected outright.

111. It is pertinent to mention that Appellant was aware of the Adjudicating Authority's admission order since its inception, i.e. January 8, 2018. Even after knowledge of the admission of the petition, the Appellant intentionally avoided filing any claim before the Resolution Professional.

112. It is further submitted by the Counsel of the 'CoC' that the Hon'ble Supreme Court had been informed that the 'CIRP' period has already expired and that the Successful Resolution Plan had been approved by the 'CoC' and accordingly, the Civil Appeal had become infructuous. Given the same, the Hon'ble Supreme Court granted the Appellant liberty to participate in the Corporate Insolvency Resolution Process.

113. In reply to the above, the Resolution Professional submitted that this appeal preferred by the Appellant is liable to be dismissed for being time-barred. While granting the liberty to file the Appeal before this Appellate Tribunal, the Hon'ble Supreme Court did not pass any direction overriding the statutory limitation prescribed in Section 61 of the Code. Hon'ble Supreme Court in Suman Devi v Manisha Devi (2018) 9 SCC 808 laid down the law that "the grant of liberty" to pursue an alternative remedy "cannot obviate the

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bar of limitation", especially when the remedy is governed by a "complete code" was under the Insolvency and Bankruptcy Code, 2016. Further, the Appellant's SLP before the Hon'ble Supreme Court was filed on 25 October 2090, i.e. beyond the maximum period of 45 days prescribed for filing an Appeal before this Appellate Tribunal. The Appellant had preferred to file an SLP before the Hon'ble Supreme Court only after the limitation period under Section 61 of the I&B Code had already expired.

114. The Appellant is claiming to be a Financial Creditor of the Corporate Debtor for a claim amount of ₹ 76,327,919. However, the Appellant had not filed its claim in the 'CIRP' of the Corporate Debtor extracting the grounds of the pending challenge to the admission of the Section 10 petition before the NCLAT and the Hon'ble Supreme Court. However, even after the adverse order passed by the Adjudicating Authority and the NCLAT, the Appellant did not submit its claim before the Resolution Professional. Moreover, there was no reason for the Appellant not to file a claim to ensure that the claim amount is officially registered as part of the 'CIRP' of the Corporate Debtor. Even if the claim of the Appellant back to be admitted at this juncture in its entirety, the admission of the total claim amount would provide them with an approximate voting share of 0.136% in the 'CoC' of the Corporate Debtor. The Corporate Debtor's Resolution Plan was approved by a vote of 74.41% of the 'CoC'. In such a scenario, even if the 'CoC' of the Corporate Debtor was to be reconstituted, the Appellant's voting share and vote could not create a significant difference to the Resolution Plan's approval.

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115. The Appellant has placed reliance on the Participation Order in preferring this appeal, praying that its claim to be admitted and 'CoC' to be reconstituted for fresh voting on the Resolution Plan with the revised voting shares. It is submitted that the Hon'ble Supreme Court was conscious that the 'CoC' has already approved the Resolution Plan of the Corporate Debtor, provided the Appellant with the liberty to raise the issue of its claim before the Adjudicating Authority. However, the Appellant has made an entirely incorrect and destructive interpretation of the Participation Order to exceed the permission provided to it by the Hon'ble Supreme Court. Rather than merely arguing and requesting for consideration of the claim, the requests regarding the stay of the proceedings and the Constitution of the 'CoC' is genuinely disruptive and against the basic tenets of the Code.

116. The Resolution Professional further submitted that he has always acted within the four corners of the law. The consent before the Hon'ble Supreme Court was about the 'Participation in the proceeding before the Adjudicating Authority'. In this context, Resolution Professional stated that he is willing to consider and verify the Appellant's claim if so directed by the Hon'ble Supreme Court. At no point it is represented that the 'CoC' of the Corporate Debtor should be reconstituted and the Resolution Plan be once more put to the vote before the 'CoC'. Further, such consent, as indicated by the Appellant, may not be within the Resolution Professional's powers under the Code.

117. We have heard the arguments of the Learned Counsel for the parties and perused the record. It is submitted that while passing the order dated 6th

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May 2019, the Hon'ble Supreme Court had been informed that the 'CIRP' had already expired. The Resolution Plan had been approved by the 'CoC', and accordingly, the Civil Appeal had become infructuous. Given the same, the Hon'ble Supreme Court granted the Appellant the liberty to participate in the Resolution Process before the Adjudicating Authority and disposed of the Civil Appeal.

118. It is pertinent to mention that the Hon'ble Supreme Court in case of *Committee of Creditors of Essar Steel India Ltd vs Satish Kumar Gupta 2019 SCC online SC 1478* has held that all claims must be submitted to and decided by the Resolution Professional so that a Prospective Resolution Applicant knows exactly what is to be paid so that it may then take over and run the business of the Corporate Debtor.

119. In the light of the above judgement, the Appellant's claim could not have been admitted as the Resolution Plan had already been approved by the 'CoC'. In the present case, the 'CIRP' already expired before any claim being submitted by the Appellant. Even assuming the Appellant's claim has been accepted by the Adjudicating Authority, the whole 'CIRP' period of approximately 15 to 16 months, and the final Resolution Plan approved by the 'CoC' by the majority of 74.41% would have been jeopardised. It is contended on behalf of the 'CoC' that the Hon'ble Supreme Court's order dated 6th May 2019 had been passed before the judgment above. Therefore, the said order should be read along with the judgement mentioned above and the provisions laid down in the Code.

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120. Further, the Hon'ble Supreme Court in the case of K. Sashidhar (supra) has held that the 'CoC's commercial wisdom is Paramount and that any inquiry into an "approved" Resolution Plan is extremely limited. The said judgement has further been reiterated and upheld by the Hon'ble Supreme Court in the Essar Steel case (supra). Hence, the approved Resolution Plan cannot be rejected on the grounds, as mentioned earlier, raised in this Appeal.

121. By its order dated May 6, 2019, the Hon'ble Supreme Court merely granted the Appellant the opportunity to represent its case before the Adjudicating Authority, at the stage at which the matter was at then, i.e. at the stage of approval of the Resolution Plan. The Appellant now seeks to interpret the said Order of Hon'ble Supreme Court completely contrary to the Code and seeks to circumvent the objectives and provisions laid down in the Code.

122. It is obvious that the Hon'ble Supreme Court was fully aware and mindful of the Resolution Process stage and the adherence to the Code's timelines, and the stage of submission of the claims under the Code. The Appellant has sought to intentionally misinterpret the order to imply that the Hon'ble Supreme Court had permitted it to file its claim. The Appellant has further tried to mislead this Appellate Tribunal by stating that the order has been passed under Article 142 of the Constitution of India, i.e. in the exercise of extraordinary jurisdiction. No such recording is present in the order. The Appellant has attempted to make its case without the Hon'ble Supreme Court stating so in the order. The Appellant is now seeking to turn back the clock

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on the entire Resolution Process and jeopardise the Successful Resolution Plan approved by the 'CoC'.

123. The 'CoC' took considerable time and efforts to finalise and approve the Resolution Plan with a 74.41% vote share. The 'COC' has taken approximately one year and three months on the Resolution Process of the Corporate Debtor and could approve the corporate debtor's final Resolution Plan. The Appellant is now seeking to turn back the clock in the garb of the Hon'ble Supreme Court's order by misinterpreting it, which is not sustainable. The appellant wants to cover up its shortcomings. There is a hiatus on the Appellant part for not filing its claim with the Resolution Professional within the prescribed timelines. Appellant is now seeking to turn back the clock of the entire resolution process spanning a period of approximately 15 to 16 months, jeopardising the successful Resolution Plan involving a debt of about ₹ 6,000 crores, which has been approved of 74.41% of the voting share. It will further jeopardise the claims of the various Financial Creditors and Operational Creditors of Respondent No. 1 Corporate Debtor.

124. In the circumstances stated above, we find that the Appeal sans merit and deserve to be dismissed.

Civil Appeal (AT) (Ins.) No. 1124 of 2019

125. The Appellant being aggrieved by the Impugned Order dated September 4, 2019, in Company Application No. 1039/K.B./2019 under Section 60(5) of the I&B Code, 2016, in CP (IB) No.349/KB/2017 has filed this Appeal.

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126. By Order dated September 4, 2019, the Adjudicating Authority had rejected the Appellant/Financial Creditor's claim even though the Resolution Applicant had earlier admitted such claim to the tune of ₹ 16,30,86,151/- (Sixteen Crores Thirty Lakh Eighty-six Thousand One Hundred and Fifty-One only). The Appellant contends that it had granted unsecured loan/Financial Assistance to the tune of ₹ 29,56,01,279/- (Twenty-Nine Crore Fifty-Six Lakh One Thousand Two Hundred and Seventy-Nine only)to the Corporate Debtor. The above loan is consistently acknowledged in the annual reports of the Corporate Debtor.

127. The Appellant filed Form 'C' under Regulation 8 of 'CIRP' Regulation of 2016 with all supporting documents that included the copy of Annual Accounts/Balance Sheet/Financial Statements to the Corporate Debtor. By its e-mail communication dated March 7, 2019, the Resolution Professional has partially admitted the claim of the Appellant while a substantial portion of the same was rejected without providing any reason. On May 22, 2019, the Resolution Professional informed the Appellant that its claim was dismissed entirely. After that, the Appellant had filed an Application under Section 60(5) of the Code before the Adjudicating Authority, challenging the Resolution Professional's decision against illegally and unlawfully rejecting the Appellant's claim. The Appellant contends that the Resolution Professional had no power to adjudicate and reject the claim submitted by him. Therefore, the Resolution Professional order was challenged before the Adjudicating

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Authority, but that Application was rejected without assigning any reason. Thus the Appellant was compelled to file this Appeal.

128. The Learned Adjudicating Authority has stated in its order that;

> *"Only production of financial statement itself cannot be held that all the requirements for substantiating the claim has been fulfilled on the side of the Applicants. It has come out in evidence that the Applicant Mr Aashish Jhunjhunwala, was asked to provide the document evidencing the contract for the loans in support of the amount shown in the financial statement evidencing that such amount was actually drawn by the Corporate Debtor and further evidence proving that, that fund has not been paid back to the related parties. No valid explanation is forthcoming as to non-production of the above said documents asked for from the Applicants here in this case in hand. There are various correspondence by way e-mail referred to us on the side of the Applicants. None of the e-mails referred to us enabled us to hold that the Applicants have meted out the requirement in order to see that the claim of the Applicants has been substantiated as alleged on the side of the Applicants. ..... That being so, non-admission of the claim of the Applicants found not in violation of any of the provisions of the Code and Regulation and therefore, none of the Applications deserves consideration. Accordingly, the Applications are liable to be dismissed."*
>
> *(Verbatim Copy)*

129. We have heard the arguments of the Learned Counsel for the parties and perused the records.

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130. The Learned Counsel for the Appellant argued that the Appellant had granted unsecured loans / financial assistants to the tune of ₹29,56,01,279/- to the Corporate Debtor. This fact has been consistently acknowledged in the annual report of the Corporate Debtor. It appears from e-mails dated February 04, 2019, and February 15, 2019, that Banks Statements and Annual Reports of the Corporate Debtor were duly received and accepted by the Resolution Professional. The Appellant had also filed Form 'C' under Regulation 8 of CIRP Regulations on 23 February 2019, along with supporting documents. By an e-mail communication dated 07 March 2019, the Resolution Professional partially admitted the Appellant's claim and stated that a part of the claim being accepted, while a substantial portion of the same was rejected on 22 May 2019. Subsequently, the Resolution Professional informed the Appellant that his claim has not been accepted and is completely dismissed.

131. It is contended on behalf of the Appellant that the Resolution Professional does not have jurisdiction and Adjudicating power to reduce or reject the claim filed by a Financial Creditor. But in the instant case, the Resolution Professional has, without any jurisdiction arbitrarily, illegally and unlawfully first proceeded to reduce the claim of the Appellant and, after having partially admitted the same initially, by e-mail dated 07 March 2019, proceeded to reject the entire claim of the Appellant. Although all necessary documentation in support of the claim for the monies actually given/transferred to the Corporate Debtor had been furnished.

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132. The Learned Counsel for the Appellant placed reliance on this Appellate Tribunal's judgment in the case of ***Prasad Gempex Vs. Star Agro Marine Exports Pvt Ltd in Company Appeal No. 291 of 2018*** wherein it is held that;

...

"8. The power of 'Resolution Professional' also fell for consideration before the Hon'ble Supreme Court in 'Swiss Ribbons Pvt. Ltd. & Anr. vs. Union of India &Ors. – Writ Petition (Civil) No. 99 of 2018'. In the said judgment dated 25th January, 2019, the Hon'ble Supreme Court held that 'Resolution Professional' has no adjudicatory power. The 'Resolution Professional' has to vet and verify the claims made and ultimately determine the amount of each claim. As opposed to this, the 'Liquidator' in the Liquidation proceedings under the I&B Code has to consolidate and verify the claims and either admit or reject such claims under Sections 38 to 40 of the Code.

9. In the present case, it is informed that the 'resolution plan' has already been approved by the 'Committee of Creditors' and the 'Resolution Professional' had placed the same before the Adjudicating Authority on 4th October, 2018 in 'M/s. Prasad Gempex' with regard to the 'corporate insolvency resolution process' initiated against 'M/s. Star Agro Marine Exports Pvt. Ltd.' (subject matter of Company Appeal (AT) (Insolvency) No. 291/18). A 'resolution plan' has already been approved and placed before the Adjudicating Authority (Chennai) on 4th October, 2018. However, till date no order under Section 31 has been passed. We find that 270 days have passed."

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133. In the case mentioned above, this Appellate Tribunal has clarified that this Tribunal **has not expressed any opinion with regard to the claim** made by 'Srei Infrastructure Finance Limited' **or the decision taken by the Resolution Professional.**

134. Relevant Regulation in this regard is given as under for ready reference;

"Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.

Regulation "8. Claims by financial creditors.—

(1) A person claiming to be a [8][financial creditor, other than a financial creditor belonging to a class of creditors, shall submit claim with proof] to the interim resolution professional in electronic form in Form C of the Schedule:

Provided that such person may submit supplementary documents or clarifications in support of the claim before the constitution of the committee.

(2) The existence of debt due to the financial creditor may be proved on the basis of –

(a) the records available with an information utility, if any; or

(b) other relevant documents, including -

(i) a financial contract supported by financial statements as evidence of the debt;

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(ii) a record evidencing that the amounts committed by the financial creditor to the corporate debtor under a facility has been drawn by the corporate debtor;

(iii) financial statements showing that the debt has not been repaid; or

(iv) an order of a court or tribunal that has adjudicated upon the non-payment of a debt, if any."

135. Based on the above Regulation, it is clear that a Financial Creditor has to file a financial contract supported by financial statements as evidence of the debt; a record evidencing that the Corporate Debtor has drawn the amounts committed by the Financial Creditor to the Corporate Debtor under a facility; financial statements showing that the debt has not been repaid to substantiate its claim.

136. The Resolution Professional stated that the Appellant had provided certain bank statements and information on being requested to provide additional supporting documents regarding his claim. Further, an excel document indicating outflow and inflows concerning the Corporate Debtor was made available. However, the same was merely a list that was created but could not be verified. Moreover, there was no clarity on the nature of the transaction in which the money was received by the Corporate Debtor. Assuming that the money provided was a loan, there was no clarity from the accounts maintained by the Corporate Debtor on whether the relevant amount has been repaid or not. The Resolution Professional further submits

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that on reviewing the annual report, the balance sheet, ledger and excel document shared by the Appellant, he found no conclusive proof to substantiate the claim of the Appellant. In the circumstances, the Resolution Professional had rejected the claim of the Appellant.

137. It is pertinent to mention that under Regulation 13(1) of the 'CIRP' Regulations, Resolution Professional is empowered to verify the claims. Regulation 13 is given below for ready reference:

> ***"13. Verification of claims.--***
>
> *(1) The interim resolution professional or the resolution professional, as the case may be, shall verify every claim, as on the insolvency commencement date, within seven days from the last date of the receipt of the claims, and thereupon maintain a list of creditors containing names of creditors along with the amount claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims, and update it.*
>
> ***14. Determination of amount of claim.--***
>
> *(1) Where the amount claimed by a creditor is not precise due to any contingency or other reason, the interim resolution professional or the resolution professional, as the case may be, shall make the best estimate of the amount of the claim based on the information available with him.*
>
> *(2) The interim resolution professional or the resolution professional, as the case may be, shall revise the amounts of claims admitted, including the estimates of claims made under sub-regulation (1), as soon as may be practicable,*

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when he comes across additional information warranting such revision."

138. Based on the above CIRP Regulations, it is clear that the IRP/Resolution Professional is empowered to make the best estimate of the claim based on the information available with him. IRP/RP is further authorised to revise the amounts of the claim admitted, including the estimates of the claim made under Regulation 14(1), when he comes across additional information warranting such revision.

139. In the instant case, Resolution Professional sought additional supporting documents concerning the claim. But the Appellant failed to submit the documents required to be filed as per Regulation 8 of the CIRP Regulations. Verification of claim by the Resolution Professional cannot be treated as an adjudicatory exercise. Therefore, Appellants contention that Resolution Professional has exceeded jurisdiction is not sustainable.

140. In the circumstances as stated above, the RP had rejected the claim of the Appellant for want of sufficient evidence as required under Regulations. The Adjudicating Authority also found no illegality or irregularity rejected the Company Application against Resolution Professional's order. We find no discrepancy in the order of the Adjudicating Authority. Based on the above discussion, we believe that Appeal sans merit and deserves to be dismissed.

Civil Appeal (AT) (Ins.) No. 1125 of 2019

141. The Appellant Vanguard Credit and Holdings Private Limited being aggrieved by the Order in Company Application (I.B.) No. 462/K.B./2019

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under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 in Company Petition No. (I.B.) 349/K.V./2019 has filed this Appeal.

142. The Appellant contends that the Adjudicating Authority has approved the Resolution Plan even though the Resolution Plan in respect of the Corporate Debtor envisages the transfer of land belonging to the Appellant and not the Corporate Debtor, measuring about 52.49 acres situated at Banskopa Inn Road, Gopalpur, Mouza, J.L. No 65, Durgapur in the Burdwan District, West Bengal (hereinafter referred to as "the said premises"). In the eyes of the law, the Appellant is a stranger to the Corporate Insolvency Resolution Process initiated against the Corporate Debtor.

143. The Appellant contends that the premises belong to it. The Adjudicating Authority has failed to appreciate that it has no jurisdiction to adjudicate upon the disputes regarding rights, title, and interest in respect of the property. It has failed to consider that no transfer or conveyance of the said premises can be permitted without first obtaining the express consent of the owner of the land, i.e. Appellant herein.

144. The Appellant further contends that the Adjudicating Authority has failed to appreciate the provision of Section 18 of the Code read with the Regulation 37(a) of the Insolvency Resolution Process for Corporate Person's Regulation, 2016, which bars the transfer of title of the third party such as the Appellant herein in favour of the Resolution Applicant. Further, the Adjudicating Authority has erred in essentially giving effect to the provisions

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of the SARFAESI Act, 2002 by allowing the Resolution Plan of the Resolution Applicant, which could not be permitted in law.

145. The Appellant further contends that the Adjudicating Authority has failed to appreciate that the Resolution Plan is conditional and contingent in as much as the Resolution Applicant had sought a direction to the effect that upon the Resolution Plan being sanctioned, the land in the Durgapur would be transferred in the name of the Resolution Applicant which cannot be allowed. Further, the land in the Durgapur not being a property of the Corporate Debtor and property belonged to a third party cannot be transferred by way of a Resolution Plan. As such, the Adjudicating Authority approval is conditional under which the property not belonging to the Corporate Debtor, whose ownership lies with the third-party stated to be transferred to the Resolution Applicant under the Resolution Plan.

146. The Appellant contends that Vanguard Credit And Holdings Private Limited is the owner of the land measuring 52.49 acres in Durgapur, West Bengal. The said property which is sought to be transferred by way of Resolution Plan does not belong to the Corporate Debtor but belongs to a third party, i.e. Appellant herein, which is ultimately a separate legal entity and even though Vanguard is a stranger to the Corporate Insolvency Resolution Process of the Corporate Debtor. The Resolution Applicant had sought approval from the Adjudicating Authority in regards to the transfer of the said property to the Corporate Debtor in respect of which the Resolution Plan is

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approved. The Appellant argued that the property which does not belong to the Corporate Debtor could not be transferred by way of a Resolution Plan.

147. The Adjudicating Authority failed to consider Section 18(1)(f) of the Code read with the explanation appended to it defines "**assets**". According to the explanation thereto, "assets does not include assets owned by the third party in possession of the Corporate Debtor or assets of any Indian or foreign subsidiary of the Corporate Debtor". Regulation 37 of the 'CIRP' Regulations, 2016, states that Resolution Plan can only contemplate the transfer of all or part of the assets of the Corporate Debtor to one or more persons on sale of all or part of the 'assets' whether or not subject to any security interest or not. It is further contended that the security interest means "security interest created in respect of an asset of the Corporate Debtor" and not security interest created by a separate legal entity or a third party on behalf of the Corporate Debtor. Regulation 37(d) provides for satisfaction or modification of any security interest created by the Corporate Debtor for its own assets and not of the assets belonging to third parties.

148. The Resolution Professional contended that the Appellant's property was mortgaged with the Banks/Financial Creditors. Thus, the Resolution Applicant is entitled to transfer the said premises by way of the Resolution Plan. In this context, it is relevant to mention that no possession has been taken under Section 13(4) of the SARFAESI Act, 2002 by any Financial Creditors regarding the Durgapur land. The Appellant has also challenged the notice under Section 13(2) of the SARFAESI Act, 2002 and proceedings under

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Section 17 of the SARFAESI Act, 2002, pending before DRT, Kolkata. If during the pendency of the proceedings under Section 17 of the SARFAESI Act, 2002 the said premises is transferred by way of Resolution Plan, the entire proceedings before the DRT would be rendered infructuous, especially when the creation of a mortgage and enforcement procedure thereof is under challenge, is under the exclusive jurisdiction of the DRT.

149. The Appellant further contends that the Adjudicating Authority has failed to consider that no transfer or conveyance of the said premises can be permitted without first obtaining the landowner's express consent, i.e. the Appellant herein. The Process Memorandum also states that the Resolution Plan cannot be conditional. Still, the Resolution Applicant has submitted the Resolution Plan, which dehors the Process Memorandum; thus, Resolution Plan is liable to be rejected.

150. In reply to the above, the Learned Counsel representing the Committee of Creditors submitted that Mr Ashish Jhunjhunwala, the Corporate Debtor's promoter, had filed an application under Section 10 of the I&B Code, which was admitted on January 8, 2019. He has been a part of almost all 'CoC' meetings from the beginning, including the first 'CoC' Meeting conducted on February 7, 2018. Time and again, various issues about the Durgapur unit/land have been discussed in the 'CoC' Meetings in the presence of Mr Jhunjhunwala. However, he failed even once to point out that the Appellant was to be treated as a separate entity, and the land could not be a part of the Resolution Process. For the first time in the 21st 'CoC' Meeting held on

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February 11, 2019, Mr Ashish Jhunjhunwala raised an objection stating that Durgapur's land does not belong to the Corporate Debtor. The same was done only at the fag end when Mr Jhunjhunwala realised that the 'CIRP' was at the final stage against his expectations. Therefore, with the only aim of obstructing the Resolution Process, such objections were raised at such a belated stage, which is an afterthought.

151. For the first time, on February 28, 2019, the Appellant wrote to the Resolution Professional, stating that the land that did not belong to the Corporate Debtor should be excluded from the Resolution Process. The Appellant is not a separate legal entity but is only acting on the whims and fancies of Mr Ashish Jhunjhunwala. Therefore, the Corporate veil should be pierced, and the real promoter/management and the acts and intention could be noticed.

152. It is an admitted fact that the Appellant is a Corporate Guarantors and had mortgaged the land to the Financial Creditors. The Appellant is a Company, which is wholly owned by the promoter of the Corporate Debtor.

153. On perusal of the factory license (page 125 of the convenience compilation), it appears that the Appellant has provided the right to use the land to the Corporate Debtor since September 2006. The Corporate Debtor had constructed a plant and factory on the said land to set up, establish and run the plant and factory for its wire business from the said land.



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154. The Appellant herein is the Corporate Guarantors to the loans availed by the Corporate Debtor from Financial Creditors. For this purpose, the Appellant had duly executed Deeds of Guarantee dated May 27, 2009. Accordingly, for the purpose of securing the loan granted to the Corporate Debtor, the present Appellant secured the said loans by way of creating an equitable mortgage of the property owned by it, more particularly the land, building and structure along with the immovable property situated at Durgapur.

155. The Guarantee described above gave all rights in respect of the mortgaged properties to the Financial Creditors. Clause 10 of the deed, as mentioned earlier, dated July 27 2009, is as under;

> *"**In case the bank sells the hypothecated, pledged or mortgaged security/ies held in the account, the guarantors agree (s) that the bank may sell securities without giving any notice of such sale to the guarantors. The guarantors agrees that he will not question the sale or sale price in any manner or on any ground whatsoever**."*

156. Learned Counsel representing the 'CoC' argued that the Financial Creditors such as Punjab National Bank and Axis Bank had provided their respective loans to the Corporate Debtor on the basis that the repayment by the Corporate Debtor was secured by way of a mortgage over the land (provided by the Appellant) and by way of Corporate Guarantees provided by the Appellant itself.

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157. By creating a mortgage over the land, Appellant created a security interest over the land in favour of Punjab National Bank (subsequently transfer to Respondent No.3/ARCIL) and Axis Bank. It is thus, evident that the land has been committed by the Appellant to be utilised for the repayment of the debts of Punjab National Bank and Axis Bank. The Punjab National Bank has already taken possession of the land and in the exercise of its power under Section 13(4) of the SARFAESI Act, 2002 and thus, the right to enforce the mortgage is created in its favour. The creation of a mortgage is evident based on documents relating to the deposit of the title deed.

158. By implication of Section 13(4) of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, a secured creditor can take possession of the secured assets, including the right to transfer by way of lease, assignment or sale for realising the secured asset. Accordingly, the mortgagees will have the right to enforce the mortgage over the land. The Resolution Plan provides the mechanism for the transfer of the land, which is as follows;

- ARCIL and Axis Bank would assign a portion of the debt to Narantak Dealcom limited (a nominee of the Resolution Applicant).

- Pursuant to such assignment, Vanguard will be required to take all actions is required to transfer the land to the Resolution Applicant.

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- This obligation to transfer the land will be pursuant to discharging of Vanguard's Corporate Guarantee and mortgage obligations.
- In case of no consensual transfer of Vanguard, the creditors shall have the right to enforce the mortgage for the transfer of land.
- In pursuance to the obligations of the Applicant under the guarantee obligations and the mortgage provided, the Resolution Applicant's 1st seeking a direction to allow the transfer of the land from the Applicant to the Corporate Debtor.
- Failing this, the Resolution Plan suggests that the assignee of the loan and security should be allowed to enforce under SARFAESI Act and transfer the land to the Corporate Debtor.

159. It is pertinent to mention that Regulation 37 (B) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016 provides that "a Resolution Plan shall provide for the measures, as may be necessary for Insolvency Resolution of the Corporate Debtor for maximisation of value of its assets, including but not limited to the sale of all or part of the assets whether subject to any security interest or not."

160. As per Section 31 of the Insolvency and Bankruptcy Code, 2016, the approved Resolution Plan binds all the stakeholders, including the Corporate Debtor's Guarantors. Thus Vanguard, being corporate Guarantor of the

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Corporate Debtor, is bound by the approved Resolution Plan. In light of the above discussion, we believe that the objections raised by "Vanguard/Appellant" are not sustainable.

161. The Learned Counsel for Appellant emphasised the judgment of Hon'ble Supreme Court in case of *Embassy Property Developments (P) Ltd. v. State of Karnataka*, (2020) 13 SCC 308 : 2019 SCC OnLine SC 1542 at page 332;wherein Hon'ble Supreme Court has held:

> ***"38.*** *It was argued by all the learned Senior Counsel on the side of the appellants that an Interim Resolution Professional is duty-bound under Section 20(1) to preserve the value of the property of the corporate debtor and that the word "property" is interpreted in Section 3(27) to include even actionable claims as well as every description of interest, present or future or vested or contingent interest arising out of or incidental to property and that therefore the Interim Resolution Professional is entitled to move the NCLT for appropriate orders, on the basis that lease is a property right and NCLT has jurisdiction under Section 60(5) to entertain any claim by the corporate debtor.*
>
> *But the said argument cannot be sustained for the simple reason that the duties of a resolution professional are entirely different from the jurisdiction and powers of NCLT. In fact Section 20(1) cannot be read in isolation, but has to be read in conjunction with Section 18(1)(f)(vi) of the IBC, 2016 together with the Explanation thereunder. Section 18(1)(f)(vi) reads as follows:*
>
> > *"**18. Duties of interim resolution professional**.—(1) The interim resolution professional shall perform the following duties, namely—*

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*(a)-(e) ****

(f) ***take control and custody of any asset over which the corporate debtor has ownership rights*** *as recorded in the balance sheet of the corporate debtor, or with information utility or the depository of securities or any other registry* ***that records the ownership of assets including—***

*(i)-(v) ****

(vi) assets subject to the determination of ownership by a court or authority;

*(g) ****

Explanation.—For the purposes of this section, the term "assets" shall not include the following, namely—

(a) assets owned by a third party in possession of the corporate debtor held under trust or under contractual arrangements including bailment;

(b) assets of any Indian or foreign subsidiary of the corporate debtor; and

(c) such other assets as may be notified by the Central Government in consultation with any financial sector regulator."

40. *If NCLT has been conferred with jurisdiction to decide all types of claims to property, of the corporate debtor, Section 18(1)(f)(vi) would not have made the task of the interim resolution professional in taking control and custody of an asset over which the corporate debtor has ownership rights, subject to the determination of ownership by a court or other authority.* ***In fact***

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an asset owned by a third party, but which is in the possession of the corporate debtor under contractual arrangements, is specifically kept out of the definition of the term "assets" under the Explanation to Section 18. This assumes significance in view of the language used in Sections 18 and 25 in contrast to the language employed in Section 20. Section 18 speaks about the duties of the interim resolution professional and Section 25 speaks about the duties of resolution professional. These two provisions use the word "assets", while Section 20(1) uses the word "property" together with the word "value". Sections 18 and 25 do not use the expression "property". *Another important aspect is that under Section 25(2)(b) of the 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. Sections 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;"*
>
> *(emphasis supplied)*

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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).

41. 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."

(emphasis supplied)

162. It is contended that in the case mentioned above, Hon'ble Supreme Court has held that an asset owned by a third party, but which is in possession of the Corporate Debtor under contractual arrangements, is specifically kept out of the definition of the term 'assets' under the explanation to Section 18.

163. In paragraph 40 of the said judgement, Hon'ble Supreme Court has expressly held that in the light of the statutory claim as culled out from various provisions of I&B Code, it is clear that wherever the Corporate Debtor had to exercise a right that falls outside the purview of I&B Code especially in the realm of public law, they cannot through Resolution Professional take a bypass and go before NCLT for enforcement of such a right.

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164. In the case, Hon'ble Supreme Court observed that an asset owned by 3rd party but which owns the Corporate Debtor under the contractual arrangement is kept explicitly out of the definition of the term assets under the explanation to Section 18 of the Code. It is further observed that Section 14(1)(D) of I&B Code, 2016, which prohibits, during the period of moratorium, the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor, will not go to the rescue of the Corporate Debtor, since what is prohibited therein, is only the right not to be dispossessed, but not the right to have the renewal of the lease of such property. The right not to be dispossessed, found in Section 14(1)(D) will have nothing to do with the rights conferred by a mining lease expressly on government land. What is granted under the deed of mining lease in ML 2293 dated January 4, 2001, by the Government of Karnataka, to the Corporate Debtor, for the right to mine, excavate and recover red oxide for a specified period of time. The deed of lease contains a schedule divided into several parts. The restrictions and conditions subject to which the grant can be enjoyed are found in part 3rd of the Schedule. Therefore, NCLT did not have jurisdiction to entertain an Application against the government of Karnataka for a direction to exclude Supplemental Lease Deeds for the extension of the mining lease. Since a NCLT choose to exercise of jurisdiction not vested in it in law, the High Court of Karnataka was justified in entertaining the Writ Petition on the basis that NCLT was quorum non-judice.

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165. The Learned Counsel for the Appellant, the Corporate Guarantor of the Corporate Debtor, further emphasised the law laid down by Hon'ble Supreme Court in the case of *Jaypee Infratech Ltd. Interim Resolution Professional v. Axis Bank Ltd.*, (2020) 8 SCC 401; it is contended that in the instant case JP Infratech Limited was undergoing 'CIRP'. Jayprakash Associates Ltd was the holding company. The Corporate Guarantors of JP Infratech Limited mortgaged its property to secure the loan of JP associates Ltd. Before the Hon'ble Supreme Court, the issue was whether the lenders of JP Associates Ltd, in whose favour mortgage was created by JP Infratech limited and joined the Corporate Insolvency Resolution Process of JP Infratech Limited can be treated as Financial Creditor of JP Infratech limited. According to the lenders, JP Infratech Limited, having mortgaged its property and having given a guarantee, has transferred the right, title and interest to the lenders of JP Associates Ltd. Hon'ble Supreme Court held that merely because the mortgage has been created and the guarantee is being given, the Respondent lenders will not be able to claim as Financial Creditors of JP Infratech Limited, which is undergoing 'CIRP'.

166. It is further said applying the ratio of the above-mentioned case, merely because the Vanguard mortgaged its land to secure the debt of the Corporate Debtor, the land does not get vested with the Corporate Debtor and the lenders of the Corporate Debtor are trying for the transfer of the land of the third party in the Corporate Insolvency Resolution Process of the Corporate Debtor.

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167. In case of *Jaypee Infratech Ltd. Interim Resolution Professional v. Axis Bank Ltd.*, (2020) 8 SCC 401 : 2020 SCC OnLine SC 237at page 529 Hon'ble Supreme Court held that;

> *"**57.** For what has been discussed hereinabove, on the issue as to whether lenders of JAL could be treated as financial creditors, we hold that such lenders of JAL, on the strength of the mortgages in question, may fall in the category of secured creditors, but such mortgages being neither towards any loan, facility or advance to the corporate debtor nor towards protecting any facility or security of the corporate debtor, it cannot be said that the corporate debtor owes them any "financial debt" within the meaning of Section 5(8) of the Code; and hence, such lenders of JAL do not fall in the category of the "financial creditors" of the corporate debtor JIL."*

168. From the facts of the above-mentioned case, it is clear that in the above case, the Hon'ble Supreme Court was dealing with the issue relating to the preferential transaction. The facts and ratio of the above case are distinguishable from the instant case; therefore, the above case law does not apply to this case.

169. It is pertinent to highlight that the Financial Creditors such as Punjab National Bank and Axis Bank had provided their respective loans to the Corporate Debtor on the basis that the repayment by the Corporate Debtor was secured by way of a mortgage over the land (provided by the Appellant) and by way of Corporate Guarantees provided by the Appellant itself. By creating the mortgage over the land, the Appellant has created a security

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interest over the land in favour of Punjab National Bank (subsequently transferred to Respondent No. 3/ARCIL) and Axis Bank. It is thus evident that the land has been committed by the Appellant to be utilised for the repayment of the debts of Punjab National Bank and Axis Bank. The Punjab National Bank has already taken possession of the land in exercise of its powers under Section 13 (4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 from August 1, 2013, and has the right to enforce the mortgage created in its favour. The copy of the letters confirming the deposit of the title deeds to create a mortgage for the Durgapur property indicates the above position.

170. It is important to point out that the date of creation of mortgage and extension of guarantees in favour of the Financial Creditors, there were two Directors of the Appellant, namely, Ashish Jhunjhunwala and Naveen Gupta. Mr Ashish Jhunjhunwala being the promoter of the Appellant (also the Promoter / Managing Director of the Corporate Debtor), holds 99.99% of the shareholding of the Appellant even as on date. Therefore, the Appellant's plea that it is an entirely separate and distinct entity is bogus and sham.

171. It is also important to point out that land is an essential part of the corporate debtor's business. The entire wire business of the Corporate Debtor being run on the Durgapur unit, which is situated on the said land, forms an essential part of the business of the Corporate Debtor. Therefore it is an essential part of the Resolution Process. The value arrived in the 'CIRP', the purported liquidation value, all includes the value of the land and the same

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has always been the essence of the business of the Corporate Debtor. It is also pertinent to mention that Mr Ashish Jhunjhunwala, who had himself filed the Application before the Adjudicating Authority, had relied on the valuation of the corporate debtor's assets. Such a list of assets includes the property at Durgapur. Thus it appears that the present Appeal is only a mischievous attempt to segregate a portion of the property from the Corporate Debtor, which was already considered as the assets of the Corporate Debtor by the Appellant as well as Mr Ashish Jhunjhunwala.

172. Since Mr Ashish Jhunjhunwala, the Appellant and the Corporate Debtor promoter, had filed An Application under Section 10 of I&B Code, 2016 of the Corporate Debtor. Therefore, after the same was admitted on 8 January 2019, he has been a part of almost all 'CoC' meetings from the beginning, including the 1st 'CoC' meeting, which was conducted on 7th February 2018. Time and again, various issues about the Durgapur unit/land had been discussed in the 'CoC' meetings in the presence of Mr Jhunjhunwala. However, he failed even once to point out that the Appellant was to be treated as a separate entity, and the land could not be part of the Resolution Process. For the 1st time, in the 21st 'CoC' meeting held on 11 February 2019, Mr Ashish Jhunjhunwala raised an objection stating that the land at the Durgapur does not belong to the Corporate Debtor. The same was done only at the fag end and when Mr Jhunjhunwala realised that the 'CIRP' was at the final stage against his expectations. Therefore, with the only aim of spoiling the resolution process, such objections were raised at such a belated stage

NOTARY
KOLKATA
SHRIMATI NARAYANI PANDEY
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which is only an afterthought. For the 1st time on 20th February 2019, the Appellant wrote to the Resolution Professional stating that the land does not belong to the Corporate Debtor and to exclude from the Resolution Process. The same is also indicative that the Appellant is not a separate legal entity but is only acting on the whims and fancies of Mr Ashish Jhunjhunwala. Therefore, the Corporate veil should be pierced, and the real Promoter/Management's acts and intention cannot be ignored.

173. In light of the discussion above, we find no merit in this appeal, and the appeal deserves to be dismissed.

Company Appeal (AT) (Ins.) No. 988 of 2019

174. The Appellant Pegasus Assets Reconstruction Pvt Ltd has challenged the impugned order on the ground that the Adjudicating Authority has arbitrarily dealt with the Appellant's Application in para No. 18 to 23 of the Impugned Order and while dismissing the same without looking into the documents on record has erroneously held that the Appellant has failed in proving that it has an exclusive charge over the Air Separation Plant ("AS Plant") of Respondent No. 2 and 1st paripassu charge(along with State Bank of India) over the Sinter plant of the Respondent No. 2, both located at Saha Chowk, Kharagpur and has accordingly erred in holding that 'IDBI' has a first paripassu charge over the movable fixed assets of the Respondent No. 2 and second paripassu charge over the current assets, hence is on equal footing as that of Appellant in the A. S plant and the Sinter plant.

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175. It is contended that the Adjudicating Authority has arbitrarily upheld the unreasonable and unsubstantiated methodology of the Resolution Professional whereby Respondent No. 3 has been unjustifiably enriched and there has been a wrongful loss to the Appellant to the tune of ₹ 35.76 crores as per the following;

Air separation plant	T.L.	value		Sinter plant		
Peagasus	222.02	15.12		Peagasus	222.02	7.76
IDBI	528.24	15.12		SBI	174.76	6.11
Total	750.26	21.48		IDBI	528.24	18.47
				Total	925.02	32.35

176. Respondent No. 3 (assign of 'IDBI') does not have any charge whatsoever over the Air Separation Plant and the Sinter Plant, respectively. The following should have been the correct calculation payable to the Appellant as its share under Section 30 and Section 53 of the Code, as the Appellant is a dissenting creditor to the approved Resolution Plan. According to the same, the total amount payable to the Appellant should be ₹52.45 crores instead of ₹ 16.69 crores.

177. However, since ARCIL (IDBI) does not have any charge whatsoever over the AR separation plant And Sinter Plant, respectively, the following should have been the correct calculation.

Air separation plant				Sinter plant		
	TL	Value			TL	Value

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Pegasus	222.02	21.48		Peagasus	222.02	18.10
Total	222.02	21.48		SBI	174.36	14.251
				Total	396.78	32.35

178. Details have been set out in chart to show that the Appellant has exclusive and paripassu charge with the 'SBI' over Air Separation Plant (which was exclusively financed by the assignor of the Appellant and over which the Appellant has first, and exclusive charge and Sinter Plant ,which the assignor State Bank of India financed, and over the said asset the Appellant has first paripassu charge along with the State Bank of India.

179. It is submitted by the plant that the Adjudicating Authority has made a gross error in law by arbitrarily dismissing the Application of the Appellant without considering the correct factual position and not considering the error made by the Resolution Professional while calculating the distribution as per Section 30 and 53 of the Code. Appellant has prayed that the Appellant's charge position be corrected to prevent the monetary loss, which the Appellant may suffer.

180. In reply to the above the Respondent No. 3 ARCIL submits that the main objection of the Appellant before the Adjudicating Authority as well as in this Appeal is that the RP failed to consider that the Appellant has an exclusive charge over two plants-Air Separation Plan and Sinter Plant of the Corporate Debtor ,consequently RP and the Process Advisers committed an error in the

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methodology of distribution of the proceeds in respect of these two plants and wrongly allocated the proceeds also to IDBI/ARCIL.

181. The Adjudicating Authority observed that the 'IDBI' had also granted a loan to the Corporate Debtor and had charge over the Kharagpur unit of the Corporate Debtor. It is pertinent to mention that the 'IDBI' vide registered deed of assignment deed with the Asset Reconstruction Company (India) Ltd assigned the secured debts of the Corporate Debtor in favour of the Asset Reconstruction Company (India) Ltd.

182. The Resolution Professional, in its reply, submitted that Ramsarup Industries Ltd (Corporate Debtor) had availed the facility to the extent of ₹ 29 crores ("facility 1") and ₹ 50 crores ("facility 2") from Allahabad Bank, which has now been assigned to Pegasus Asset Reconstruction Company Limited ("Pegasus"). Facility 1 is secured by a charge created under a letter of hypothecation dated June 8, 2007. Facility 2 is secured by a charge created under a letter of hypothecation dated April 29, 2008. The charges created under Letter of hypothecation 1 and letter of Hypothecation 2, are charges only on movable properties and not immovable properties, as no charge by way of hypothecation can be created on immovable properties. In its Appeal, Pegasus has claimed that ARCIL has been unjustly enriched by the incorrect distribution methodology. However, the grounds of Appeal raised by Pegasus are primarily with reference to the nature of its charge over the Corporate Debtor's movable property.

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183. It is further contended that Facility 1 and Facility 2 were assigned to Pegasus on September 27, 2013. Letter dated July 3, 2014 was issued over nine months after the assignment of facility 1 and facility 2. It is for the first time it was written to the leading bank that Pegasus had a first exclusive charge over the Air Separation Plant. Mere issuance of such a letter cannot possibly alter the factual position that Pegasus does not have a first exclusive charge on the Air Separation Plant. The initial understanding may have been that Allahabad bank has a first exclusive charge over the Air Separation Plant. However, subsequent to such an initial understanding, discussions and decisions taken collectively by the consortium of lenders has resulted in a change of position of security currently held by Pegasus. The Resolution Professional pleaded that the Adjudicating Authority has rightly approved the distribution methodology, which requires no interference at Appellate Stage.

184. The Respondent No. 3-ARCIL contended that the Appellant filed its limited objection to the Plan by way of Company Application No. (IB)/424/KB/2019 in CP (IB)/349/KB/2017. The main objection of the Appellant is that RP failed to consider that the Appellant has an exclusive charge over two plants-Air Separation Plant and Sinter Plant of the Corporate Debtor. The RP and the process advisers committed an error in the methodology of distribution of the proceeds in respect of these 2 plants and wrongly allocated the proceeds also to IDBI/ARCIL.

185. The Adjudicating Authority considered the objections of the Appellant and gave a finding that 'IDBI' had also granted loan to the Corporate Debtor

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and had charge over the Kharagpur unit of the Corporate Debtor. The 'IDBI' vide registered deed of assignment of that duly executed with Asset Reconstruction Company (India) Ltd assigned the secure debts of the Corporate Debtor in favour of the Asset Reconstruction Company (India) Ltd. The Corporate Debtor approached the 'IDBI' for financial exposure to the extent of the ₹124 crores for capital expenditure on its Kharagpur unit. IDBI Bank accepted the request of the Corporate Debtor and made financial exposure for ₹124crores in Corporate Debtor for capital expenditure on its Kharagpur unit. The Corporate Debtor, committed defaults, in repayment to IDBI Bank Ltd and requested the financial restructuring of its financial liabilities towards IDBI Bank Ltd. The IDBI agreed in principle to the structure the financial liabilities towards IDBI Bank Ltd subject to creation/modification of charge by the Corporate Debtor in favour of IDBI Bank Ltd. The Corporate Debtor vide letter of hypothecation dated June 17, 2009 executed in favour of IDBI Bank Ltd secured financial exposure of ₹124 crores of IDBI Bank Ltd. The Corporate Debtor, vide equitable Mortgage Deed dated November 24, 2010, executed in favour of IDBI Bank Ltd, created security in respect of total financial exposure of ₹ 141 crores (1 24 crore and 17 crore, totalling to ₹141 crores). IDBI Bank Ltd/ARCIL holds 1st charge on paripassu basis on the movable and immovable assets of the Corporate Debtor in terms of Deed of Hypothecation dated June 17, 2009 and equitable mortgage dated November 24, 2010 both duly executed by the Corporate Debtor in favour of IDBI Bank Ltd to secure financial exposure by IDBI Bank Ltd in Corporate Debtor. None of the lenders, including the assignee of the Appellant, neither raised any

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For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

objection on registration of such charge nor initiated any legal proceedings under Section 141 of the Companies Act,1956 to rectify the register of charges maintained by the 'ROC'. Hence, all other lenders of the Corporate Debtor, including the assignee of the Appellant and consequently the Appellant by its conduct, accepted the first charge on paripassu basis on these assets of the Corporate Debtor situated at Kharagpur. Thus, the Appellant at this belated stage is stopped from raising any issue about the IDBI Bank/Appellant's charge on the assets of the Corporate Debtor situated at Kharagpur.

186. The Appellant further contends that it cannot be treated as a dissenting Financial Debtor for the purpose of Section 30 (2) (B) of Insolvency and Bankruptcy Code, 2016. The Appellant, in principle, approved the Plan and agreed for distribution of the Resolution amount allocated to Financial Creditors as per facility -wise distribution methodology based on security structure.

187. It is pertinent to mention that the Appellant in its Application before the Adjudicating Authority did not raise its entitlement as per dissenting creditor as stipulated under Section 30 (2) of I&B Code albeit the Appellant prayed in the Application to pass necessary direction to the Resolution Professional to modify the Resolution Plan to the extent of "Facility wise distribution methodology based on security structure".

188. The Adjudicating Authority has observed that the Pegasus Asset Reconstruction Private Limited has failed in proving that it has an exclusive charge over Air Separation Plant and Sinter Plant. Admittedly, 'IDBI' had also

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 10324/2018 GOVT. OF INDIA

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issued loans to the Corporate Applicant, which was subsequently assigned in favour of the ARCIL and ARCIL, inter alia, had charge over the Kharagpur unit. The Resolution Professional had seen and examined the Mortgage Deed executed by 'IDBI'. The Mortgage Deed indicates that IDBI had a charge of the Corporate Applicant's property at Kharagpur.

189. It is pertinent to mention that both the objectors were members of the Committee of Creditors. It is also understood that the security interests recorded for each creditor have been made available to all the members of the 'CoC' before finalisation of the approval of the Resolution Plan. Therefore, the challenges raised by the above said Financial Creditors claiming exclusive charge over the above said plants are found devoid of any merits. They are estopped from contending that the RP has erred in recording the value of Financial Creditors' security interest after the approval of the Resolution Plan by the required majority, wherein they were parties and participated in the discussions. It is also observed that Mortgage Deed executed by IDBI indicates that the 'IDBI' had the first paripassu charge over the movable fixed assets of the Corporate Applicant, and the 2nd paripassu was set with the working capital lenders over the current assets. The Allahabad bank assigned the debt to Pegasus Asset Reconstruction Private Limited, and UCO Bank had assigned the debt to the Corporate Applicant and M/s JM Financial Asset Reconstruction Company Private Limited. None of the Banks came forward to raise the contention that they have had first paripassu charge over the plant's as the Financial Creditors alleged in the objection and the applications. They

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are the consortium members wherein the fact remained that 'IDBI' has got the first paripassu charge, and it is conceded by the lenders.

190. It is pertinent to mention that Pegasus case is peculiar in so far as Pegasus is an assignee of the debts owned to Allahabad bank by the corporate debtor, and neither Allahabad Bank not Pegasus itself had raised any objection to the pari passu charge in favour of IDBI Bank despite being aware of the same. The Appellant had not objected until after the Resolution Plan's approval by the 'CoC'. No justification has been offered as to why Pegasus conduct should not be regarded as its unconditional acquiescence to the status quo adopted by all of the Corporate Debtor's lenders.

191. It is also important to mention that the security interest was always available with Pegasus during the corporate insolvency resolution process of the Corporate Debtor. However, concerns were raised only after approval of the Resolution Plan by the 'CoC'. The distribution of proceeds amongst the lenders being an inter-creditor issue. It was the 'CoC' along with the Process Advisers to the 'CoC' that prepared and confirmed the methodology of distribution of proceeds on the basis of security structure. The security interests recorded for each creditor has been made available, to be scrutinised and inspected by the 'CoC' during the 'CIRP'. The distribution methodology has been repeatedly shared with the members of 'CoC' vide various emails. The 'CoC' in its 24th meeting held on 6 March 2019 discussed the methodology of distribution and was put to vote. The members of the 'CoC' were specifically asked to review the final distribution methodology that was prepared. The Pegasus sent an email to the RP on 19 March 2019, i.e. after the voting on the

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Resolution Plan had concluded, and the Resolution Plan along with the distribution methodology as per the security interest was approved by a vote share of 74.41%.

192. Based on the above discussion, we consider that the Appeal sans merit and deserves to be dismissed.

CONCLUSION

COMMON ORDER

193. Company Appeals (AT) (Insolvency) Nos.995, 988, 1039, 1124, 1125, 1159, 1242 of 2019 & 468 of 2020 are being dismissed.

194. While deciding Company Appeal No.995 of 2019, we have observed that the Successful Resolution Applicant/Appellant S.S. Natural Resources Pvt. Ltd. Has not implemented the Resolution Plan despite its approval by the Adjudicating Authority on 04th September 2019. Pandemic Covide-19's effect in India started from 15th March 2020 onwards. But the Successful Resolution Applicants has filed an application informing about the invoking of Force Majure Clause, and based on that; it is seeking withdrawal of the Resolution Plan on the ground that subsequent events have made Resolution Plan financially, economically and operationally unviable for the reasons beyond the Appellant's Control.

195. It is pertinent to mention that Resolution Plan was approved on 04th September 2019, and Plan was to be implemented from the date of pronouncement of the order. The lockdown on account of Covid-19 Pandemic started on 15th March 2020, and till then, Successful Resolution Applicant

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had already committed default in not implementing the Resolution Plan. Therefore, it cannot be concluded that the Resolution Plan becomes financially, economically and operationally becomes unviable on account of the Covid-19 Pandemic. It is also important to point out that after the Resolution Plan's approval on 04th September 2019 first meeting of the Monitoring Agency took place on 13th September 2019. After that, five meetings of the Monitoring Agency took place within 20 days from the date of approval of the Resolution Plan. But the Successful Resolution Applicant has not participated in the Monitoring Agency meetings and never attended the said meetings. The Appeal is filed simply to avoid anticipated action on refusal to implement the approved plan.

196. It is also noticed that by order of this Appellate Tribunal dated 25th September 2019, operation of the impugned order to the extent it relates to the payment of the amount in excess of Rs.400 Crores stayed. We have also noticed that the Successful Resolution Applicant/Appellant has filed the Appeal on erroneous assumption and made arbitrary calculations with the sole aim of evading its obligations under the approved Resolution Plan and has not paid a single penny on the pretext of the order dated 25th September 2019 without there being any stay of the payments up to Rs.400 crores. This clearly shows a failure on Successful Resolution Applicant S.S. Natural Resources Pvt. Ltd. in implementing the approved Resolution Plan. After approval of the Resolution Plan, it took about 1½ year. To date, not a single penny had been paid on the pretext of the order of this Tribunal dated 25th

NOTARY KOLKATA GOVT. OF INDIA

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September 2019 without there being any stay on the payments up to Rs.400 crores. The relevant portion of our order dated 25th September 2019 is as under:

> "***In the meantime, the operation of the impugned order, in so far it relates to the payment of amount in excess of Rs.400 crores shall remain stayed.***"

197. Based on the above order, it is clear that there was no stay for implementation of the Resolution Plan, but after about 1½ year period after the date of approval of the Resolution Plan, Appellant has not taken any stay towards the implementation of the Plan. The approved Resolution Plan contemplates Financial Creditors to get only 5.8% of the admitted claim amounting to Rs.5,853 crores and Operation Creditors to get Rs.10.5 Crores out of the admitted claim amount of Rs.224.05 crores.

198. It is further to observe that the Adjudicating Authority has also observed that the Applicant's overall conduct in filing multiple applications cannot be considered with the genuine object to get the relief as prayed for, with the object to protract the matter..... If this kind of approach is not prevented, it will air a wrong message to the similarly situated Directors of the Corporate Debtor Company. It is essential to point out that the Adjudicating Authority, while dismissing the CA (IB) No.461 & 462 of 2019, imposed a cost of Rs.25 lakhs payable by the Promoter Director Ashis Jhunjhunwala.

199. It is also noticed that while dismissing CA (IB) No.497/KB/2019, the Adjudicating Authority imposed a cost of Rs.5 lacs to be paid by the Orissa Metalic Private Limited. We also observe that after approval of the Resolution

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Plan, if Successful Resolution Applicant wants to back out from the approved Resolution Plan, multiple applications are being filed in different names to protract the litigation. In the circumstances, we are fully convinced that the order of imposing cost by the Adjudicating Authority is also justified and needs no interference.

200. Based on the above discussion, Company Appeals (AT) (Insolvency) Nos.995, 988, 1039, 1124, 1125, 1159, 1242 of 2019 & 468 of 2020 are being dismissed.

201. We further direct the Monitoring Agency to start taking steps for implementation of the Resolution Plan immediately, and in case the Successful Resolution Applicants fails to implement the approved Resolution Plan; appropriate action should be taken immediately, and without waiting further, the application should be moved before the Adjudicating Authority for liquidation of the Corporate Debtor. Registrar NCLAT is directed to send the order's copy immediately to all the concern parties through e-mail as well as by post for compliance.

[Justice Jarat Kumar Jain]
Member (Judicial)

[Balvinder Singh]
Member (Technical)

[V. P. Singh]
Member (Technical)

NEW DELHI
04th MARCH, 2021

pks



For RAMSARUP INDUSTRIES LTD.

Director /Authorised Signatory

Hon'ble Mr. Balvinder Singh, Member (Technical) is on leave, therefore Judgment is being pronounced under Rule 92 of NCLAT Rules, also on his behalf.

[Justice Jarat Kumar Jain]
Member (Judicial)

[V. P. Singh]
Member (Technical)

NEW DELHI
04th MARCH, 2021

NOTARY GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure "R-11"

1

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No 1142 of 2021

S S Natural Resources Private Limited **.... Appellant(s)**

Versus

Ramsarup Industries Limited & Ors **....Respondent(s)**

O R D E R

1 The National Company Law Tribunal[1], in the operative directions contained in its order dated 4 September 2019, has, *inter alia*, observed as follows:

"i) The Resolution Plan of Ramsarup Industries Ltd., which is approved by the CoC with 74.41% voting share, is hereby approved under provisions of sub-section(1) of Section 31 of the Insolvency and Bankruptcy Code, 2016, which shall be binding on the Corporate Debtor, M/s. Ramsarup industries Limited, its employees, members, creditors, guarantors, the Central Government, any State Government or any local authority and other stakeholders involved in the Resolution Plan subject to the below mentioned modification.

ii) The Resolution Plan approved by the CoC shall include the portion of security expenses incurred by the Financial Creditor/West Bengal Industrial Development Corporation

Signature valid
Digitally signed by Sanjay Kumar
Date: Oct 25.05 19:32:22 IST
Reason:

1 "NCLT"

NOTARY GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Limited(WBIDCL) which is admitted by the RP in the upfront amount payable by the Resolution Applicant to the Creditors.

iii) The Resolution Pian, shall come into force from the date of pronouncement of this order."

2 The above order of the NCLT has been affirmed by the National Company Law Appellate Tribunal.

3 The resolution plan was approved by the Committee of Creditors in their commercial wisdom. The resolution plan has been approved by the NCLT in terms of the above directions (save and except for a minor aspect pertaining to the security expenses of West Bengal Industrial Development Corporation, on which there is no cavil or contest on either side). No substantial question of law has been raised by the appellant.

4 The appeal is accordingly dismissed.

5 Pending applications stand disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[M R Shah]

New Delhi;
May 04, 2021
-S-

NOTARY GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No 1652 of 2021

Orissa Metaliks Private Limited **.... Appellant(s)**

Versus

Kshitiz Chhawchharia and Anr **....Respondent(s)**

O R D E R

1 We are not inclined to interfere with the order of the National Company Law Appellate Tribunal dated 4 March 2021 in Company Appeal (AT) (Insolvency) 1159 of 2019.

2 The appeal is accordingly dismissed.

3 Pending application, if any, stands disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[M R Shah]

New Delhi;
May 04, 2021
-S-

NOTARY GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

ITEM NO.21+23+24 Court 5 (Video Conferencing) SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s).1142/2021

S.S. NATURAL RESOURCES PRIVATE LIMITED Appellant(s)

VERSUS

RAMSARUP INDUSTRIES LIMITED & ORS. Respondent(s)

(WITH I.R. and IA No.49889/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.49890/2021-STAY APPLICATION and IA No.49891/2021-APPROPRIATE ORDERS/DIRECTIONS)

WITH
C.A. No. 1652/2021 (XVII)
(WITH IA No.57251/2021-EX-PARTE AD-INTERIM RELIEF and IA No.57253/2021-EXEMPTION FROM FILING AFFIDAVIT)

C.A. No. 1693/2021
(WITH IA No.58602/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.58603/2021-STAY APPLICATION)

C.A. No. 1688/2021
(WITH IA No.58304/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.58305/2021-STAY APPLICATION)

Date : 04-05-2021 These appeals were called on for hearing today.

CORAM :
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH

For Appellant(s) Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Sanjay Bhatt, Adv.
Mr. Himanshu Satija, Adv.
Mr. Rohan Talwar, Adv.
Ms. Niharika Sharma, Adv.
Mr. E. C. Agrawala, AOR

Mr. Ranjit Kumar, Sr. Adv.
Mr. Manu Nair, Adv.
Mr. Siddhartha Datta, Adv.
Mr. Nitish Massey, Adv.
Ms. Suhani Dwivedi, Adv.
Mr. Neelabh Shreesh, Adv.
Mr. Deepanjan Dutta Roy, Adv.
Ms. Trisha Mukherjee, Adv.
Mr. S.S. Shroff, AOR

GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.
Director / Authorised Signatory

Mr. Rishav Banerjee, Adv.
Mr. R.B. Phookan, Adv.
Ms. Neha Tandon, Adv.
Mr. Shailesh Madiyal, AOR

For Respondent(s) Mr. Shyam Divan, Sr. Adv.
Mr. Utsav Mukherjee, Adv.
Ms. Smriti Churiwal, Adv.
Mr. Vinayak Bhandari, Adv.
Mr. Jaiveer Kant, Adv.
Ms. Deepti Babel, Adv.
Mr. Ankit Swarup, AOR

Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Sanjay Bhatt, Adv.
Mr. Himanshu Satija, Adv.
Mr. Rohan Talwar, Adv.
Ms. Niharika Sharma, Adv.
Mr. E. C. Agrawala, AOR

Mr. Dinkar Singh, Adv.
Mr. Deepak Goel, AOR

Mr. Deep Roy, Adv.
Mr. Piyush Swami, Adv.
Mr. Arshdeep Singh, Adv.
Mr. Rony Oommen John, AOR

Mr. Krishnendu Dutta, Sr. dv.
Ms. Sucharita Basu, Adv.
Ms. Anshula Vijay Kumar Grover, AOR
Mr. Piyush Agrawal, Adv.
Mr. Saurobroto Dutta, Adv.
Ms. Ranjabati Ray, Adv.

CA D 10737/21 Mr. Shatadru Chakraborty, Adv.
Ms. Sonia Dube, Adv.
Ms. Kanchan Yadav, Adv.
Ms Surbhi Anand, Adv.
for M/s. Victor Moses & Associates

UPON hearing the counsel the Court made the following
O R D E R

CA Nos 1142/2021 and 1652/2021

1 The appeals are dismissed in terms of the signed orders.

2 Pending application, if any, stands disposed of.

NOTARY GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.
Director / Authorised Signatory

CA Nos 1693/2021 and 1688/2021

1 List the appeals on 6 May 2021.

2 Permission granted to file an additional compilation of documents.

3 Civil Appeal D No 10737 of 2021 be also listed on 6 May 2021 along with the aforesaid appeals.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER

(Two signed orders are placed on the file)

NOTARY GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure "R-12"

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No 1693 of 2021

Aashish Jhunjhunwala — **Appellant(s)**

Versus

Kshitiz Chhawchharia and Others — **Respondent(s)**

W I T H

Civil Appeal No 1688 of 2021
Civil Appeal Diary No 10737 of 2021

O R D E R

1 We find no reason to interfere with the impugned orders dated 4 March 2021 passed by the National Company Law Appellate Tribunal in Company Appeal (AT) (Insolvency) Nos 1124 of 2019, 1125 of 2019 and 468 of 2020.

2 The Civil Appeals are accordingly dismissed.

3 Pending applications, if any, stand disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[M R Shah]

New Delhi;
July 2, 2021
CKB

Validity unknown
Digitally signed by Chetan Kumar
Date: 2021.07.08 16:44:10 IST
Reason:

NOTARY GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

ITEM NO.5+36 Court 5 (Video Conferencing) SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No.1693/2021

AASHISH JHUNJHUNWALA Appellant(s)

VERSUS

KSHITIZ CHHAWCHHARIA & ORS. Respondent(s)

(With appln.(s) for IA No.58602/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.58603/2021-STAY APPLICATION IA No. 60846/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ ANNEXURES)

WITH C.A. No.1688/2021 (XVII)
(With appln.(s) for IA No.58304/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.58305/2021-STAY APPLICATION)
C.A. Diary No.10737/2021

Date : 02-07-2021 These matters were called on for hearing today.

CORAM :
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH

For Appellant(s) Mr. Rana Mukherjee, Sr. Adv.
Mr. Rishav Banerjee, Adv.
Mr. R.B. Phookan, Adv.
Mrs. Neha Tandon, Adv.
Mr. Shailesh Madiyal, AOR

CA D.10737/2021 Mr. Shatadru Chakraborty, Adv.
Ms. Sonia Dube, Adv.
Ms. Kanchan Yadav, Adv.
Ms. Surbhi Anand, Adv.
M/s Victor Moses & Associates

For Respondent(s) Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Mahesh Agarwal, Adv.

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Director / Authorised Signatory

Mr. Sanjay Bhatt, Adv.
Mr. Himanshu Satija, Adv.
Mr. Rohan Talwar, Adv.
Ms. Niharika Sharma, Adv.
Mr. E. C. Agrawala, AOR

CA 1693/2021

Mr. Utsav Mukherjee, Adv.
Ms. Smriti Churiwal, Adv.
Mr. Jaiveer Kant, Adv.
Ms. Deepti Babel, Adv.
Mr. Ankit Swarup, AOR

CA 1688/2021

Mr. Shyam Divan, Sr. Adv.
Mr. Utsavv Mukherjee, Adv.
Ms. Smriti Churiwal, Adv.
Mr. Jaiveer Kant, Adv.
Ms. Deepti Babel, Adv.
Mr. Ankit Swarup, AOR

CA D.107371693/2021

Mr. Utsav Mukherjee, Adv.
Ms. Smriti Churiwal, Adv.
Mr. Jaiveer Kant, Adv.
Ms. Deepti Babel, Adv.
Mr. Ankit Swarup, AOR

Mr. Deep Roy, Adv.
Mr. Piyush Swami, Adv.
Mr. Arshdeep Singh, Adv.
Mr. Rony Oommen John, Adv.

UPON hearing the counsel the Court made the following

O R D E R

1 The appeals are dismissed in terms of the signed order.

2 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
A.R.-cum-P.S.

(SAROJ KUMARI GAUR)
Court Master

(Signed order is placed on the file)

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO. 10824/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure "R-13"

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH-I, KOLKATA

IA (IB) No.538/KB/2021
IA (IB) No.628/KB/2021 &
IA (IB) No.635/KB/2021
in
CP (IB) No.349/KB/2017

In the matter of:

An application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016.

CP (IB) No.349/KB/2017

In the matter of:

Ramsarup Industries Limited [CIN: L65993WB1979PLC032113], having its registered office at 7C, Kiran Shankar Roy Road, Hastings Chambers, 2nd Floor, Room No.-1 Kolkata - 700 001.

... Corporate Applicant

IA (IB) No.538/KB/2021

In the matter of:

CFM Asset Reconstruction Private Limited, in its capacity as Trustee of CFMARC Trust, having its registered office at A/3, Safal Profitaire, Near Prahlad Nagar Garden, Ahmadabad - 380001 and Corporate Office at 1st Floor, Wakefield House, Sprott Road, Ballard Estate, Fort, Mumbai - 400 038.

...Applicant

Versus

1. **S S Natural Resources Private Limited** [CIN: U10300WB2015PTC204962], having its registered office at SS Chambers, 5 CR Avenue, 2nd Floor, Kolkata - 700072.
2. **Monitoring Agency to Ramsarup Industries Limited**, represented by its Chairman, Mr Kshitiz Chhawchharia [IBBI/IPA-001/IP-P00358/2017-18/10616].

...Respondents

IA (IB) No.628/KB/2021

In the matter of:

CFM Asset Reconstruction Private Limited, in its capacity as Trustee of CFMARC Trust, having its registered office at A/3, Safal Profitaire, Near Prahlad Nagar Garden, Ahmadabad – 380001 and Corporate Office at 1st Floor, Wakefield House, Sprott Road, Ballard Estate, Fort, Mumbai - 400038.

... Applicant

Versus

NOTARY KOLKATA GOVT. OF INDIA RECN. NO. 13024/2010

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH-I

IA (IB) No.538/KB/2021, IA (IB) No.628/KB/2021
& IA (IB) No.635/KB/2021 in CP (IB) No.349/KB/2017
In re: Ramsarup Industries Ltd implementation of Resolution Plan

---

1. **S S Natural Resources Private Limited** [CIN: U10300WB2015PTC204962], having its registered office at SS Chambers, 5 CR Avenue, 2nd Floor, Kolkata - 700072.

2. **Monitoring Agency to Ramsarup Industries Limited**, represented by its chairman, Mr Kshitiz Chhawchharia [IBBI/IPA-001/IP-P00358/2017-18/10616].

...Respondents

IA (IB) No.635/KB/2021

In the matter of:

S S Natural Resources Private Limited [CIN: U10300WB2015PTC204962], having its registered office at SS Chambers, 5 CR Avenue, 2nd Floor, Kolkata - 700072.

...Applicant

Versus

1. **Kshitiz Chhawchharia** [IBBI/IPA-001/IP-P00358/2017-18/10616], erstwhile Resolution Professional and chairman of the Monitoring Agency of Ramsarup Industries Limited.

2. **CFM Asset Reconstruction Private Limited,** in its capacity as Trustee of CFMARC Trust, having its registered office at A/3, Safal Profitaire, Near Prahlad Nagar Garden, Ahmadabad – 380001 and Corporate Office at 1st Floor, Wakefield House, Sprott Road, Ballard Estate, Fort, Mumbai - 400038

...Respondents

Date of hearing: 09 February 2022

Date of pronouncement: 06 April 2022

Coram:

Shri Rajasekhar V.K.	:	Member (Judicial)
Shri Balraj Joshi	:	Member (Technical)

Appearances (via video conferencing):

On behalf of CFM Asset Reconstruction Private Limited:

1. Mr SN Mookherjee, Ld. Advocate General & Senior Advocate
2. Mr Ratnanko Banerji, Sr. Advocate
3. Mr Deepanjan Dutta Roy, Advocate
4. Mr Siddharth Dutta, Advocate
5. Ms Suhaani Dwivedi, Advocate

On behalf of the erstwhile Resolution Professional & Chairman-Monitoring Agency:

1. Mr Deep Roy, Advocate

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Director / Authorised Signatory

2. Ms Srishti Agnihotri, Advocate
3. Mr Kshitiz Chhawchcharia, RP in person

On behalf of the Successful Resolution Applicant (S S Natural Resources Pvt Ltd):
1. Mr Sudipto Sarkar, Sr. Advocate
2. Mr Sumant Batra, Advocate
3. Mr Shounak Mitra, Advocate
4. Mr Saptarshi Mandal, Advocate

On behalf of Punjab National Bank, member of the Monitoring Agency:
1. Mr Debasish Chakrabarti, Advocate
2. Ms Trisha Mukherjee, Advocate

On behalf of Kotak Mahindra Bank
1. Ms Manju Bhuteria, Advocate
2. Mr Varun Kedia, Advocate

On behalf of the workers
1. Ms Amrita Pandey, Advocate

COMMON ORDER

(Disposing of IA (IB) No.538/KB/2021, IA (IB) No.628/KB/2021
& IA (IB) No.635/KB/2021 in CP (IB) No.349/KB/2017)

Rajasekhar V.K., Member (Judicial):

1. *The backdrop to the three interlocutory applications*

1.1. *Vide* order dated 08 January 2018, Ramsarup Industries Limited ***('Corporate Applicant' or 'Corporate Debtor')*** was admitted into Corporate Insolvency Resolution Process ***('CIRP')*** under section 10 of the Insolvency and Bankruptcy Code ***('the Code').***

1.2. Subsequently, the Resolution Plan submitted by S S Natural Resources Private Limited ***('Successful Resolution Applicant'*** or ***'SRA')*** was approved by the Committee of Creditors ***('CoC')*** with 74.41% voting share. The Resolution Plan was also approved by this Adjudicating Authority on 04 September 2019. The Monitoring Agency overseeing the implementation of the Resolution Plan consists of six members, being the erstwhile RP, two members of the SRA and three representatives of the CoC, *i.e.*, CFM Asset Reconstruction Private

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Limited ***('CFM-ARC')***, Punjab National Bank ***('PNB')*** and Axis Bank Limited ***('Axis Bank').***

1.3. Upon approval of the Resolution Plan, nine appeals were preferred before the Hon'ble NCLAT. One of the appeals was preferred by the SRA on the grounds that the Adjudicating Authority has materially changed and altered the plan by imposing additional financial obligations on the SRA.

1.4. The Hon'ble NCLAT *vide* its common order dated 04 March 2021[1] dismissed the appeal. The Hon'ble NCLAT expressed its displeasure with respect to the conduct of the SRA for not attending the Monitoring Agency Meeting after the approval of the Plan by the Adjudicating Authority. The Hon'ble NCLAT also directed the Monitoring Agency to start taking action to implement the Resolution Plan. In case of the failure by the SRA to implement the Resolution Plan, an application for liquidation of the Corporate Applicant should be moved before the Adjudicating Authority, without any further delay, it directed (***emphasis on para nos.195, 196, 197 & 201 of the NCLAT Order***).

1.5. Notwithstanding the observations made by the Hon'ble NCLAT in its order dated 04 March 2021, the SRA preferred Civil Appeal No.1142/2021 before the Hon'ble Supreme Court. However, this was dismissed by the Supreme Court *vide* its order dated 04 May 2021,[2] on grounds of lack of substantial question of law.

1.6. For the purpose of this order, there was another appeal of interest, the one filed by Vanguard Credit & Holdings Private Limited ***("Vanguard"),*** being Civil Appeal No.1688/2021 before the Hon'ble Supreme Court ***("Vanguard Appeal"*** or ***"Vanguard's Appeal").*** The importance of this appeal in the scheme of things will be noticed later on in this order. Therefore, the SRA decided to wait for the decision of the Hon'ble Supreme Court in Vanguard's Appeal, even

[1] Annexure C of the IA (IB) No.538/KB/2021

[2] Annexure D of the IA (IB) No.538/KB/2021

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For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

though its own appeal was dismissed on 04 May 2021. As things turned out, the Hon'ble Apex Court, *vide* its order dated 02 July 2021, dismissed Vanguard's Appeal.

1.7. Pursuant to the Hon'ble NCLAT's order dated 04 March 2021 dismissing the SRA's appeal, the Chairman of the Monitoring Agency issued a notice dated 17 May 2021, calling for the 7th meeting of the Monitoring Agency on 20 May 2021.[3] In that meeting, the SRA expressed its willingness to implement the Resolution Plan subject to some conditions. Further, the SRA was unwilling to release the upfront payment to the Monitoring Agency to meet the CIRP costs and also objected to utilisation of the performance security until the Vanguard Appeal was decided by the Hon'ble Supreme Court. On their part, the members of the Monitoring Agency told the SRA about the need for unconditional implementation of the Resolution Plan.

1.8. Subsequently, the SRA in its mail dated 23 May 2021 drew attention to the 7th meeting of the Monitoring Agency and highlighted that the demand by the Monitoring Committee to compensate the Financial Creditors on account of delay in implementation of the Resolution Plan is unjustified. Further, the SRA in its mail also contended that it should be permitted to deposit the CIRP costs in an escrow account and its disbursement be kept on hold. The disbursement of the Performance Security and the interest earned thereon should also be kept on hold till the disposal of the Vanguard Appeal that was pending before the Hon'ble Supreme Court.

1.9. It is in this conspectus of facts that the present interlocutory applications have been filed and will have to be decided. We now notice briefly the three applications and the prayers made therein.

[3] Annexure G of IA (IB) No.538/KB/2021

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For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH-I

IA (IB) No.538/KB/2021, IA (IB) No.628/KB/2021
& IA (IB) No.635/KB/2021 in CP (IB) No.349/KB/2017
In re: Ramsarup Industries Ltd implementation of Resolution Plan

IA (IB) No.538/KB/2021

1.10. This application was filed on 08 June 2021 by CFM-ARC, an assignee[4] of Asset Reconstruction Company (India) Limited, a financial creditor of the corporate debtor by assignment, against the SRA and the Monitoring Agency ***('Monitoring Agency')*** under section 33(3), 33(4) and 60(5) of the Code, *inter alia* seeking the following reliefs: -

(a) For liquidation of the Corporate Debtor;

(b) To direct the Monitoring Agency to forfeit the Performance Security amount deposited by the SRA under regulation 36B(4A) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and to utilise the same towards CIRP costs and other outstanding expenses; and

(c) To appoint Mr Aditya Kumar Tibrewal as the liquidator.

IA (IB) No.635/KB/2021

1.11. This is an Application filed by the SRA against Mr Kshitiz Chhawchharia, erstwhile Resolution Professional ***('erstwhile RP')*** and CFM-ARC, a Financial Creditor and an assignee of Asset Reconstruction Company (India) Limited under section 60(5) of the Code *inter alia* seeking directions to the respondents to cooperate in the implementation of the approved Resolution Plan.

IA (IB) No.628/KB/2021

1.12. This Application has been filed by CFM-ARC against the SRA and the Monitoring Agency under section 60(5) of the Code *inter alia* seeking payment of interest by the SRA from the date of approval of the Resolution Plan, *i.e.,* 04 September 2019 till the implementation of the Resolution Plan by the SRA.

1.13. It is alleged that the SRA has miserably delayed implementation of the Plan. Such delay has significantly depleted the time value of money and resulted in

[4] Annexure E of the IA (IB) No.538/KB/2021, Deed of Assignment dated 23 April 2021

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loss of business opportunity for the creditors and other stakeholders. Therefore, the creditors and stakeholders should be compensated adequately for such loss.

2. *Disposal by common order*

2.1. Since the three interlocutory applications are intertwined and interconnected, we propose to dispose of all three applications by means of this common order, with references to the pleadings wherever they are indicated. For convenience, the parties are referred to by their names.

3. *Submissions of Mr SN Mookherjee, Ld AG appearing for CFM-ARC*

3.1. Mr SN Mookherjee, Ld AG and Senior Advocate appearing for CFM-ARC, began his submissions by stating that the Adjudicating Authority approved the Resolution Plan on 04 September 2019. Despite this, the SRA went up in appeal challenging this approval. Ultimately, the NCLAT dismissed the appeal on 04 March 2021. While dismissing the appeal, the NCLAT also observed that the SRA had done nothing towards implementation of the Resolution Plan from 04 September 2019.[5] It also confirmed the order of the Adjudicating Authority. Many appeals were preferred before the Hon'ble Supreme Court against the Hon'ble NCLAT's order. But the important fact is that on 04 May 2021, it dismissed the SRA's appeal and affirmed the order of the NCLAT. Therefore, in so far as the SRA was concerned, the approved Resolution Plan had become final and binding.

3.2. Straight after the order of the SC, there were several meetings of the Monitoring Committee. All members of the Monitoring Agency other than the RA, are unanimous that the Resolution Plan must be implemented. No steps have been taken. However, the RA put in a condition that whatever money it puts in must remain in escrow. Whatever money it puts in for day-to-day operation is subject to the monies being refunded to the RA in the event of an appeal preferred by

[5] Para 197 of the Hon'ble NCLAT's order notices as follows – *"It is clear that there was no stay for implementation of the Resolution Plan, but after 1½ period after the date of approval of the Resolution Plan, appellant has not taken any steps towards the implementation of the plan."*

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SHRI UMASHANKAR N PANDEY
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Vanguard, relates to inclusion of factory as part of the assets of the CD, succeeds. This condition has been imposed after the Resolution Plan had been challenged right up to the Hon'ble Supreme Court and the SRA failed. Therefore, the SRA does not appear to be interested in implementation, which is why CFM-ARC has now applied for liquidation.

3.3. Mr Mookherjee submitted that the Resolution Plan was approved with 74.41% of the votes on 16 March 2019. The Adjudicating Authority approved the Resolution Plan on 04 September 2019. From this order, an appeal was carried before the Hon'ble NCLAT. Initially, an order was passed staying the order approving the Resolution Plan in so far as it related to payment in excess of ₹400 crore. So, upto ₹400 crore, it had to be complied with, and this was not done. Thereafter, on 04 March 2021, the appeals were all disposed of by a detailed judgment.

3.4. Mr Mookherjee submitted that as a matter of interest and as a matter of principle as well, he would rely on the order dated 04 March 2021 for two reasons –

(1) one has to see whether there is a breach after 04 March 2021. This is the starting point, and we need not look behind it for any breach.

(2) It shows the conduct of the SRA and its intent to actually try and make the Resolution Plan conditional, which is not permitted in law.

3.5. Mr Mookherjee drew specific attention to the following observations of the Hon'ble NCLAT:

(a) In para 194 of the *juris* copy of the Hon'ble NCLAT's judgment dated 04 March 2021, on the intent aspect, the Hon'ble Appellate Tribunal has found that the SRA has not implemented the Resolution Plan despite its approval by the Adjudicating Authority on 04 September 2019. The pandemic and its after-effects started in India from 15 March 2020 onwards, but the SRA filed an application (when ?) seeking to withdrawal from the implementation invoking *force majeure* circumstances.

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(b) In para 195, it is specifically observed that the SRA has already committed default in not implementing the Resolution Plan, and that the appeal has been filed simply to avoid anticipated action on refusal to implement the approved plan.

(c) In para 196, the Hon'ble Appellate Tribunal has noticed that the SRA has filed its appeal on an erroneous assumption and made arbitrary calculations with the sole aim of evading its obligations under the approved Resolution Plan and has not paid a single penny on the pretext of the order dated 25 September 2019 without there being any stay on payments upto ₹400 crore. The Hon'ble NCLAT further notes that this clearly shows failure of the SRA to implement the approved Resolution Plan.

(d) In para 198, the Hon'ble Appellate Tribunal has observed the conduct of the SRA to protract the matter, and that if this kind of approach is not prevented, it would send a wrong message.

(e) Finally, in para 201, the Hon'ble Appellate Tribunal has directed the Monitoring Agency to start taking steps for implementation of the Resolution Plan immediately, and in case the SRA fails to implement the approved Resolution Plan, appropriate action should be taken immediately, and without waiting further, the application should be moved before the Adjudicating Authority for liquidation of the corporate debtor.

All these observations show that the real intent of the SRA was to wriggle out from implementation of the approved Resolution Plan. In spite of this, the Hon'ble NCLAT gave the SRA a second lease of life to implement the plan, with a condition that if they fail, the corporate debtor should be sent into liquidation, Mr Mookherjee submitted.

3.6. The SRA preferred an appeal from this order before the Hon'ble Supreme Court. The other aggrieved parties also preferred appeals. On 04 May 2021, the Hon'ble Supreme Court dismissed the appeal filed by the SRA summarily.[6] There was no implementation even after this dismissal of the appeal. Then, a

[6] Page 232 of the IA, @ page 233, para 3

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request was made at the meeting of the Monitoring Agency to implement the Resolution Plan.[7]

3.7. On 23 May 2021,[8] a mail was sent by the SRA, which was squarely in breach of the approved Resolution Plan. Three conditions were sought to be brought in apropos the implementation of the Resolution Plan –

(1) Payment of CIRP costs and day-to-day expenses;

(2) Performance Security Amount of ₹35 crore, which was encashed by the CoC in January 2020, be not disbursed; and

(3) The entire implementation of the Resolution Plan was now made conditional on the result of the Vanguard Appeal.

According to Mr Mookherjee, this shows that the SRA has acted in breach of the Resolution Plan, and that it sought to impose conditions on implementation of the Resolution Plan after its approval by the Adjudicating Authority, the Appellate Tribunal and the Supreme Court, which is not permitted in law.

3.8. One of the agenda items of the 8th meeting of the Monitoring Agency held on 27 May 2021,[9] was to discuss the next steps for implementation of the Resolution Plan. The discussions are recorded under clause (e),[10] where Axis Bank, PNB and the erstwhile RP – all objected to the conditions being imposed. The email of 31 May 2021[11] from the SRA makes everything conditional on the result of the Vanguard Appeal. A further condition was imposed *vide* email dated 03 June 2021,[12] wherein the Zero Date was attempted to be shifted, Mr

7 Page 365 of the IA, @ page 370

8 Page 374 of the IA

9 Minutes at page 381 of the IA

10 Page 385 of the IA

11 Page 399 of the IA

12 Page 406 of the IA, @ page 407, para 2

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Mookherjee submitted. This led to the consent of an insolvency professional being obtained to act as the liquidator and filing of the present application.

3.9. Mr Mookherjee then turned his attention to the subsequent events. IA No.538/KB/2021 was filed on 08 June 2021 for liquidation of the corporate debtor in view of non-implementation of the Resolution Plan by the SRA. On 02 July 2021, the Hon'ble Supreme Court dismissed all the remaining appeals, including the Vanguard Appeal. Mr Mookherjee submitted that the breach having been committed, the corporate debtor should now be sent into liquidation.

3.10. Mr Mookherjee submitted that the SRA had made incorrect statements in its reply affidavit. The SRA had averred that to demonstrate its *bona fide* intention, payments towards workmen's dues had been made.[13] Mr Mookherjee submitted that three of the items stated therein cannot be treated as payments. When the breaches occurred, they were accepted as breaches by the SRA, and the Performance Security Amount was encashed, so it cannot be treated as payments under the Resolution Plan. The benefit of the breach cannot inure to the benefit of the SRA in the sense of permitting the RA to contend that the proceeds of the encashment are payments under the Resolution Plan. That amount is ₹35 crore. This was in terms of clause 14.6 of the process memorandum, which stipulated that there shall be a right to invoke the Performance Security Amount in case any of the conditions under the letter of intent or Resolution Plan are breached; and in case of failure of the SRA to implement the Resolution Plan to the satisfaction of the CoC.[14] In so far as the claim of payment of CIRP costs are concerned, the sum of ₹12.9 crore has been parked in an escrow account on 20 May 2021 and is not available for utilisation. They were never disbursed.

[13] Page 22, para 46 of the SRA's reply in IA (IB) No.538/KB/2021

[14] Clause 14.6 of the Process Memorandum (referred to, but copy thereof not placed on record)

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3.11. The SRA has delayed the implementation of the approved Resolution Plan by about twenty-one months, and now the SRA is unwilling to implement the Resolution Plan unconditionally. The liquidation value in terms of the approved Resolution Plan is ₹614 crore, which is far more than the enterprise value for which the Resolution Plan of the SRA has been approved. Since the SRA has frustrated the entire exercise of the CIRP and the assets of the corporate debtor are depleting with time, this would leave all the stakeholders in a state of devastation. Mr Mookherjee drew attention to the 7th meeting of the Monitoring Agency, from where it is apparent that the SRA, instead of unconditionally implementing the Resolution Plan, has frustrated all possibilities of its implementations. The SRA is in violation of the judicial orders.

3.12. Mr Mookherjee also placed the 8th Meeting of the Monitoring Committee held on 27 May 2021.[15] He pointed out the agenda of the Meeting[16] and to clause (c)[17] and (h)[18] of the minutes, where the SRA is attempting to introduce a condition on the implementation of the Plan. The SRA also sought for a separate undertaking from the Financial Creditors stating that the money transferred or disbursed to the Financial Creditors would be refunded to the SRA, to the extent of their share, in case the Vanguard Appeal goes against the SRA. Further, as per mail dated 03 June 2021, the SRA again brought a new condition by shifting the Zero Date.[19]

3.13. The SRA missed the bus, since it has not implemented the Resolution Plan even after the Vanguard Appeal was dismissed on 02 July 2021, Mr Mookherjee submitted.

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[15] Page 381 of the IA (IB) No.538/KB/2021

[16] Page 384 of the IA (IB) No.538/KB/2021

[17] Page 385 of the IA (IB) No.538/KB/2021

[18] Page 386 of the IA (IB) No.538/KB/2021

[19] Page 406 of the IA (IB) No.538/KB/2021

NOTARY KOLKATA SHRI [illegible] PANDEY REGN NO. 13024/2018 GOVT. OF INDIA

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3.14. Mr Mookherjee also relied on the following authorities in support of his contentions regarding time being a pivotal facet under IBC:

(a) Judgment of the Hon'ble Supreme Court in ***Kridhan Infrastructure Private Limited v. Venkatesan Sankaranarayan,***[20] where the Hon'ble Court held that time is a crucial facet of the scheme under IBC. To allow such proceedings to lapse into an indefinite delay will plainly defeat the object of the statute, the Hon'ble Court observed.

(b) Judgment of the Hon'ble Supreme Court in ***Ebix Singapore Private Limited v. CoC of Educomp Solutions Limited & another,***[21] for the following propositions –

1. The Resolution Plan after its approval is not a contract between the parties. It is not even a statutory contract, and the limited role of the Contract Act is only with regard to interpretation of the clauses.

2. The object of the IBC is to avoid unpredictability and delay. The SRA's stand introduces unpredictability and delay, which is not something that should be encouraged in an insolvency process.

3. No conditions can be imposed either in the Resolution Plan or by the Adjudicating Authority either when putting forward a Resolution Plan or when the Resolution Plan is being approved by the Adjudicating Authority. Renegotiation of the Resolution Plan would not be permissible, since it would make the resolution process indeterminate and unpredictable.

4. If the conditions of section 33[22] of the Code are fulfilled, then liquidation has to ensue, and no discretion is vested in the Adjudicating Authority.

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[20] (2021) 6 SCC 94 decided on 01 March 2021

[21] 2021 SCC Online SC 707 decided on 13 September 2021

[22] (3) Where the resolution plan approved by the Adjudicating Authority under section 31 or under sub-section (1) of section 54L is contravened by the concerned corporate debtor, any person other than the corporate debtor, whose interests are prejudicially affected by such contravention, may make an application to the Adjudicating Authority for a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

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Mr Mookherjee relied on paras 165, 166, 167 to 187, 170, 179, 185 and 187 of the judgment in ***Ebix (supra)*** in support of his contentions.

3.15. Mr Ratnanko Banerji, Ld. Sr. Counsel who also appears for CFM-ARC, supplemented the submissions of Mr SN Mookherjee, by stating that the Resolution Plan was approved in 2019 based on the valuation for the year 2018. Successive appeals by the SRA should not be a ground for condonation of delay in implementation of the Resolution Plan. The SRA had no reason to wait for the Vanguard Appeal to be decided by the Hon'ble Supreme Court.

3.16. Mr Banerji further submitted that one of the objectives of the Code is maximisation of assets. If such maximisation lies in liquidation, then no advantage is to be gained by allowing implementation of a resolution plan after more than two years.

4. *Submissions of Mr Sudipto Sarkar, Ld. Sr. Counsel appearing for SRA*

IBC meant for insolvency resolution first and foremost, not for recovery

4.1. Mr Sudipto Sarkar, Ld Sr Counsel appearing for the SRA, submitted that CFM-ARC, the Applicant in IA (IB) No.538/KB/2021, purchased the debt on 23 April 2021 from some of the creditors. Therefore, it came in with the full knowledge of the 04 March 2021 order of the Hon'ble NCLAT, which went against the SRA. Aggrieved by this order, the SRA filed a civil appeal before the Hon'ble Supreme Court, which was disposed of on 04 May 2021. Vanguard also filed an appeal against the NCLAT order of 04 March 2021, since it was the owner of the land in which the factory of the Corporate Debtor was situated. The Resolution Plan provided that the land will come to the Corporate Debtor. This was a key feature of the Resolution Plan. Vanguard's Appeal was dismissed on 02 July 2021. As a matter of fact, it was on account of the SRA mentioning the

(4) On receipt of an application under sub-section (3), if the Adjudicating Authority determines that the corporate debtor has contravened the provisions of the resolution plan, it shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

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matter before the Hon'ble Supreme Court on 28 June 2021, which prompted the Hon'ble Supreme Court to place the matter on 02 July 2021.

4.2. After the 02 July 2021 order of the Hon'ble Supreme Court, CFM-ARC filed another application bearing IA (IB) No.628/KB/2021 before this Adjudicating Authority, where the applicant asked for interest @ 12% per annum on grounds of default. The SRA also filed an application bearing IA (IB) No.635/KB/2021 before this Adjudicating Authority, seeking a direction for implementation of the approved Resolution Plan.

4.3. In so far as IA (IB) No.538/KB/2021 is concerned, Mr Sudipto Sarkar drew our attention to the motive behind CFM-ARC's application seeking liquidation of the Corporate Debtor. In the synopsis, CFM-ARC has mentioned that the liquidation value of the Corporate Debtor is far more or exceeds the enterprise value provided under the approved Resolution Plan.[23]

4.4. Mr Sarkar urged us to examine this motive in the context of the IBC and the Supreme Court judgments in ***Swiss Ribbons Private Limited v Union of India,***[24] where the Hon'ble Supreme Court noticed para 29.1 of the Insolvency Law Committee Report of March 2018 that the intent of the Code is to discourage individual actions for enforcement and settlement to the exclusion of the general benefit of all creditors.

4.5. Similarly, in ***Babulal Vardharji Gurjar vs Veer Gurjar Aluminium Industries Private Limited & another,***[25] the Hon'ble Supreme Court held in para 21 of its judgment that the primary focus of the Code is to ensure revival and continuation of the Corporate Debtor and, as far as feasible, to save it from

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[23] Page 15 (synopsis) of IA (IB) No.538/KB/2021

[24] (2019) 4 SCC 17 : 2019 SCC OnLine SC 73 decided on 25 January 2019

[25] (2020) 15 SCC 1 : 2020 SCC OnLine SC 647 decided on 14 August 2020

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liquidation. The Hon'ble Court had reiterated that the Code is not a mere recovery legislation for creditors.

4.6. If that is the principle of the Code, Mr Sarkar continued, then a creditor who files an application for commencing liquidation proceeding after the Resolution Plan has been approved, and that too only for the purpose of realising a higher value, should be discouraged and such application ought not to be entertained by the Adjudicating Authority.

On liquidation being more beneficial to the Corporate Debtor than resolution

4.7. Mr Sudipto Sarkar said that in the judgment of the Hon'ble Supreme Court in ***Maharashtra Seamless Limited v Padmanabhan Venkatesh & others***,[26] it has been held that even if the liquidation value is more than the value of the plan, the plan should be accepted since the liquidation value is of no relevance (para 28). Therefore, the prayer for liquidation should not be accepted at this stage, when the SRA was ready and willing to honour its commitment under the Resolution Plan, after the appeals process has culminated.

The nature of the difficulty in implementation of the approved Resolution Plan

4.8. Mr Sarkar submitted that the Vanguard land is recognised at para 171 of the Hon'ble NCLAT's order. Therefore, the Vanguard Appeal becomes important and central to the Resolution Plan, without which the implementation was in jeopardy. If Vanguard was allowed to pull out, then the Resolution Plan would have failed, since there would be no Resolution Plan to be implemented at all. Naturally, the SRA waited for the Vanguard Appeal to be decided.

On the conduct of the SRA

4.9. Mr Sudipto Sarkar submitted that when an appeal is filed from an order and the appeal is disposed of, the original order is no longer enforceable. Therefore, the enforceable order is only of 04 March 2021, since the order of the

[26] (2020) 11 SCC 467 : 2020 SCC OnLine SC 67 decided on 22 January 2020

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Adjudicating Authority had now merged in the order of the Hon'ble Appellate Tribunal. He submitted that the adjudicating authority cannot now look into the conduct of the SRA. The same principle will apply once the statutory appeal is filed before the Hon'ble Supreme Court against the NCLAT order. Automatically, the order of NCLAT will merge into the order of the Hon'ble Supreme Court.

4.10. Mr Sarkar relied on the following judgments in support of this contention:

(a) ***Gojer Bros (Pvt) Ltd v Ratan Lal Singh:***[27] In para 11 at page 458 of the judgment, the Hon'ble Supreme Court held that the juristic justification of the doctrine of merger may be sought in the principle that there cannot be, at one and the same time, more than one operative order governing the same subject matter. Therefore, the judgment of an inferior court, if subjected to an examination by the superior court, ceases to have existence in the eye of law and is treated as being superseded by the judgment of the superior court. In other words, the judgment of the inferior court loses its identity by its merger with the judgment of the superior court.

(b) ***Kunhayammed & others v State of Kerala & another:***[28] In para 7 @ page 369 of the judgment, the Hon'ble Supreme Court observed that the doctrine of merger is neither a doctrine of constitutional law nor a doctrine statutorily recognised. It is a common law doctrine founded on principles of propriety in the hierarchy of justice delivery system. The Hon'ble Court relied on ***Gojer Bros (supra)*** in para 10 and noticed the decision in ***SS Rathore v State of MP***,[29] where a seven-member Bench of the Hon'ble Supreme Court, having reviewed the available decisions on the doctrine of merger, held that the distinction made between courts and tribunals as regards the applicability of the doctrine of merger is without any legal justification (para 11). The Hon'ble Court explained the logic underlying the doctrine of merger, stating that once a decree or order is subjected to a challenge by statutory appeal, then the finality of that order is put in jeopardy. Once the

[27] (1974) 2 SCC 453 decided on 01 May 1974

[28] (2000) 6 SCC 359 : 2000 SCC OnLine SC 1008 decided on 19 July 2000

[29] (1989) 4 SCC 582 decided on 06 September 1989

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superior court has disposed of the *lis* either way, the decree or order of the superior court merges the decree or order passed by the court, tribunal or authority below (para 12).

4.11. Mr Sarkar submitted that if a statutory remedy is available, then the order of the appellate forum will hold the field. In the present case, appeal under section 62 is a statutory right. So, at least before the 04 May 2021 judgment of the Hon'ble Supreme Court in the SRA's appeal, nothing survives. At this point, at best, the order of 02 July 2021 dismissing Vanguard's Appeal survives.

4.12. Mr Sarkar then submitted that once an appeal is filed, the matter is no longer enforceable. For this proposition, he relied on ***Canara Bank v NG Subbaraya Setty & another***.[30] Para 24 is worth reproducing in its entirety:

"24. If the period of limitation for filing an appeal has not yet expired or has just expired, the court hearing the second proceeding can very well ask the party who has lost the first round whether he intends to appeal the aforesaid judgment. If the answer is yes, then it would be prudent to first adjourn the second proceeding and then stay the aforesaid proceedings, after the appeal has been filed, to await the outcome of the appeal in the first proceeding. If, however, a sufficiently long period has elapsed after limitation has expired, and no appeal has yet been filed in the first proceeding, the court hearing the second proceeding would be justified in treating the first proceeding as res judicata. No hard-and-fast rule can be applied. The entire fact circumstance in each case must be looked at before deciding whether to proceed with the second proceeding on the basis of res judicata or to adjourn and/or stay the second proceeding to await the outcome in the first proceeding. Many factors have to be considered before exercising this discretion – for example, the fact that the appeal against the first judgment is grossly belated; or that the said appeal would, in the ordinary course, be heard after many years in the first proceeding; or, the fact that third-party rights have intervened, thereby making it unlikely that delay would be condoned in the appeal in the first proceeding. As has been stated, the judicious use of the weapon of stay would, in many cases, obviate a court of first instance in the second proceeding treating a matter as res judicata only to find that by the time the appeal has reached the hearing stage against the said judgment in the second proceeding, the res becomes sub judice again

[30] (2018) 16 SCC 228 : 2018 SCC OnLine SC 427 decided on 20 April 2018

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because of condonation of delay and the consequent hearing of the appeal in the first proceeding. This would result in setting aside the trial court judgment in the second proceeding, and a de novo hearing on merits in the second proceeding commencing on remand, thereby wasting the court's time and dragging the parties into a second round of litigation on the merits of the case."

4.13. On 02 July 2021, the Hon'ble Supreme Court dismissed Vanguard's Appeal. It addressed an email on the same day to the Monitoring Agency. On 07 July 2021,[31] the SRA offered to implement the entire Resolution Plan. Therefore, after 07 July 2021, all delay in implementation is attributable to CFM-ARC, which prevented the Monitoring Agency and the SRA from implementing the plan.

4.14. Mr Sudipto Sarkar submitted that the conduct of the SRA is an indicator of its *bona fides*. The SRA has made a substantial payment of ₹59.85 crore, as follows:

Remarks	Amount paid
Earnest Money Deposit	₹5,00,00,000.00
Deposited with Monitoring Agency which was encashed by ARCIL and is presently kept with ARCIL in an interest-bearing account	₹35,00,00,000.00
Workmen dues paid on 18 June 2021	₹7,00,00,000.00
CIRP Cost paid on 18 June 2021	₹12,49,00,000.00
For the purposes of meeting the day-to-day expenses of the Corporate Debtor for the month of May 2021, which is over and above the Resolution Plan, paid on 28 May 2021	₹18,00,000.00
For the purposes of meeting the day-to-day expenses of the Corporate Debtor for the month of June 2021, which	₹18,00,000.00

[31] Page 495 of the IA

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Remarks	Amount paid
is over and above the Resolution Plan, paid on 15 June 2021	
Total	**₹59,85,00,000.00**

4.15. The SRA has all along offered to deposit the entire amount in an escrow account, but with the only request not to distribute the amount till the disposal of Vanguard's Appeal before the Hon'ble Supreme Court.[32]

On the question of interest

4.16. Mr Sudipto Sarkar submitted that, while IA (IB) No.538/KB/2021 was pending consideration, a meeting of the Monitoring Agency was held on 07 July 2021, at which CFM-ARC stated that unless interest was paid, it would oppose implementation of the approved Resolution Plan. PNB stated that the plan should be implemented.

4.17. On 12 July 2021, the SRA filed its application bearing IA (IB) No.635/KB/2021 seeking implementation of the Plan. On the same day, CFM-ARC filed another application, numbered as IA (IB) No.628/KB/2021 seeking payment of interest @ 12% per annum on and from 04 October 2019 until payment of the upfront amount promised under the approved Resolution Plan. While on the one hand, CFM-ARC wanted liquidation, on the other, an alternative prayer seeking interest for delayed payment is sought from the SRA. Having made this application seeking interest for delay, CFM-ARC can no longer maintain IA (IB) No.538/KB/2021 for liquidation, Mr Sarkar argued.

4.18. Mr Sudipto Sarkar urged the Adjudicating Authority to take a holistic picture. The Adjudicating Authority is not a forum for creditors to come up and ask for interest for delay. The Adjudicating Authority must look at the conduct of the

[32] Page 39 of IA (IB) No 635/KB/2021

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creditor, just as it must look at the conduct of the SRA also. He pointed out that only one creditor - CFM-ARC - is asking for interest, and that too after preventing the Monitoring Agency and the SRA from implementing the Resolution Plan.

4.19. Therefore, the creditor cannot use the forum of the Adjudicating Authority to arm-twist the SRA to part with additional interest, especially when seen in the light of the fact that the SRA has not asked for any additional time. That might amount to altering the plan itself, Mr Sarkar submitted.

5. ***Submissions of Mr Sumant Batra, Ld Counsel assisting Mr Sudipto Sarkar for the SRA***

5.1. Mr Sumant Batra, Ld Counsel assisting Mr Sudipto Sarkar, supplemented that the legislature, in its own wisdom, had chosen not to provide any substantive provision either in the Code or in the CIRP Regulations, prescribing or specifying any penal provision in the form of interest, while it chose to do so in liquidation proceedings.[33] The larger purpose of the Code is to ensure resolution and a turnaround of the Corporate Debtor, so that all stakeholders benefit. If the CoC so wished, it could have said that in case there is a failure to implement the approved Resolution Plan, then there would be consequences in the form of interest etc. it did not do so.

5.2. The second point that Mr Batra made concerned the *bona fides* of the SRA. He submitted that even before the Apex Court order of 02 July 2021 dismissing the Vanguard Appeal, and right from 04 March 2021 when the Appellate Tribunal directed implementation, the SRA had repeatedly offered to deposit the entire amount in an escrow account.[34] The only request was not to distribute the amount till the Hon'ble Supreme Court delivered its verdict, since it would be

[33] Schedule I, clause 12 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016

[34] Page 39 of IA (IB) No.635/KB/2021, letter dated 23 May 2021

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nearly impossible to get the money back in case the Hon'ble Supreme Court upheld the appeal.

6. ***Submissions by Punjab National Bank, member of the Monitoring Agency***

6.1. Punjab National Bank ***('PNB')*** is one of the members of the Monitoring Committee having a voting share of 8.99%. In the 7th Monitoring Agency meeting held on 20 May 2021, PNB expressed its opinion that the first step for implementation of the Resolution Plan is the payment of the CIRP cost.

6.2. Subsequently, on 08 June 2021 the SRA paid the CIRP cost of ₹12,49,74,587/- and a sum of ₹7,00,00,000/- towards payment of workmen dues. Further, for meeting the day-to-day expenses of the Corporate Debtor for the months of May and June 2021, a sum of ₹18,00,000/- each was paid on 28 May 2021 and on 15 June 2021. Both these payments are over and above the payments due under the Resolution Plan.

6.3. In view of the abovementioned payments by the SRA, PNB was of the view that one more chance should be given to the SRA without any pre-condition. PNB also suggested that the date of the 7th Monitoring Agency meeting might be taken as the effective date of the implementation of the Resolution Plan and the same has been approved by Axis Bank, another member of the Monitoring Agency.

7. ***Submissions by Ms Amrita Pandey, Ld Counsel representing the workers***

7.1. Ms Amrita Pandey, Ld Counsel representing the workers, submitted that the workers see a ray of hope in **not** sending the Corporate Debtor into liquidation, and that the SRA may be given an opportunity to implement the Resolution Plan.

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8. ***Rejoinder submissions of Mr SN Mookherjee, Ld AG and Sr Counsel for CFM-ARC***

On the SRA's conduct

8.1. Mr SN Mookherjee, Ld AG & Sr Counsel appearing for CFM-ARC, submitted that section 33(4)[35] of the Code enjoins the Adjudicating Authority to pass an order of liquidation. So, the issue is to determine whether there is a default or not. The mandate of the statute is that if there is a default, the liquidation order must follow.

8.2. What is important is that the Resolution Plan was approved on 04 September 2019. The Plan required several steps to be taken. However, the SRA filed an appeal. There was an interim order in the appeal, and on 04 March 2021, the Hon'ble NCLAT dismissed all the appeals including the one filed by the SRA. The Hon'ble NCLAT found that the SRA was in default of not only the Resolution Plan but also the interim directions given. It also noted that the SRA had an intention of complying with the Resolution Plan. So, an opportunity was given in this regard.

8.3. Now, it is an accepted fact that after 04 March 2021, the SRA did not comply with the timelines of the order passed by the Hon'ble NCLAT or what was provided for in the Resolution Plan. In fact, right from 04 March 2021 to 04 May 2021, when the SRA's appeal to the Hon'ble Supreme Court got dismissed, there was no step taken under the Resolution Plan.

8.4. The next cut-off date is 04 May 2021, when the Hon'ble Supreme Court dismissed the SRA's appeal. Again, there was no step taken to act in terms of the Resolution Plan. In fact, the first and foremost stand taken was that the SRA was not going to act till such time Vanguard's appeal is disposed of, except that

[35] (4) On receipt of an application under sub-section (3), if the Adjudicating Authority determines that the corporate debtor has contravened the provisions of the resolution plan, it shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1).

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the SRA offered to pay the CIRP costs and the Resolution Plan amount into an escrow.

On the doctrine of merger

8.5. Mr Mookherjee submitted that a very interesting argument was made on the doctrine of merger. The argument advanced was that there is no finality in the matter because of the pendency of the appeals, and therefore, till 02 July 2021, there was no requirement to act in terms of the approved Resolution Plan. That is not the position in law, he submitted.

8.6. Mr Mookherjee then proceeded to distinguish the judgments relied upon by Mr Sudipto Sarkar:

(a) In ***Kunhayammed (supra),***[36] a distinction was made between summary dismissal and non-summary dismissal of appeals. The judgment re-emphasised the decision in *Shankar Ramchandra Abhyankar v Krishnaji Dattatreya Bapat,*[37] that there are three pre-conditions attracting the applicability of the doctrine of merger – (1) the jurisdiction exercise should be appellate or revisional; (2) the jurisdiction should have been exercised after issue of notice; and (3) after a full hearing in the presence of both the parties.

In the present case, the appeals faced summary dismissals *vide* orders dated 04 May 2021 and 02 July 2021.

(b) In ***Gojer Bros (supra),***[38] it was held in para 13 that the Hon'ble Supreme Court was not concerned to determine whether the decree passed by a trial court can merge in an unspeaking order passed by the higher court while summarily dismissing the proceeding, because the high court had given a considered judgment after a contested hearing.

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[36] (2000) 6 SCC 362 decided on 19 July 2000

[37] Page 370, para 28 of the judgment *ibid*

[38] (1974) 2 SCC 453 decided on 01 May 1974

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8.7. Mr Mookherjee submitted that even if the doctrine of merger applied, the orders passed by the appellate authorities and the order approving the Resolution Plan both remain binding. This issue was not addressed.

8.8. In reply to IA (IB) No.538/2021, the SRA claimed that it had made payment of a substantial amount of ₹59.85 crore,[39] to demonstrate its intent. This was incorrect, and was not dealt with in the arguments. The Request for Resolution Plans (RFRP) document provided that Performance Security Amount (₹35 crore) was to be made by the successful resolution applicant, which would be invoked in case of non-implementation. Therefore, the invocation of the Performance Security Amount was a consequence of default. The next five crore rupees was the Earnest Money Deposit (EMD) for participating in the process. ₹12.49 crore was due and payable towards CIRP costs. Instead, the SRA proposed that this money be parked in escrow pending disposal of the Vanguard Appeal. This is not fair conduct on the part of the SRA so as to warrant exercise of discretion in favour of the SRA, Mr Mookherjee submitted.

8.9. The SRA has further relied on two other judgments of the Hon'ble Supreme Court in ***Maharashtra Seamless (supra)*** and ***Swiss Ribbons (supra).*** It was said that the Code is concerned with resolution and not liquidation, on the basis that the Preamble does not speak of liquidation. Mr Mookherjee conceded that this was true, but liquidation is the consequence of failure of resolution. Mr Mookherjee submitted that neither of these two cases concerned default in the form of non-implementation of the Resolution Plan.

8.10. A submission was made that at the hearing on 09 February 2022 that the entire resolution amount of approximately ₹322 crore has been put into the account of the Corporate Debtor. However, the payment has actually been made into a

[39] Para 25 of the reply

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separate account in the name of the SRA and not that of the Corporate Debtor. This is not compliance with the provisions of the Resolution Plan.

8.11. Mr Mookherjee submitted that the fundamental issue is whether the Resolution Plan and its implementation was resisted after the NCLAT's order of 04 March 2021. If the determination was that it was so, then that is the end of the matter. Even if the term ***"shall"*** occurring in section 33(4) of the Code was to be read as ***"may,"*** no discretion should be exercised in favour of the SRA, because they did not comply with their obligations even though an appeal remained pending. Not only that, but they also tried to mislead the Adjudicating Authority by saying that they had made a payment of ₹59.85 crore under the Resolution Plan, when it clearly included the EMD and the Performance Security Amount, which cannot be termed "payments" under the Resolution Plan, Mr Mookherjee argued.

8.12. Continuing his submissions on the conduct of the SRA, Mr Mookherjee alleged that the Vanguard Appeal was to try and get away from implementation of the Resolution Plan. He drew attention to the clause 12[40] of the Resolution Plan. It reads, *"Upon approval of the plan by the Adjudicating Authority, the Durgapur land shall stand transferred to the Corporate Debtor such that the Corporate Debtor shall be vested to be in possession and have absolute and good and marketable title, rights and interest ...."* This plan was successfully piloted through the CoC. So, the clause was introduced by the SRA, and then they sought to back out because Vanguard preferred an appeal. The risk of a Vanguard Appeal did not lie in the mouth of the SRA, because it was included in the Resolution Plan formulated by the SRA itself, Mr Mookherjee stated.

8.13. Mr Mookherjee pointed out that in para 201 of its order dated 04 March 2021, the Hon'ble NCLAT had directed the Monitoring Agency to start taking steps for implementation of the Resolution Plan immediately, and in case the SRA

[40] Page 231 of the SRA's reply to IA (IB) No.538/KB/2021, @ page 248 is clause 12.

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fails to implement the approved Resolution Plan, appropriate action should be taken immediately, and without waiting further, the application should be moved before the Adjudicating Authority for liquidation of the Corporate Debtor. If this is the mandate of the appellate authority, then it should be given effect to, Mr Mookherjee submitted.

9. ***Analysis***

Conduct of the SRA post the 04 March 2021 NCLAT order

9.1. It is absolutely clear that the land standing in the name of Vanguard Credit & Holdings Pvt Ltd was the centrepiece of the entire Resolution Plan. This land measures about 52.49 acres and is situated at Banskopa Inn Road, Gopalpur Mouza, JL No.65, Durgapur, Paschim Bardhaman District. Vanguard is a corporate guarantor of the Corporate Debtor, and it is a company wholly owned by the promoter of the Corporate Debtor, Mr Ashish Jhunjhunwala (99.99%).

9.2. Para 153 of the Hon'ble NCLAT's order dated 04 March 2021 records that Vanguard had provided right of use of the land to the Corporate Debtor since September 2006, which enabled the Corporate Debtor to construct a plant and factory thereon for its wire business. Para 154 records that Deed of Guarantee was executed on 27 May 2009. Para 155 records that in terms of para 10 of the said Deed of Guarantee, the guarantor had permitted the bank to sell the security without giving notice to the guarantor, and that the guarantor shall not question the sale or sale price in any manner or on any ground whatsoever.

9.3. The circumstances in which the transfer of land was contemplated is noticed in para 158 of the Hon'ble NCLAT's order. It records that if there is no consensual transfer of Vanguard's land, then the secured creditor shall proceed to enforce its security under Sarfaesi Act, 2002 and transfer the land to the Corporate Debtor.

9.4. From the minutes of the 7th Monitoring Agency meeting, it is noticed that Mr Deep Roy, representative of EQUILEX (a law firm) has clarified that the

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Resolution Plan provides a clear mechanism for transfer of security interest in Vanguard's land by assignment of certain amount of debts to the NBFC along with the security interest. There being no stay on the implementation, the said assignment may be facilitated (***Para 5 of PNB's reply***).

9.5. Subsequent to the dismissal of the Vanguard Appeal by the Hon'ble Supreme Court on 02 July 2021, the Monitoring Agency met on 07 July 2021.[41] In the said meeting, the erstwhile RP, who is the present chairman of the Monitoring Agency, proposed a schedule of implementation of the Resolution Plan and the steps to be taken by the SRA, the Monitoring Agency and the Financial Creditors. As per the schedule of payment,[42] the SRA was supposed to make payment of the balance amount within thirty days from the date of the meeting.

9.6. The schedule was approved by all the members of the Monitoring Agency (except CFM-ARC) and the SRA. CFM-ARC objected to the schedule of implementation of the Resolution Plan on the ground that since the SRA had delayed the implementation of the Resolution Plan, it should pay compensation for such delay. However, since the said schedule of implementation was approved by the majority of the members *i.e.,* five out of six members, the schedule stood approved.

9.7. Thereafter, a draft of Escrow Agreement and a draft of Assignment Agreement the implementation steps were circulated by the SRA. Further, the SRA has taken a number of steps to implement the Resolution Plan and has also made a total payment of ₹59.85 crore, including EMD and Performance Security Amount.

9.8. The SRA relies on clause 11 (ii), Step (5) (g) of Clause, Step (2) (e) of Clause 4, Clause 5, Clause 9 of the Resolution Plan. As explained in the reply to IA (IB) No.538/KB/2021, the provisions of the Resolution Plan unequivocally

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41 9th Meeting of the members of the Monitoring Agency

42 Annexure A-1 of IA (IB) No.635/KB/2021

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provide that in the event of any variation in the terms of the Resolution Plan in any proceedings by any court or tribunal, the SRA reserves the right not to implement the Resolution Plan.

9.9. Therefore, in line with the above provisions, the SRA had requested that the payment made by the SRA to be kept in an escrow account and not to be distributed to the creditors because such distribution will cause irretrievable harm to the SRA. We do not consider this to be an unreasonable request, or one that reflects any *mala fide* conduct on the part of the SRA.

9.10. As judicially noticed by the Hon'ble Supreme Court in ***Swiss Ribbons (supra)*** **and** ***Babulal Gurjar (supra),*** the Preamble of the Code lays a lot of emphasis on insolvency resolution within the timelines prescribed. Liquidation should be the last resort, when everything else has been attempted and failed. In the present case, we have a successful resolution applicant who is ready and willing to implement the approved resolution plan as it is. Although there were some delays in the insolvency resolution process of the corporate debtor, attributable to the fact that many appeals came to be filed right upto the Supreme Court, we now have a situation where the SRA which has parked the entire resolution amount in an account separately earmarked for this purpose. This amount is now ready and available for utilisation by various stakeholders.

9.11. CFM-ARC is admittedly pursuing its application for liquidation because the liquidation value is more than the enterprise value. But that cannot be a ground for sustaining this application, nor is it in line with the objects of the Code. Sending the Corporate Debtor into liquidation just because the liquidation value is more than the enterprise value, would not be in keeping with the objectives of the Code. The Code is not about maximising value at all costs even if it means corporate death, which will inevitably ensue if the company is sent into liquidation. The challenge in IA (IB) No.538/ KB/2021 to the implementation of the approved Resolution Plan must, therefore, fail on this touchstone.

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9.12. The SRA was certainly at fault in not taking steps for implementation of the approved Resolution Plan after the 04 March 2021 order of the Hon'ble NCLAT, coming up with the condition that until the Vanguard Appeal is decided, it is not in a position to implement the Resolution Plan. However, this intransigence is offset by the equally obdurate attitude of CFM-ARC to seek interest from the SRA {in IA (IB) No.628/KB/2021}, as an alternative prayer to liquidation, even while the other members of the Monitoring Agency were ready and willing to give a chance to the SRA to implement the Plan. This prompted another application from the SRA in IA No.635/KB/2021 for directions to implement the Plan. The end result was a further and unnecessary delay in implementation until the three applications could be heard and decided by this Adjudicating Authority.

9.13. Mr Ratnanko Banerji's submission that the SRA must not be allowed to walk away with 2018 valuation of the Corporate Debtor might be attractive at first blush. But it does not take into account the misplaced zeal of CFM-ARC to get the Corporate Debtor into liquidation just so that the realisable value can be higher. The reluctance of the SRA came in very handy for this purpose.

9.14. To us, the problems mentioned by the SRA in not coming forward for implementation do not seem to be intractable issues. This could have been solved easily with a little bit of sagacity on the part of all concerned and ensuring that their actions were consistent with the objects sought to be achieved by the Code. Sadly, this expectation has been belied by the stakeholders, primarily by CFM-ARC and the SRA.

9.15. In so far as the use of the term "*shall*" in section 33(4) is concerned, we are convinced that this will have to be construed in the conspectus of facts that each case presents itself with. A mechanical interpretation that once a default is established, then liquidation should be the result, would not subserve the purposes of the Code. Therefore, a purposive interpretation is called for when

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For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

it comes to construction of the terms used in various provisions of the Insolvency & Bankruptcy Code.

9.16. It is now trite law that the whole idea of the Code is to put the Corporate Debtor back on its feet for the larger benefit of all the stakeholders, not just the creditors. We must not forget that the Corporate Debtor is a fully functional enterprise and is generating value for the economy, apart from providing employment to a sizeable number of people. The present applications will have to be seen in the larger context of the objectives sought to be achieved. A bird in hand is worth two in the bush.

9.17. If there is anything that the Code emphasis, it is the oft-forgotten adage that time is money. On an overall conspectus, we would urge, hope and expect that time being wasted in this manner in unnecessary litigation should now stop. Therefore, rather than the mathematically projected liquidation value being more than the value offered by the SRA, it would be better to look at the value addition that a running enterprise would bring over the long term to the economy and various stakeholders. Time and again, we see that liquidation does not necessarily satisfy the projected liquidation value, and the liquidator has had to reduce the reserve bid in order to find buyers. Therefore, at least in the present compendium of facts it is a mirage that is best not pursued.

10. *Orders*

10.1. The SRA has pointed out, during the course of hearing on 09 February 2022 that a sum of approximately ₹322 crore, which represents the entire resolution amount, has been parked in a separate account and can be transferred to the Corporate Debtor's account without any further delay. Therefore, we hereby direct as follows:

(a) The full resolution plan amount now parked in a separate account, be transferred to the account of the Corporate Debtor without further ado, and in any case, no later than five days from the date of this Order.

For RAMSARUP INDUSTRIES LTD.

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(b) The said amount be distributed in accordance with the approved Resolution Plan immediately upon receipt. The entire process be completed within a period of one month from today.

(c) The management of the Corporate Debtor be transferred to the Successful Resolution Applicant shortly thereafter.

10.2. With these directions, we hope that the CIRP of the Corporate Debtor, which began with an order of admission dated 08 January 2018, will now find closure after four years and a quarter. We are convinced that the above directions will lead to a rapid and efficient resolution of the Corporate Debtor.

10.3. All three applications, *viz.*, IA (IB) No.538/KB/2021, IA (IB) No.628/KB/2021 and IA (IB) No.635/KB/ 2021 in CP (IB) No.349/KB/2017 shall stand disposed of with the above directions.

10.4. The Registry is directed to communicate a copy of this order to the counsel on record for each of the parties.

10.5. Urgent certified copies of this order, if applied for, be made available subject to the usual formalities.

BALRAJ JOSHI Digitally signed by BALRAJ JOSHI Date: 2022.04.06 16:30:43 +05'30'

Balraj Joshi
Member (Technical)

Rajasekhar V K Digitally signed by Rajasekhar V K Date: 2022.04.06 16:18:12 +05'30'

Rajasekhar V.K.
Member (Judicial)

07 April 2022

Safura A.[LRA]

NOTARY GOVT. OF INDIA

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NATIONAL COMPANY LAW APPELLATE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 396 of 2022

(Arising out of Order dated 06th April, 2022 passed by National Company Law Tribunal, Kolkata Bench-I in I.A. (IB) No. 538/KB/2021, I.A. (IB) No. 628/KB/2021 & I.A. (IB) No. 635/KB/2021 in CP(IB) No. 349/KB/2017)

IN THE MATTER OF:

CFM Asset Reconstruction Private Limited,
In its capacity as Trustee of CFMARC Trust,
Having its registered office at A/3, Safal Profitaire, Near Prahlad Nagar Garden, Ahmadabad – 380001 and Corporate Office at
1ST Floor, Wakefield House, Sprott Road,
Ballard Estate, Fort, Mumbai - 400038 **...Appellant**

Versus

1. SS Natural Resources Private Limited
[CIN:U10300WB2015PTC204962], Having its Registered office at SS Chambers, 5 CR Avenue, 2nd Floor, Kolkata – 7000072.

2. Monitoring Agency to Ramsarup Industries Limited,
Represented by its Chairman, Mr. Kshitiz Chhawcharia [IBBI/IPA-001/IP-P00358/2017-18/10616]

...Respondents

Appellant: Mr. Mukul Rohtgi, Mr. Arun Kathpalia, Sr. Advocates with Mr. Manu Nair, Mr. Siddhartha Datta, Ms. Misha, Ms. Suhani Dwivedi, Moulshree Shukla, Mr. Deepanjan Datta Roy, Ms. Trisha Mukherjee, Ms. Surabhi Binani and Mr. Daksh Kadian, Advocates

Respondent: Dr. Abhishek Manu Singhvi, Sr. Advocate with Mr. Ramji Srinivasan, Sr. Advocate with Mr. NG Khaitan, Mr. Abhijeet Sinha, Mr. Prateek Kumar, Mr. Shounak Mitra, Ms. Raveena Rai, Mr. Saptarshi Mandal, Mr. Keshav Tibarewalla, Rajshree Chaudhary, Mr. Aditya Shukla and Sumant Batra, Advocates for R-1.

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JUDGEMENT

Ashok Bhushan, J:

1. This Appeal has been filed by an Assignee of some of the Lenders of the Corporate Debtor challenging the Order dated 06th April, 2022 passed by the Adjudicating Authority on I.A. No. 538 of 2021 filed by the Appellant for Liquidation, I.A. No. 628 of 2021 filed by the Appellant claiming compensation/interest from the Successful Resolution Applicant (hereinafter referred to as 'SRA') due to delay in implementation of the Resolution Plan and I.A. No. 635 of 2021 filed by the SRA seeking direction for implementation of the Resolution Plan. Both the I.As filed by the Appellant have been rejected and I.A. filed by the SRA was allowed by giving 5 (five) days time to transfer sum of Rs. 322 Crores in the Account of the Corporate Debtor. The Appellant being aggrieved by the Impugned Order has come up in this Appeal.

2. We need to notice the facts and sequence of the events for deciding the issues which have been raised in this Appeal. 'Ramsarup Industries Limited'-the Corporate Debtor was admitted into 'Corporate Insolvency Resolution Process' (hereinafter referred to as 'CIRP') vide Order dated 08th January, 2018, a Resolution Plan submitted by the 'SS Natural Resources Private Limited'-Respondent No. 1 was approved by the 'Committee of Creditors' (hereinafter referred to as 'CoC') with 74.41 % voting share which got approved by the Adjudicating Authority vide Order dated 04.09.2019. The Monitoring Agency constituted to implement the Resolution Plan consist of six Members; One Resolution Professional, Two members of the SRA and three representatives of the 'CoC' i.e., the Appellant, Punjab National Bank

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and Axis Bank Limited. Challenging the Order dated 04.09.2019 of the Adjudicating Authority approving the Resolution Plan, 8 Appeals were filed before National Company Law Appellate Tribunal, New Delhi (hereinafter referred to as 'NCLAT'). The SRA had also filed an Appeal challenging the Order of the Adjudicating Authority only to the extent of not allowing terms contemplated in Clause 15.5 of the Resolution Plan. One of the Appeals was filed by 'Vanguard Credit & Holding Pvt. Ltd.' who was claiming to be owner of the land on which factory of the Corporate Debtor is situated. The claim of the 'Vanguard Credit and Holding Pvt. Ltd.' was that Resolution Plan in respect of the Corporate Debtor contemplate transfer of land belonging to the Appellant and not of the Corporate Debtor measuring about 52.49 acres situated at Durgapur in the Bardhaman District, West Bengal. The promoter also challenged the approval of the Resolution Plan. All the Appeals filed against the Order dated 04.09.2019 were dismissed by the NCLAT vide its common Order dated 04th March, 2021. On 23rd April, 2021, the Appellant purchased the debt from some of the Creditors. The NCLAT while dismissing all the Appeals including the Appeal of SRA directed the Monitoring Committee to start taking steps to implement the Plan. Challenging the Order dated 04th March, 2021, SRA filed a Civil Appeal before the Hon'ble Supreme Court which too was dismissed on 04th May, 2021. After the dismissal of the Appeals by NCLAT, Monitoring Committee held 7th and 8th Meeting of the Monitoring Committee on 20th May, 2021 and 27th May, 2021 respectively. The Appellant on 08th June, 2021 filed an I.A. No. 538 of 2021 under Section 33(3) and 33(4) *inter alia* seeking the Liquidation of the Corporate Debtor and further direction to Monitoring Committee to forfeit

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the performance security amount deposited by SRA. The Appeal (CA 1688 OF 2021) filed by the Vanguard Credit and Holding Pvt. Ltd. also came to be dismissed by the Hon'ble Supreme Court on 02nd July, 2021. 9th meeting of the Monitoring Committee was held on 07th July, 2021 where SRA expressed its intention to implement the Resolution Plan. In the 9th Meeting, the Appellant raised demand for compensation/interest as a pre-condition to implement the Resolution Plan. The SRA declined to make payment of compensation/interest on which the Appellant took stand before the Committee that till the Lenders are compensated for the delay, the Appellant would not be willing to implement the Resolution Plan. After the meeting dated 07th July, 2021, the SRA filed an Application before the Adjudicating Authority being I.A. No. 635 of 2021 against the Erstwhile Resolution Professional and the Appellant seeking direction to the Respondents to cooperate in the implementation of the approved Resolution Plan. I.A. No. 628 of 2021 was filed by the Appellant seeking payment of interest by SRA from the date of the approval of the Resolution Plan i.e. 04.09.2019 till the implementation of the Resolution Plan by the SRA. Replies to the Applications were filed before the Adjudicating Authority and the Adjudicating Authority after elaborately hearing the parties passed the impugned Order dated 06th April, 2022 disposing of all the three Application by following orders in Paragraph 10:

> *"10. Orders*
>
> *10.1. The SRA has pointed out, during the course of hearing on 09th February, 2022 that a sum of approximately 322 crore, which represents the entire resolution amount, has been parked in a separate*

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For RAMSARUP INDUSTRIES LTD.

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account and can be transferred to the Corporate Debtor's account without any further delay. Therefore we hereby direct as follows:

(a) The full resolution plan amount now parked in a separate account, be transferred to the account of the corporate debtor without further ado, and in any case, no later than five days from the date of this order.

(b) The said amount be distributed in accordance with the approved Resolution Plan immediately upon receipt. The entire process be completed within a period of one month from today.

(c) The management of the Corporate Debtor be transferred to the Successful Resolution Applicant shortly thereafter.

10.2. With these directions, we hope that the CIRP of the Corporate Debtor, which began with an order of admission dated 08th January, 2018, will now filed closure after four years and a quarter. We are convinced that the above directions will lead to a rapid and efficient resolution of the Corporate Debtor.

10.3. All three applications, viz., IA(IB) No. 538/KB/2021, IA(IB) No. 628/KB/2021 and IA(IB)No. 635/KB/2021 in CP(IB)No. 349/KB/2017 shall stand disposed of with the above directions.

10.4. The Registry is directed to communicate a copy of this Order to the counsel on record for each of the parties.

10.5. Urgent certified copies of this Order, if applied for, be made available subject to the usual formalities."

3. We have heard Mr. Mukul Rohtgi, Sr. Advocate as well as Mr. Arun Kathpalia, Sr. Advocate for the Appellant and Dr. Abhishek Manu Singhvi,

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Sr. Advocate with Mr. Ramji Srinivasan, Sr. Advocate for the Respondent No. 1.

4. Learned Sr. Counsel for the Appellant-Mr. Mukul Rohtgi submits that Adjudicating Authority vide Impugned Order rejecting the Application of the Appellant for liquidation has taken decision which is contrary to the Judgment of the NCLAT dated 04th March, 2021 by which Judgment, NCLAT directed for filing an Application for liquidation in event the SRA does not implement the Resolution Plan. It is submitted that after the dismissal of the Appeals by NCLAT on 04.03.2021, no steps were taken for implementation of the Resolution Plan by the SRA and SRA has put conditions for implementation of the Resolution Plan. The Appellant had immediately filed the Application for Liquidation on 08th June, 2021 as per directions issued in Paragraph 201 of the NCLAT Orders dated 04.03.2021. It is submitted that Order of the NCLAT dated 04.03.2021 was also confirmed by the Hon'ble Supreme Court vide its Order dated 04.05.2021. The Adjudicating Authority disregarding both the aforesaid Orders has rejected the Application for Liquidation filed by the Appellant. It is further submitted that for implementation of the Resolution Plan no condition could be put by the SRA and the conditions that unless the 'Vanguard's Appeal' is decided, the amount need not be paid to the Financial Creditors, is contrary to the Resolution Plan. Mr. Rohtgi submits that the plan offer of the SRA was much less than the Liquidation Value of the Assets and only on Liquidation of the Corporate Debtor maximisation of the Value shall be achieved which is the object of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'The Code'). Mr. Rohtgi submits that Appellant has firm offer of Rs. 525

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Crores on the 100% cash basis, if the Liquidation is initiated and if there is sale of the Corporate Debtor's Assets. It is submitted that SRA initially expressed its intention to withdraw from the Resolution Plan and even after the dismissal of its Appeal by NCLAT did not take steps to deposit the amount by implementing the Resolution Plan. It is submitted that for 21 months the plan has not been implemented and the SRA has lost its right to implement the plan and the Adjudicating Authority ought to have directed for liquidation. The Adjudicating Authority has wrongly characterized the action of the Appellant as having obstructed the defaulting Resolution Applicant whereas the Appellant was only complying with the directions of this Hon'ble Appellate Tribunal by filing the application for liquidation. It is further submitted that parking of amount of Rs. 320 Crores in the Bank Account which is not the Bank Account of the Corporate Debtor is not an implementation of the plan and after the Order of the NCLAT dated 04.03.2021 there was no reason for not implementing the Resolution Plan by SRA and by not taking any steps for implementation of the Resolution Plan, SRA has contravened the Resolution Plan. Learned Sr. Counsel submits that the Appellant is holder of the 88 % of the total security interest of the Corporate Debtor who has taken over security interest by way of assignment from 'Asset Reconstruction Company (India) Limited' (ARCIL). The Liquidation Value of Corporate Debtor was 610.29 Crores where in the Resolution Plan provides an amount of Rs. 364 Crore as upfront payment to the Financial Creditors. It is submitted that Adjudicating Authority committed error in rejecting the Application for Liquidation filed by the Appellant. The Impugned Order passed by the Adjudicating Authority is in

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violation of the Judgment of the Hon'ble Supreme Court in 'Ebix Singapore Private Limited Vs. Committee of Creditors of Educomp Solutions Limited & Anr.' wherein it is held that prescribed timelines under IBC is of utmost significance.

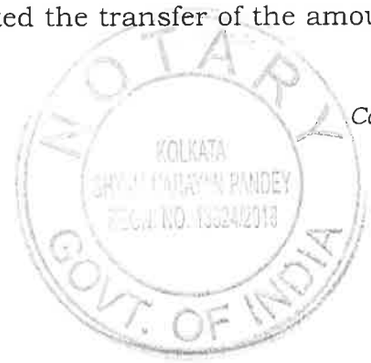
5. Dr. Abhishek Manu Singhvi, Learned Sr. Counsel refuting the submissions of the Learned Sr. Counsel for the Appellant submits that Order of the Adjudicating Authority does not call for any interference in this Appeal. It is submitted that the Appellant is an assignee who is born only after order was passed by the NCLAT on 04.03.2021 by virtue of assignment taken by it on 23rd April, 2021 for an amount of Rs. 255 Crore. The firm offers of Rs. 525 Crore as contended by Learned Sr. Counsel for the Appellant is the offer at instance of Orrisa Metaliks Pvt. Ltd. who was H-2 in the CIRP whose plan could not be approved. It is submitted that the Appellant pressed for liquidation of the Corporate Debtor to serve its own interest as well as the interest of the Unsuccessful Resolution Applicant. It is submitted that total bid amount offered by the SRA was more than liquidation value and in event it is now held by the Hon'ble Supreme Court that Resolution Plan can be approved even if it is of less amount than the liquidation value. It is submitted that the stand taken by the SRA before the 07th and 08th Meeting of the Monitoring Committee that amount be not disbursed till the Appeal of the Vanguard is not decided by the Hon'ble Supreme Court was justified and reasonable. Vanguard Credit and Holdings Pvt. Ltd. claimed in its Appeal before the Hon'ble Supreme Court the land on which the Factory of the Corporate Debtor is situated. In event the Vanguard succeeds in taking away the land beneath the factory of the Corporate

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Debtor, there would have been nothing to implement the plan hence SRA requested the Financial Creditors, amount be not disbursed till the Vanguard Appeal is decided. Moreover in 08th Meeting of the Monitoring Committee held on 27th May, 2021 SRA offered to deposit the entire amount in the escrow account. It is submitted that the SRA always after the Judgment of the NCLAT dated 04.03.2021 took steps to implement the plan and deposited the entire CIRP costs of Rs. 12.49 Crores on 18th June, 2021, paid the workmen dues up to 07 Crores on 18th June, 2021 and has also paid day to day expenses of the Corporate Debtor for the month of May, 2021. In the Monitoring Committee Meeting dated 07th July, 2021, it is the Appellant who obstructed the implementation of the Plan by taking stand before the Monitoring Committee Meeting that Plan be not implemented till the compensation/interest is paid by the SRA to the Appellant. It is thus Appellant who has obstructed the implementation of the plan which is apparent from the minutes of the Meeting dated 07th July, 2021. It is submitted that Appellant filed an Application on 12th July, 2021 seeking compensation/interest from the SRA and Appellant's case was that it is the NCLT which shall take decision on the claim of interest/compensation and during the period of pendency of the Application that plan could not be implemented due to the stand taken by the Appellant. It is submitted that at the time of hearing of the Application on 22nd February, 2022 the total amount of Rs. 322 Crores which represent the entire Resolution Plan has been parked in the separate Account for implementation of the Resolution Plan. It is submitted that Adjudicating Authority by the Impugned Order directed the transfer of the amount in the Corporate Debtor's account within



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five days which has been done, as on date the plan stands implemented. It is submitted that there is no merit in the Appeal filed by the Appellant and the Appeal deserves to be dismissed with costs.

6. We have considered the submissions of Learned Sr. Counsel for the parties and perused the record.

7. The Resolution Plan of the SRA stood approved by the Adjudicating Authority on 04.09.2019. Eight Appeals were filed challenging the Order dated 04.09.2019 before the NCLAT which came to be dismissed by Order dated 04.03.2021 while dismissing all the Appeals, NCLAT directed the Monitoring Committee to start taking steps for implementation of the Resolution Plan in paragraph 201:

> *"201. We further direct the Monitoring Agency to start taking steps for implementation of the Resolution Plan immediately, and in case the Successful Resolution Applicants fails to implement the approved Resolution Plan; appropriate action should be taken immediately, and without waiting further, the application should be moved before the Adjudicating Authority for liquidation of the Corporate Debtor. Registrar NCLAT is directed to send the order's copy immediately to all the concern parties through email as well as by post for compliance."*

8. The Adjudicating Authority in the Judgment/Order has also observed that in the Appeal there was no stay for implementation of the Resolution Plan however under the Order passed by the NCLAT a further direction was issued to the Monitoring Agency to implement the Resolution Plan immediately. Thus the actions of SRA of not implementing the plan after its approval till the NCLAT dismissed the Appeals on 04.03.2021 stood

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condoned and by the Order dated 04.03.2021 of NCLAT directions were issued to the Monitoring Agency to start taking steps for implementation of the Resolution Plan. The crux of the matter is to find out as to whether after the Judgment of the NCLAT dated 04.03.2021 steps have been taken by the SRA for implementation of the Resolution Plan and whether the actions and conduct of the SRA is such that Corporate Debtor ought to be sent to the Liquidation, accepting the prayers made by the Appellant for liquidation.

9. After the Judgment of the NCLAT dated 04.03.2021, Appeals were filed before the Hon'ble Supreme Court challenging the Order dated 04.03.2021 also by the SRA which Appeal came to be dismissed on 04th May, 2021. After the dismissal of the Appeal by the Hon'ble Supreme Court, Monitoring Committee held 07th & 8th Meeting on 20th and 27th May, 2021 respectively and the SRA offered to deposit the entire amount in the Escrow Account subject to condition that amount not to be disbursed to the Financial Creditors till the Vanguard Appeal is pending before the Hon'ble Supreme Court. SRA also offered to deposit the CIRP cost and also stated that performance security interest ought not to be disbursed since any order by Hon'ble Supreme Court in favour of Vanguard may necessitate to refund the money to the SRA. On 08th June, 2021, the Appellant filed an Application I.A. 538 of 2021 for liquidation. After dismissal of Vanguard Appeal by the Hon'ble Supreme Court on 02nd July, 2021, the 9th Monitoring Committee Meeting was held, the minutes of 09th Meeting has been brought on record by the Appellant in the Paper Book of the Appeal. This meeting was attended by the Appellant, Representatives of the Punjab National Bank and Axis Bank and Representatives of the Resolution Applicants. Before the Meeting,

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update, developments and steps for implementation of the Resolution Plan was also noticed after noticing the steps to be taken for implementation of the Resolution Plan Item No. 7 mentioned as "Lenders to provide their consent for initiation of the implementation steps". In the minutes, the claim of the Appellant for compensation/interest has been noticed in following words:

> *"Mr. Agnihotri from CFM ARC, at the very outset, explained that the Resolution Applicant has filed appeals and delayed the implementation of the plan for almost 2 years. In light of the delay caused, the value of the money that was to be received by the financial creditors has diminished. Accordingly, he sought an explanation from the resolution applicant on how they plan to compensate the financial creditors. He stated that, it is of utmost importance that the lenders and the RA mutually decide on the compensation amount and in the absence of such compensation being fixed, any discussion on implementation cannot be done. He further clarified that the compensation on account of delay in implementation is a pre-condition for CFM to agree for implementation of resolution plan. He made it know that CFM ARC would not like to proceed with any discussions of implementation unless the issue of compensation was resolved first."*

10. On behalf of the Appellant, it was claimed that payment of interest/compensation is pre-condition which is to be noted in following words:

> *"Mr. Pankaj Bagla from SSN enquired from CFM, if the demand for compensation is a pre-condition to*

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implement the Resolution Plan. Mr. Pankaj Agnihotri from CFM stated that it would be a pre-condition at CFMARC's end for implementation of the Resolution Plan. He further stated that they would also want to understand from the RA about the rate at which they would be compensated."

11. On behalf of SRA, it was stated that Resolution Plan does not provide for any Compensation, following was stated by SRA:

"Mr. Pankaj Bagla, representative of the RA, re-iterated that any such pre-condition for payment of compensation/interest is not acceptable to them. The resolution plan, as approved by NCLT also does not provide for any such compensation. He drew reference to Annexure 2 clause 4 step 5 (d) on page 49 of the Resolution Plan, which reads as follows:

> *"Notwithstanding anything contained in this Resolution Plan, no payments over and above the payments set out above shall be made by the Resolution Applicant towards any charges, imposts or amount called in whatever name save and except the fees payable to the security trustee."*

Therefore, it is clear that the approved resolution plan clearly stipulates that there shall be no additional payment. It was also stated by the RA, that the maximum liability of the Resolution Applicant towards all financial creditors of the Corporate Debtor shall not exceed INR 351 crores and the Resolution Applicant shall not be required to make any payment beyond the aforesaid amount to the Financial Creditors.

In view of the strong opposition from the RA, and disagreement with the other lenders, Mr. Pankaj

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Agnihotri (CFMARC) further indicated that Hon'ble NCLT should be the correct adjudicator to decide this issue."

12. The Representative of the Appellant stated that they will approach NCLT for adjudication of their claim for compensation/interest. Deadlock was noticed by the Chairman and in view of the stand of the Appellant as noted above the meeting concluded without any decision. It is relevant to quote the last concluding remark of the Chairman of the Meeting which is to the following effect:

"The Chairman apprised the members that the primary purpose of constituting the MA as per the approved plan is to oversee the implementation of the plan until it is handed over to the successful RA. There can be no other decision making or objective of the MA. CFM representative mentioned that they will approach NCLT on this compensation matter for adjudication.

Since there was a deadlock, the Chairman requested the members to clarify on the way forward in order to understand the next steps that are required to be undertaken. To this, Mr. Pankaj Agnihotri from CFM stated that till the lenders are compensated for the delay, CFM would not be willing to implement the Resolution Plan and would revert on the matter of deciding the professional fees of the Chairman and the Grant thornton.

At this stage, Mr. Deep from Equilex informed the members that at the 3rd MA Meeting, the members had agreed that all decisions would be taken basis the views of majority of members. Mr. Pankaj

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Agnihotri from CFM opposed the proposition of a voting mechanism and suggested that only the views of the lenders should be recorded and that NCLT should be the correct adjudicator to finally decide on this issue.

There being a disagreement amongst the lender's representatives on timing of implementation due to demand of compensation by CMF ARC, no decision was taken by the MA members with respect to next steps and way forward on implementation of the resolution plan. The RA representative reiterated that they are prepared for unconditional and immediate implementation of the resolution plan as per the steps provided therein. The members also did not vote on this issue in the present MA Meeting.

There being no other agenda, the meeting was concluded with vote of thanks."

13. The above minutes of the Meeting of the Monitoring Committee held on 07th July, 2021 clearly indicates that Monitoring Committee could not take decision for implementation of the Resolution Plan on account of pre-condition put by the Appellant himself that unless the Payment of Compensation/Interest is made they shall not participate in discussion regarding the implementation of the Resolution Plan. The Appellant thus did not consent to the implementation of the Resolution Plan, which is apparent from the minutes of the Monitoring Committee minutes as noticed above. From the minutes of Monitoring Committee, it is clear that SRA only objected the claim of the Appellant for payment of Compensation/interest and it clearly mentioned its readiness and willingness to implement the plan. It is also relevant to notice that even before the meeting dated 07th

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July, 2021 of the monitoring committee following payments were made by the SRA:

i. Workmen dues paid on 18th June, 2021 – Rs. 07 Crores.

ii. CIRP cost paid on 18th June, 2021 – Rs. 12.49 Crores.

iii. For the purposes of meeting day to day expenses of Corporate Debtor for the month of May, 2021 paid – Rs. 18 Lakhs.

iv. For the purposes of meeting day to day expenses of Corporate Debtor for the month of June, 2021 paid – Rs. 18 Lakhs.

Note: - The above payments of Rs. 18 Lakhs each were offered over and above the Resolution Plan. In addition to above, Earnest Money Deposit was Rs. 5 Crores and Rs. 35 Crores was deposited as Performance Bank Guarantee which was encashed by the ARCIL and placed with ARCIL in an interest-bearing account.

14. Thus, the SRA towards the plan had already incurred Rs. 59,85,00,000/-. We may also at this stage notice the submissions of Learned Sr. Counsel-Mr. Rohtgi that upfront payment offered by the SRA in the Resolution Plan is much below the liquidation value. The Order approving the Resolution Plan dated 04.09.2019 in details notices the propose offer on the part of the Resolution Plan as well as Liquidation Value in paragraph 34 and 35 of the Order dated 04.09.2019 which is to the following effect:

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For RAMSARUP IND

Director / Authorised Signatory

"34. The following table summarizes the proposed offer as a part of the Resolution Plan to the financial creditors of the Corporate Debtor ("Financial Creditors") as well as other creditors specified under the Code:

Particulars	***Amount (in Rs. Crores)***
*CIRP Process Cost**	*[*]*
Sustainable Debt to be paid upfront to the Financial Creditors	*351.0*
Payment to Operational Creditors	*3.50*
Payment to Workmen	*7.00*
Payment towards Statutory Liabilities	*3.00*
Capex/ Working Capital	*306.00*

To be paid at actual

35. The above being the offers based on the admitted claim of the creditors, the distribution of the resolution bid amount is found not in contravention of any of the provisions of the Code or Regulations. The total bid amount come to 670.50 Crores which is higher than the Liquidation Value of Rs. 610.29 Crores. The facts in the given case being not similar to the Padmanavan Venkatesh case above referred, the principle of distribution if any in the said case cannot be applied in the case in hand."

15. Thus, Liquidation Value of the Corporate Debtor was 610.29 crores where total bid amount offered by the SRA was 670.50 Crores as having been noticed by the Adjudicating Authority while approving the Resolution Plan.

NOTARY KOLKATA GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

16. The Submissions of Mr. Rohtgi that there is a firm offer of Rs. 525 Crores on 100% cash basis if the Liquidation is initiated and Corporate Debtor's Assets are sold. Learned Sr. Counsel-Mr. Rohtgi during the submissions has referred to the above offer given by 'Orissa Metaliks Private Limited' who was H-2 in the CIRP. 'Orissa Metaliks Private Limited' has also filed a Resolution Plan where H-2 Bidder Orissa Metaliks Private Limited has given total Bid of Rs. 1014.99 Crores with an upfront payment of Rs. 281.90 Crores, CoC accepted the Resolution Plan for H-1 for a total bid of Rs. 670.50 Crores solely on the ground that upfront payment of Rs. 351 Crores which was higher than the upfront payment of 'Orissa Metaliks Private Limited'. 'Orissa Metaliks Pvt. Ltd.' filed Company Appeal (AT) Ins. No. 1159 of 2019 challenging the Order dated 04.09.2019 which Appeal got dismissed by the Order dated 04.03.2021 passed by this Appellate Tribunal.

17. We find substance in the submissions of Dr. Singhvi that with the aid of the Appellant, now 'Orissa Metaliks Pvt. Ltd.' wants to have second inning in the proceeding due to which the Appellant is pressing for the liquidation of the Corporate Debtor. We thus are of the view that firm offer as contended by Learned Sr. Counsel for the Appellant for sale of the Corporate Debtor has no relevance for consideration of this Appeal. Much emphasis has been laid by Mr. Rohtgi on the paragraph 201 of the Judgment. The NCLAT did not direct for liquidation of the Corporate Debtor rather it directed Monitoring Committee to start taking steps for implementation of the Resolution Plan immediately and in case SRA fails to implement the approved Resolution Plan appropriate action be taken immediately. When we take into consideration the steps taken by the Monitoring Committee after

NOTARY KOLKATA DIPAK KUMAR PANDEY REGN NO. 13324/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

the Judgment of NCLAT it is clear that steps were taken by the Monitoring Committee for implementation and deadlock was created in the meeting dated 07th July, 2021 when Appellant himself came with the stand that unless payment of compensation/interest is paid, he shall not participate in the implementation of the plan and thus he did not give his consent in the implementation of the plan whereas the SRA was ready to implement the plan on his part.

18. The Hon'ble Supreme Court in the matte of ***'Swiss Ribbon (P) Ltd. Vs. Union of India'***, (2019) 4 SCC 17 has categorically laid down that primary focus of the Legislation is to ensure revival and continuance of the Corporate Debtor. The Liquidation has been termed as Corporate Debtor's death. In paragraph 28, following has been observed:

> *"28. It can thus be seen that the primary focus of the legislation is to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation. The Code is thus a beneficial legislation which puts the corporate debtor back on its feet, not being a mere recovery legislation for creditors."*

19. The Hon'ble Supreme Court in ***'Babulal VrdharjiGurjar Vs. Veer GurjarAluminium Industries Pvt. Ltd. & Anr.'***, (2020) 15 SCC1 again held that primary focus of the Code is to ensure its revival and continuance. In paragraph 21 following has been laid down:

> *"As regards corporate debtor, the primary focus of the Code is to ensure its revival and continuation by protecting it from its own management and, as far as*

NOTARY KOLKATA BHUVANAMAYEE PANDEY REGN NO. 13824/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

feasible, to save it from liquidation. As tersely put by this Court in Swiss Ribbon, the Code is thus a beneficial legislation which puts the corporate debtor back on its feet, not being a mere recovery legislation for creditors"

20. When the Application filed by the Appellant for liquidation is to be considered the law laid down by the Hon'ble Supreme Court in the above cases, has to be kept in mind. The Adjudicating Authority while analyzing the conduct of the SRA, in the Order dated 06th April, 2022 gives detailed reasons in Paragraph 9. It is useful to extract paragraph 9.10, 9.11, 9.12, 9.16, 9.17 of the Order/Judgment of the Adjudicating Authority which is to the following effect:

"9.10. As judicially noticed by the Hon'ble Supreme Court in Swiss Ribbons (supra) and Babulal Gurjar (supra), the Preamble of the Code lays a lot of emphasis on insolvency resolution within the timelines prescribed. Liquidation should be the last resort, when everything else has been attempted and failed. In the present case, we have a successful resolution applicant who is ready and willing to implement the approved resolution plan as it is. Although there were some delays in the insolvency resolution process of the corporate debtor, attributable to the fact that many appeals came to be filed right upto the Supreme Court, we now have a situation where the SRA which has parked the entire resolution amount in an account separately earmarked for this purpose. This amount is now ready and available for utilisation by various stakeholders.

NOTARY KOLKATA SUTAPA NARAYAN PANDEY REGN. NO. 1332/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

9.11. CFM-ARC is admittedly pursuing its application for liquidation because the liquidation value is more than the enterprise value. But that cannot be a ground for sustaining this application, nor is it in line with the objects of the Code. Sending the Corporate Debtor into liquidation just because the liquidation value is more than the enterprise value, would not be in keeping with the objectives of the Code. The Code is not about maximising value at all costs even if it means corporate death, which will inevitably ensue if the company is sent into liquidation. The challenge in IA (IB) No.538/KB/2021 to the implementation of the approved Resolution Plan must, therefore, fail on this touchstone.

9.12. The SRA was certainly at fault in not taking steps for implementation of the approved Resolution Plan after the 04 March 2021 order of the Hon'ble NCLAT, coming up with the condition that until the Vanguard Appeal is decided, it is not in a position to implement the Resolution Plan. However, this intransigence is offset by the equally obdurate attitude of CFM-ARC to seek interest from the SRA {in IA (IB) No.628/KB/2021}, as an alternative prayer to liquidation, even while the other members of the Monitoring Agency were ready and willing to give a chance to the SRA to implement the Plan. This prompted another application from the SRA in IA No.635/KB/2021 for directions to implement the Plan. The end result was a further and unnecessary delay in implementation until

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For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

the three applications could be heard and decided by this Adjudicating Authority.

.....

9.16. It is now trite law that the whole idea of the Code is to put the Corporate Debtor back on its feet for the larger benefit of all the stakeholders, not just the creditors. We must not forget that the Corporate Debtor is a fully functional enterprise and is generating value for the economy, apart from providing employment to a sizeable number of people. The present applications will have to be seen in the larger context of the objectives sought to be achieved. A bird in hand is worth two in the bush.

9.17. If there is anything that the Code emphasis, it is the oft-forgotten adage that time is money. On an overall conspectus, we would urge, hope and expect that time being wasted in this manner in unnecessary litigation should now stop. Therefore, rather than the mathematically projected liquidation value being more than the value offered by the SRA, it would be better to look at the value addition that a running enterprise would bring over the long term to the economy and various stakeholders. Time and again, we see that liquidation does not necessarily satisfy the projected liquidation value, and the liquidator has had to reduce the reserve bid in order to find buyers. Therefore, at least in the present compendium of facts it is a mirage that is best not pursued."

21. In the above paragraphs, the Adjudicating Authority has given due consideration to the principles of law and the facts in the present case and

NOTARY GOVT. OF INDIA

For RAMSARUP ...

Director / Authorised Signatory

sequence of the events. The Adjudicating Authority in its Order had noted that amount of Rs. 322 Crore was already parked by the SRA in an Account which was pointed out in the course of hearing on 22nd February, 2022 which amount was directed to be transferred by the Adjudicating Authority not later than 5 days from the date of the Order i.e. five days from 07th April, 2022. Dr. Singhvi during the course of the submission has made statement that entire amount has already been transferred to the Corporate Debtor as directed by the Adjudicating Authority on 07th April, 2022.

22. When we analyze the facts and sequence of the events of the present case, we come to the conclusion that there is no lack of intention on the part of the SRA for implementation of the plan after the Judgment of the NCLAT dated 04.03.2021 including offer to deposit the entire amount in the Escrow Account, the pendency of the Appeal of the Vanguard before the Hon'ble Supreme Court and further making the payment of Rs. 12.49 Crores to the CIRP Cost on 18th June, 2021 and making Payment of Rs. 7 Crores for workmen which indicate the willingness of the SRA to implement the plan. The Adjudicating Authority has further noticed the submission of one of the creditors before it Punjab National Bank which clearly indicated that one opportunity be given to the SRA to implement the plan.

23. We are of the considered opinion that Order of the Adjudicating Authority giving five days time as a last opportunity to transfer the amount in the Corporate Debtor's Account can in no manner be said to be contrary to the orders passed by the NCLAT dated 04.03.2021.

24. The Appellant who is born only on 23rd April, 2021 i.e., after the Order of the Adjudicating Authority want to push the Corporate Debtor to the

NOTARY KOLKATA GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Liquidation to realize its dues to the maximum, cannot be the reason for allowing the Application filed by the Appellant for liquidation and Adjudicating Authority after taking into consideration entire facts and circumstances did not commit any error in giving five days further time to the SRA to deposit the amount in the Account of the Corporate Debtor which Corporate Debtor did as stated before us. The implementation of the Resolution Plan although certain delay had occurred cannot be interfered with in exercise of our Appellate Jurisdiction. We are thus of the view that there is no merit in the Appeal, the Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Dr. Alok Srivastava]
Member (Technical)

[Ms. ShreeshaMerla]
Member (Technical)

NEW DELHI
19th April, 2022
Basant B.

NOTARY KOLKATA REGN. NO. 13[illegible]/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No 3633 of 2022

CFM Asset Reconstruction Private Limited **.... Appellant(s)**

Versus

SS Natural Resources Private Limited & Anr **....Respondent(s)**

WITH

Civil Appeal No of 2022
(D No 14137 of 2022)

O R D E R

1 Permission to file the appeal (Civil Appeal Diary No 14137 of 2022) granted.

2 We find no error in the order of the National Company Law Appellate Tribunal dated 19 April 2022 in Company Appeal (AT) (Ins) No 396 of 2022. No substantial question of law arises.

3 The appeals are accordingly dismissed.

4 Pending application, if any, stands disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Surya Kant]

.....J.
[Pamidighantam Sri Narasimha]

Signature Not Verified
Digitally signed by
Sanjay Kumar
Date: 2022.05.14
12:53:50 IST
Reason:

New Delhi;
May 12, 2022
-S-

NOTARY
KOLKATA
GOVT. OF INDIA
REGD. NO. 14/242010

For RAMSARUP INDUSTRIES LTD.
Director / Authorised Signatory

ITEM NO.4 COURT NO.4 SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s).3633/2022

CFM ASSET RECONSTRUCTION PRIVATE LIMITED Appellant(s)

VERSUS

SS NATURAL RESOURCES PRIVATE LIMITED & ANR. Respondent(s)

(FOR ADMISSION and IA No.68807/2022-EX-PARTE STAY and IA No.68808/2022-EX-PARTE STAY)

WITH
Diary No(s). 14137/2022 (XVII)
(WITH IA No.69609/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.69606/2022-STAY APPLICATION and IA No.69608/2022-PERMISSION TO FILE APPEAL)

Date : 12-05-2022 These appeals were called on for hearing today.

CORAM :
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Appellant(s) Mr. Kapil Sibal, Sr. Adv.
Mr. Shyam Divan, Sr. Adv.
Mr. Manu Nair, Adv.
Mr. Siddhartha Datta, Adv.
Mr. Divyakant Lahoti, Adv.
Ms. Smarika Singh, Adv.
Ms. Suhani Dwivedi, Adv.
Mr. Neelabh Shreesh, Adv.
Mr. Deepanjan Dutta, Adv.
Mr. Nitish Massey, Adv.
Mr. Naman Joshi, Adv.
Mr. S. S. Shroff, AOR

Mr. K.V. Vishwanathan, Sr. Adv.
Ms. Pallavi Langar, AOR

For Respondent(s) Dr. Abhishek M. Singhvi, Sr. Adv.
Mr. Shovnak Mitra, Adv.
Mr. Prateek Kumar, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Himanshu Satija, Adv.
Mr. Rohit Ghosh, Adv.
Mr. Rohan Talwar, Adv.
For M/S. Khaitan & Co., AOR

KOLKATA
REGN. NO. 1502/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.
Director / Authorised Signatory

Mr. Neeraj Kishan Kaul, Sr. Adv.
Mr. Shovnak Mitra, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Prateek Kumar, Adv.
Mr. Himanshu Satija, Adv.
Ms. Raveena Rai, Adv.
Mr. Rohan Talwar, Adv.
Mr. Rohit Ghosh, Adv.
For M/S. Khaitan & Co.

Mr. Rony Oommen John, AOR
Mr. Piyush Swami, Adv.
Mr. Arshdeep Singh, Adv.
Mr. Deep Roy, Adv.
Mr. Dhaval Savla, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1 Permission to file the appeal (Civil Appeal Diary No 14137 of 2022) granted.

2 The appeals are dismissed in terms of the signed order.

3 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER

(Signed order is placed on the file)

NOTARY KOLKATA SHRI [illegible] PANDEY REGN. NO. [illegible] GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONAL BENCH, KOLKATA, WEST BENGAL
FINANCE CENTRE, 3RD FLOOR, NEW TOWN
[Under Section 18 (1) read with Section 14 of the National Green Tribunal Act, 2010]

ORIGINAL APPLICATION NO. 188/2023/EZ

RAJKUMAR DAS

... Applicant

-And-

In the matter of:
MOEF & ORS.

... Respondents

AFFIDAVIT-IN-OPPOSITION FILED ON BEHALF OF THE RESPONDENT NO.4 ABOVENAMED TO THE APPLICATION FILED BY THE APPLICANT UNDER SECTION 18 (1) READ WITH SECTION 14 OF THE NATIONAL GREEN TRIBUNAL ACT, 2010

VOLUME - II
(Pages 161 - 334)



SHOUNAK MITRA, Advocate
ZULFIQAR ALI ALQUADERI, Advocate
SHIVANGI THARD, Advocate
C/o **KHAITAN & CO LLP**
Advocates, Solicitors, Notaries
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Emerald House
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Kolkata 700 001

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONAL BENCH, KOLKATA, WEST BENGAL
FINANCE CENTRE, 3RD FLOOR, NEW TOWN
[Under Section 18 (1) read with Section 14 of the National Green Tribunal Act, 2010]

ORIGINAL APPLICATION NO. 188/2023/EZ

RAJKUMAR DAS

... Applicant

-And-

In the matter of:

MOEF & ORS.

... Respondents

AFFIDAVIT-IN-OPPOSITION FILED ON BEHALF OF THE RESPONDENT NO.4 ABOVENAMED TO THE APPLICATION FILED BY THE APPLICANT UNDER SECTION 18 (1) READ WITH SECTION 14 OF THE NATIONAL GREEN TRIBUNAL ACT, 2010

VOLUME - III
(Pages 335 - 476)

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN NO 13824/2018
GOVT. OF INDIA

SHOUNAK MITRA, Advocate
ZULFIQAR ALI ALQUADERI, Advocate
SHIVANGI THARD, Advocate
C/o **KHAITAN & CO LLP**
Advocates, Solicitors, Notaries
Patent & Trademark Attorneys
Emerald House
1B, Old Post Office Street
Kolkata 700 001

Annexure "R-14"

Resolution Plan

for

Ramsarup Industries Limited

(pursuant to the Insolvency and Bankruptcy Code, 2016 as amended)

by

Consortium of SS Natural Resources Private Limited
and Shyam SEL & Power Limited

(Resolution Applicants)

March 11, 2019

For S. S. NATURAL RESOURCES PVT. LTD.
Director/Authorised Signatory

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN NO 13824/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.
Director / Authorised Signatory

PART A: EXECUTIVE SUMMARY

DEFINITIONS AND INTERPRETATIONS:

The (i) rules of construction; and (ii) defined terms used in this Plan (other than those defined in the Plan itself) are set out in **Annexure 1** (*Definitions and Rules of Interpretation*).

OVERVIEW:

The consortium of SS Natural Resources Private Limited ("**SSNRPL**"), a special purpose vehicle ("**SPV**") and Shyam SEL & Power Limited are the resolution applicants under this Plan (SSNRPL and Shyam SEL & Power Limited are herein after collectively referred to as "**Resolution Applicants**" or "**RAs**").

SSNRPL being a part of Shyam SEL & Power group, is a private company incorporated under the provisions of the Companies Act, 1956 under the corporate identity number **U10300WB2015PTC204962** and having its Registered Office at **S. S. Chambers, 5, C. R. Avenue, 2nd Floor, Kolkata, West Bengal 700072.**

Shyam SEL & Power Limited is a company incorporated under the provisions of the Companies Act, 1956, under the corporate identity number U27109WB1991PLC052962and having its registered office at 5 C.R. Avenue, Princep Street, Kolkata 700072.

The Resolution Applicants are submitting the Resolution Plan for the Corporate Debtor under the Code. The RAs propose to implement the Resolution Plan in accordance with the Process Memorandum, the CIRP Regulations and in the manner described in detail in **Annexure 2** of the Resolution Plan and seek the support of all the stakeholders of the Company in this regard.

The National Company Law Tribunal, Kolkata Bench ("**Adjudicating Authority**"), through its order ("**Order**") dated January 08, 2018 ("**Insolvency Commencement Date**"), admitted the application for initiation of corporate insolvency resolution process ("**CIRP**") filed by the corporate applicant in respect of the Corporate Debtor in accordance with Section 10 of the Code.

Pursuant to the Order, Mr. Nilesh Sharma was appointed as the interim resolution professional ("**Interim Resolution Professional**"). Further pursuant to order dated May 2, 2018, Mr. KshitizChhawchharia was appointed as the resolution professional ("**Resolution Professional**") for the Company by the Adjudicating Authority on the advice of CoC.

The Resolution Professional has provided an Information Memorandum on June 30, 2018 containing certain information relating to the Company (as amended from time to time). We thank the Resolution Professional and the COC for inviting the Resolution Applicant to submit a resolution plan for the Company.

The Information Memorandum and Data Room do not contain all necessary information or the information sought by the Resolution Applicant. This Resolution Plan has been proposed based on the limited information given in the Information Memorandum and Data Room and on the assumptions and other terms and conditions stated in this Resolution Plan. The Resolution Applicant is submitting a resolution plan for the insolvency resolution of the

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO 13824/2018 GOVT. OF INDIA

Company as a going concern.

The Resolution Plan has been proposed based on the limited information given in the Information Memorandum, the Data Room, on the assumption and on other terms and conditions stated in the Resolution Plan.

The Resolution Applicant hastaken into account the interest of all the stakeholders based on the information provided in the Information Memorandum and Data Room and therefore believes that the Resolution Plan will create a sustainable capital structure that will enable the Company to run as a "**going concern**". Accordingly, the Resolution Applicant is very keen to work with the stakeholders of the Company and are confident of delivering on this Resolution Plan in an expeditious and time-bound manner after receiving necessary approvals.

For S. S. NATURAL RESOURCES PVT. LTD.

Director/Authorised Signatory

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 13624/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

PART B: BACKGROUND

1. The Corporate Debtor

(a) The Corporate Debtor is a company registered under the Companies Act, 1956 with its registered office and corporate office at **7C, Kiran Shankar Roy Road, Hasting Chambers, 2nd Floor, Room No. 1, Kolkata - 700 001**, India, with corporate identification number **L65993WB1979PLC032113.**

(b) The Corporate Debtor was incorporated on 9th July, 1979 and is involved in the business of manufacturing of Steel, TMT Bars and Steel Wires. The Company's manufacturing units are summarized as follows:

Location	Area	Land Title	Product
Kharagpur	Approximately 315 Acres	99 year lease with West Bengal Industrial Development Corporation (WBIDC)	Integrated Steel Plant
Durgapur	54 Acres	Freehold land admeasuring 52.29 Acre owned by Vanguard CreditHoldings Pvt Ltd. ("**Vanguard**") where Mr Aashish Jhunjhunwala (erstwhile promoter of the Corporate Debtor) is holding >99% stake.	Steel Wire
Shyamnagar	8.7 Acres	Freehold	TMT & wire
Kalyani	8 Acres	999 year leasewith the Government of West Bengal[1]	Steel Wire
Non-Core Asset			
Windmill located at Dhule	6 Acres	Freehold	Wind power

(c) **Snapshot of the Corporate Debtor**

Particulars		Description
Constitution		Publicly Listed Company(Listed in BSE & NSE)
Incorporation		9th July, 1979
Promoters		Mr. Aashish Jhunjhunwala & Family
Key Business		Manufacturing of Wire, Pig Iron, Sponge Iron, TMT bars, Wind Power generation
Registered Office		7C, Kiran Shankar Roy Road, Hasting Chambers,

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO 13624/2018 GOVT. OF INDIA

[1]**Out of the total land, land admeasuring 1 Bigha 1 Cottah 14 Chittaks & 26 Sqft is leased to Efficient Engineering (EE), a Proprietorship firm owned by Mr. Ashish Jhunjhunwala (erstwhile promoter of the Corporate Debtor) by the Government of West Bengal**

For S. S. NATURAL RESOURCES PVT. LTD.
Director/Authorised Signatory

For RAMSARUP INDUSTRIES LTD.
Director/Authorised Signatory

	2nd Floor, Room No. 1, Kolkata - 700 001.

(d) **Classes of Shareholders of the Corporate Debtor**

Category of shareholders	No of Shares*	Percentage
Promoter and Promoter group	**1,31,88,896**	**37.60%**
Public Shareholders	**2,18,88,305**	**62.40%**
Financial Institutions	*15,21,542*	*4.34%*
Bodies Corporate	*27,69,573*	*7.90%*
NRIs	*2,95,411*	*0.84%*
Individual Shareholders	*1,55,00,174*	*44.19%*
Others	*18,01,605*	*5.14%%*
Total	**3,50,77,201**	*100.00%*

Classes of Shareholders	No of shares	Face Value	Share Capital Rs. in cr
Equity Share	3,50,78,480	10	35.08
5 % Redeemable Cumulative Preference Shares	13,00,000	10	1.30
4 % Redeemable Cumulative Preference Shares	31,60,000	10	3.16
5 % Redeemable Non-Cumulative Preference Shares	2,24,99,920	10	22.50
Total	6,20,38,400		62.0384

(e) **Liabilities and Creditors Analysis**

According to the Provisional Balance Sheet, the liabilities of the Company are as below:

Description	Amount (Rs. in Cr)
Short-Term Borrowings	2048.50
Trade Payables	17.58

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13324/2018 GOVT. OF INDIA

For S. S. NATURAL RESOURCES PVT. LTD.

Director / Authorised Signatory

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Other Current Liabilities	1358.88
Short Term Provision	5.42
Total Liabilities	**3430.37**

(f) The following is the list of claims received and admitted by the Resolution Professionalbased on the last updated List of Creditors:

Creditor Claims* (INR Crore)	**Amount Claimed (Rs. in crore)**	**Claim Admitted (Rs. in crore)**
Financial Creditors	6046.77	5853.09
Operational Creditors (other than Workmen and employee)	284.23	216.17
Operational Creditors (only Workmen and employees)	20.31	7.88
Total Claims	**6351.31**	**6077.14**

* Shall be subject to change if any till the Cut-Off Date.

2 PROPOSAL FOR CREDITORS AND OTHER PAYMENTS

2.1 The Resolution Applicants' financial proposal ("**Financial Proposal**") is based on the statement of assets and liabilities of the Corporate Debtor as set out in the Provisional Balance Sheet of the Corporate Debtor and as uploaded in the Data Room and the List of Creditors of the Corporate Debtor as uploaded on the Corporate Debtor's website www.ramsarup.comas of November 11, 2018 and as updated from time to time ("**List of Creditors**").

2.2 As per the Information Memorandum and List of Creditors, total claim filed amounting to Rs. 6,046.77 Cr. (Rupees Six Thousand Forty SixCrores and Seventy Seven Lakhs), out of which claims aggregating to Rs. 5853.09 crores (Rupees Five Thousand Eight Hundred FiftyThree Crores andNine Lakhs) have been verified and admitted ("**Admitted Debt**") till date for the purpose of CIRP by the Resolution Professional.

2.3 The following table summarises the proposed offer as a part of the Resolution Plan to the financial creditors of the Corporate Debtor ("**Financial Creditors**") as well as other creditors specified under the Code:

Particulars	**Amount (in Rs Crores)**
CIRP Process Cost*	[•]
Sustainable Debt to be paid upfront to the Financial Creditors	351.0

NOTARY KOLKATA SHYAM NARAYAN PANDE REGN NO. 13824/2018 GOVT. OF INDIA

For S. S. NATURAL RESOURCES PVT. LTD.

Director/Authorised Signatory

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Payment to Operational Creditors	3.50
Payment to Workmen	7.00
Payment towards Statutory Liabilities	3.00
Capex / Working Capital	306.00

* To be paid at actuals

3 PARTICULARS OF THE RESOLUTION APPLICANT

The Resolution Applicant is a consortium comprising SSNRPL and Shyam SEL & Power Limited. SSNRPL is the lead partner of the consortium. The particulars of the consortium members are provided in Annexure 5.

3.1 Promoters, persons in management and control and connected Persons

The particulars of promoters, persons in management/control and connected persons of the Resolution Applicant, as referred to in Section 29A of the Code, and Regulation 38(3) of the CIRP Regulations ("**Connected Persons**") has been separately provided in the formats provided in the Process Memorandum.

3.2 Credibility of the Resolution Applicant, the Shyam SEL Group and Connected Persons

The particulars regarding credibility of the Resolution Applicant, the Shyam SEL Group and the Connected Persons have been separately provided in the format provided in the Process Memorandum.

3.3 Details of the Resolution Applicant and Connected Persons

No conviction for any offence, if any, during the preceding five years: The Resolution Applicant or the Connected Persons have NOT been convicted of any offence during preceding five years.

No criminal proceedings pending: There are no criminal proceedings pending against the Resolution Applicant or the Connected Persons.

No disqualification, if any, under the Companies Act, 2013, to act as a director: The Resolution Applicant is not a natural person, and it cannot be appointed as a director under the Companies Act. Accordingly, the provisions regarding disqualification do not apply to the Resolution Applicant. The Connected Persons who are natural persons are not disqualified to become a director under the Companies Act.

Not *identified as a wilful defaulter, if any, by any bank or financial institution or consortium thereof in accordance with the guidelines of the RBI*: The Resolution Applicant or the Connected Persons have NOT been recognised as a wilful defaulter by any bank of financial institution or consortium thereof in accordance with the guidelines of the RBI.

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No debarment, if any, from accessing to, or trading in, securities markets under any order or directions of the Securities and Exchange Board of India: The Resolution Applicant or the Connected Persons have NOT been debarred from accessing to or trading in securities market under any order or directions of the Securities and Exchange Board of India.

Transactions with the corporate debtor in the preceding two years: The Resolution Applicant or the Connected Persons did NOT have any dealings with the Corporate Debtor.

3.4 **No disqualification under section 29A of the Code**

The Resolution Applicant confirms that it is eligible to submit a resolution plan in accordance with Section 29A of the Code. A copy of the affidavit stating eligibility of the Resolution Applicant under section 29A of the Code (in Format XIII) and the undertaking under regulation 39(1)(c) of The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (in Format VI) has already been submitted as while submitting the Plan. In addition, to the best of the knowledge of the Resolution Applicant, this Resolution Plan is not in contravention of provisions of the Applicable Law.

The Resolution Applicant states thatNarantakDealcomm Limited, a non-banking financial company registered with the RBI being the assignee of the Admitted Debt (as defined herein after), is not ineligible under the provisions of section 29A of the Code. A copy of the affidavit confirming its eligibility under section 29A of the Code is attached hereto and marked as exhibit A.

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PART C: RESOLUTION PLAN

MANDATORY CONTENTS OF THE RESOLUTION PLAN

1. Insolvency resolution process cost

i. As per the Code, the CIRP Costs are to be paid in priority over payments to be made of any other debt and the CIRP Costs shall, amongst other things, include the costs, fees and charges incurred by the Resolution Professional, in running the operations of the Corporate Debtor as a going concern.

ii. Within 1 (one) day after the Effective Date, the Resolution Professional shall provide a statement, containing details of the CIRP Costs as approved by the CoC from time to time, to the Resolution Applicant, and the same will be paid in full as per the Code and as elaborated in Annexure 2The Resolution Applicant will infuse additional funds (if needed), by way of equity or any other appropriate means, to meet the CIRP Costs.

iii. The Resolution Applicant and its group companies have sufficient funds and do not envisage any challenge in terms of source for the payments.

iv. In any event, the Resolution Applicant may utilize their investments to fund the upfront payment for CIRP Costs by liquidating investments held by Resolution Applicant group, internal accruals or borrowed funds or such other means as deemed fit by the Resolution Applicant.

2. Payment to Operational Creditors

i. As per the List of Creditors, total claims filed by operational creditors (excluding employees and Workmen) aggregate to **Rs. 284.23 Cr** (Rupees Two Hundred and Eighty Crores and Twenty ThreeLakhs) out of which claims aggregating to **Rs. 216.17 Cr** (Rupees Two Hundred and Sixteen Crore and Seventeen Lakhs) have been verified and admitted for the purposes of CIRP by the Resolution Professional. Accordingly, the total claim of the operational creditors (excluding employees and Workmen) may only be partly covered in the Provisional Balance Sheet and that the entire Claims that have been received from the operational creditors (excluding employees and Workmen) may not have been included therein.

ii. In terms of the Code, the payment due to operational creditors should not be less than the liquidation value payable to the operational creditors in the event of a liquidation of the corporate debtor under Section 53 of the Code. This would imply that the operational creditors have the right to demand amounts that would be payable to them under a liquidation scenario.

iii. As per the Information Memorandum and Provisional Balance Sheet, the net worth of the Company is completely eroded. Further, the Corporate Debtor has not been in operations for more than 10 (ten) years. Therefore, the assets of the Corporate Debtor,including the plant and machinery are not in a working condition and considerable investment would be required to be made

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before the factory and the plant and machinery of the Corporate Debtor can be made operational. Accordingly, the estimated realisable value of the assets of the Corporate Debtor shall not be significant. Therefore, based on the estimates made by the Resolution Applicant. the liquidation value of the Company will not besufficient to cover the debt of Financial Creditors of the Company in full. Therefore, the Liquidation Value to the Operational Creditors or the other creditors or stakeholders (including dues to employees other than Workmen and statutory creditors), government dues, taxes etc. and other creditors and stakeholders shall be**NIL** and therefore they will not be entitled to receive any payment. Accordingly, the Resolution Applicant seeks a waiver of all the sum due towards payment of Operational Creditors.

iv. However, the RA proposes to bring in a payment of Rs. 3.5 crores (Rupees Three Crores Fifty Lakhs Only) to meet payment to any Operational Creditor on a pro rata basis based on the amount admitted.

v. As per regulation 38(1) of the CIRP Regulations, liquidation value due to the operational creditors should be paid in priority to the Financial Creditors. So, the aforesaid amount shall be paid within 30 (thirty) days from the Effective Date and in any event 1(one) day prior to the payment to the Financial Creditors.

vi. All Claims made by any Existing Promoters/Promoter and Promoter Group or related party (as defined in section 5(24) of the Code), whether admitted or not and whether actual, conditional, contingent, crystallised or uncrystallised, known or unknown, whether existing or arises in the future, whether included in the Provisional Balance Sheet or financial statements of the Corporate Debtor or not, shall stand written off, waived/extinguishedby virtue of the order of the Adjudicating Authority approving this Resolution Plan and no amounts shall be payable in respect of such Claims. The Existing Promoters/Promoter and Promoter Group were in control and management of the Corporate Debtor and their actions have resulted in the insolvency of the Corporate Debtor and any payment to them as a part of the CIRP, will adversely affect the credibility of the process, Hence on principles of equity, it is imperative that the Claims of the Existing Promoters/Promoter and Promoter Group and related partiesshould be/stand extinguished/written off in the manner contemplated herein.

vii. Any and all other Claims or demands made by, or liabilities or obligations owed or payable to any actual or potential creditor, vendor, contracting counterparty,. Governmental Authority, claimant, group companies or any other person whatsoever (including but not limited to the Operational Creditors) (referred to in singular as **"Third Party"** and collectively as **"Third Parties"**), whether admitted or not, due or contingent, asserted or unasserted, crystallized or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, whether or not set out in the Provisional Balance Sheet, the balance sheet of the Company or the profit and loss account statements of the Company or in the List of Creditors, in relation to any period prior to the Effective Date or arising on account of the

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acquisition of control by the Resolution Applicant over the Company pursuant to this Resolution Plan, will be written off in full and shall be deemed to be permanently extinguished by virtue of the order of the Adjudicating Authority approving this Resolution Plan and the Company or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.

viii. Any Encumbrance, or any other form of collateral (whether over immovable, movable assets, fixed deposits or cash or any other rights or privileges and including without limitation, any guarantee, security, letter of credit or pledge provided by the Corporate Debtor) that was created/granted/arranged by the Corporate Debtor in connection with any operational debt or any other debt or obligation of the Company, at any time prior to the Effective Date, shall automatically be released and all liabilities and obligations of the Corporate Debtor in relation to such Encumbrance or other form of collateral shall stand permanently extinguished on the approval of this Resolution Plan by the Adjudicating Authority, without the requirement of any further action on part of any party. All title deeds and other documents (including charge documents, if any) held by the Operational Creditors or on their behalf shall be immediately returned to the Corporate Debtor.

3. Payment of workmen's dues

i. As per the List of Creditors, **Rs. 20.31 Crores** (Rupees Twenty Crores Thirty-One Lakhs), has been claimed by employees and Workmen and **Rs. 7.88 Crores** (Rupees Seven Crores Eighty Eight Lakhs) has been admitted by the Resolution Professional for the purpose of CIRP. In the event, any additional claim is admitted before the date of approval of the Plan by the CoC, the same shall be paid by the Resolution Applicant by infusing such additional funds as may be required subject to a maximum of Rs 7.00 Cr ("**Admitted Workmen and Employees Dues**"). In the event any further due is admitted under this category, all the Workmen and employees shall be paid pro rata based on the admitted claims by the RP.

ii. Other than Admitted Workmen and Employees Dues all the potential obligations and rights and entitlements owed or payable to, (including any demand for any losses or damages, or interest, back wages, compensation, penal interest, liquidated damages already accrued/ accruing or in connection with any claims) any present or past, direct or indirect, permanent or temporary, employees and/or Workmen of the Company, whether admitted or not, due or contingent, asserted or unasserted, crystalized or uncrystalized, known or unknown, secured or unsecured, disputed or undisputed, present or future, whether or not set out in the Provisional Balance Sheet or the balance sheet of the Company or the profit and loss account statements of the Company or the List of Creditors, in relation to any prior period to the Effective Date or arising on account of acquisition of control by the Resolution Applicant over the Company pursuant to the Resolution Plan, will be written off in full and shall be deemed to be permanently extinguished by virtue of the order of Adjudicating Authority approving the Resolution Plan

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and the Company or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.

4. Proposal for Statutory Liabilities including outstanding Governmental Authority Dues, Tax, etc.:

i. As per the Code, since the statutory liabilities are operational debt, the Resolution Applicant is required to ensure that it pays at least the liquidation value in respect of the statutory liabilities. For the reasons mentioned in Clause 2(iii) above, the Liquidation Value is **assumed to be Nil**. Therefore, **NIL** payment has been proposed under the Resolution Plan towards payment of statutory liabilities including but not limited to any outstanding government dues, Taxes, provident fund and other liabilities of the Company and no source has been identified for such payment under this Resolution Plan. However, RA proposes to infuse a sum of Rs 3 Cr (Rupees Three Crores) to meet statutory liabilities at its sole discretion on business consideration basis.

ii. Accordingly, all Claims or demands made by, or liabilities or obligations owed or payable to or assessed by, the Governmental Authorities including but not limited to the central government, the state governments, any regulatory or local authority or body or any agency or instrumentality thereof, including all such dues, duties, penalties, fees, interest, fines, levies, cesses, assessments or additions or any other charges or payments whatsoever (including without limitation, the Claims of Operational Creditor, the Tax liabilities, direct and indirect and any liabilities in relation to any consent, permission, privilege, entitlement, exemption, benefit, license or approval granted to the Company or in relation to the Company, whether or not such consent, permission, privilege, entitlement, exemption, benefit, license or approval is subsisting, lapsed or expired), whether admitted or not, due or contingent, asserted or unasserted, crystallized or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, whether or not set out in the Provisional Balance Sheet, the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor or the List of Creditors, in relation to any period prior to the Effective Date or arising on account of the acquisition of control by the Resolution Applicant over the Company pursuant to this Resolution Plan, will be written off in full and will be deemed to be permanently extinguished by virtue of the order of the Adjudicating Authority approving this Resolution Plan and the Corporate Debtor or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto. It is also proposed that no interest or penalty should be levied on the crystallised statutory liabilities of the Company existing prior to the Effective Date.

iii. Specifically, all dues under the provisions of Applicable Laws relating to Taxes (including without limitation, the Taxes, Claims and liabilities dues) whether admitted or not, due or contingent, whether or not set out in the Provisional Balance Sheet, the balance sheets of the Company or the profit and loss account statements of the Company or the List of Creditors, whether

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asserted or unasserted, crystallized or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, in relation to any period prior to the Effective Date or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan, shall stand extinguished by virtue of the order of the Adjudicating Authority approving this Resolution Plan and the Company shall not be liable to pay any amount against such dues. All notices, assessments, appellate or other proceedings pending or threatened in relation to the Company, in relation to any period prior to the Effective Date or arising on account of the acquisition of control by the Resolution Applicant over the Company pursuant to this Resolution Plan, shall stand terminated and withdrawn and all consequential liabilities, if any, shall stand extinguished and be considered as not payable by the Company by virtue of the order of the Adjudicating Authority approving this Resolution Plan and any reassessment, revision or other proceedings under the provisions of the Applicable Laws relating to Taxes would be deemed to be barred in relation to any period prior to the Effective Date, by virtue of the order of the Adjudicating Authority approving this Resolution Plan. No order of distraint or attachment shall be passed or any proceeding commenced against the Corporate Debtor or any of its assets in respect of any liability relating to the period prior to the Effective Date and any such order/proceeding shall be null and void ab initio.

iv. Any and all rights and entitlements of the Governmental Authorities including but not limited to the Central government, the State governments, any regulatory or local authority or body or any agency or instrumentality thereof (or any other party or entity (under any agreement, lease, license, approval, consent or permission), whether admitted or not, due or contingent, asserted or unasserted, crystallized or uncrystallised, known or unknown, disputed or undisputed, present or future, in relation to any period prior to the Effective Date or arising on account of the acquisition of control by the Resolution Applicant over the Company pursuant to this Resolution Plan, shall be deemed to be permanently extinguished by virtue of the order of the Adjudicating Authority approving this Resolution Plan and the Company or the Resolution Applicant shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto.

5. Debt owed to Financial Creditors

i. As per the Information Memorandum and the List of Creditors, total claims filed by the Financial Creditors amount to Rs. 6046.77 Crores (Rupees Six Thousand Forty Six Crores and Seventy Seven Lakhs), out of which claims aggregating to Rs. 5853.09 Crores (Rupees Five Thousand Eight Hundred and Fifty ThreeCrores and Nine Lakhs) have been verified and admitted by the Resolution Professional and the same forms the part of Admitted Debt including any invoked / uninvoked corporate guarantee extended by the Corporate Debtor.

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ii. The maximum liability of the Resolution Applicant towards all financial creditors of the Corporate Debtor, irrespective of whether they have filed claim or not shall not exceed Rs. 351 crore (Rupees three hundred and fifty

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one crore) and the Resolution Applicant shall not be required to make any payment beyond the aforesaid amount to the Financial Creditors.

iii. Financial Creditors shall, however, be free to proceed against guarantee issued by Existing Promoters/ Promoter or Promoter Group of the Company. In any such event, the Existing Promoter(s) / Promoter or Promoter Group shall not be entitled to any subrogation rights for the amounts paid under such guarantee obligations.

iv. Payment Terms:

(a) ***Payment to Financial Creditors***: The Resolution Applicant shall deposit the Upfront Amount as outlined in the Financial Proposal in the Controlled Account within 30 (thirty) days from the Effective Date. Notwithstanding anything provided in this Resolution Plan,subject however to there being no stay against the order approving the Plan as detailed in Annexure 2, the Upfront Amount shall be debited from the Controlled Account on the 90th day from the Effective Date in the manner provided in Annexure 2 of the Plan. Such payment shall be made after payment of CIRP Process Cost, Workmen dues, statutory liabilities and payment to Operational Creditors.

(b) ***Source of Funds***: The Resolution Applicant has submitted a comfort letter dated October 12, 2018, wherein Resolution Applicant has stated that it shall have sufficient funds to fund the Upfront Amount payable to the Financial Creditors.

6. Proposal for other Stakeholders (including other creditors):

i. In relation to any other actual or potential third parties (including creditors, existing shareholders and/or other stakeholders) whose Claims have not been covered above, there will be no funds available for payment to them as the Liquidation Value for the reasons mentioned in Clause 2(iii) above, is insufficient to satisfy the claims of even the Financial Creditors in full. Therefore, **NIL** payment has been proposed under the Resolution Plan towards payment to such creditors and/or stakeholders and no source has been identified for such payment under this Resolution Plan.

ii. Any and all Claims or demands in connection with or against the Company (including any demand for any losses or damages or in connection with any third party Claims or any investigations by any governmental bodies or authorities such as the Securities and Exchange Board of India, Central Bureau of Investigation, Enforcement Directorate, Enforcement Directorate (PMLA)) whether under Applicable Law, equity or contract, whether admitted or not, due or contingent, crystallized or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, whether or not set out in the Provisional Balance Sheet, the balance sheets of the Company or the profit and loss account statements of the Company or the List of Creditors,

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and all inquiries, investigations or proceedings in relation to the foregoing, whether civil or criminal, in relation to any period prior to the Effective Date or arising on account of the acquisition of control by the Resolution Applicant over the Company pursuant to this Resolution Plan, shall be settled at **NIL** value.

iii. All liabilities in relation to any letters of credit, letters of undertaking, guarantees, counter guarantees, corporate guarantees, bank guarantees, performance guarantees or other contingent or future Claims, liabilities and/or commitments of any nature whatsoever (including without limitation, Tax, Operational Creditor Claims and liabilities), issued by, or on behalf of, or at the behest of, the Company, or incurred or undertaken by the Company (as the case maybe), in relation to any period prior to the Effective Date or arising on account of the acquisition of control by the Resolution Applicant over the Company pursuant to this Resolution Plan, whether asserted or unasserted, whether admitted or not, crystallized or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, whether or not set out in the Provisional Balance Sheet, the balance sheets of the Company or the profit and loss account statements of the Company or List of Creditors, will be written off in full and will be deemed to be permanently extinguished, by virtue of the order of the Adjudicating Authority approving this Resolution Plan and the Company or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.

7. Treatment of amounts claimed under ongoing litigations:

i. All litigations, prosecutions, legal proceedings, suits, claims (including claims for damages), notices, showcause notices, demand notices, actions, arbitration by any administrative, judicial, quasi-judicial, regulatory, government or any enforcement agencies, pending or threatened against the company or whose outcome adversely affects the Company (including but not limited to the proceedings set out in the Process Memorandum) arising prior to or after the Effective Date, other than the rights of the Financial Creditors to proceed against the guarantees issued for the loans to the Company, in the manner set out in this Resolution Plan, shall be deemed to have been withdrawn or dismissed and will be deeme

ii. d to have been barred with effect from the Effective Date. Pursuant to the order of the Adjudicating Authority approving this Plan, all liabilities, obligations, demands, actions or penalties made or imposed in relation to any proceedings, whether or not claimed, whether or not filed, whether or not assessed, whether or not crystalized, whether or not accrued, whether or not admitted, whether or not notional, whether or not known, whether due or contingent, whether or not disputed, present or future, whether or not being adjudicated in any proceedings, whether or not decreed, whether or not reflected in any record, document, statement, statutory or otherwise, arising prior to or after the Effective Date, and pertaining to a period prior to the Effective Date, in relation to the Corporate Debtor, shall be deemed to have been irrecoverably waived and permanently extinguished and written off in full and settled at Nil value with effect from the Effective Date by virtue of the order of the Adjudicating Authority approving this Plan. No fresh

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proceedings shall be instituted against the Corporate Debtor and no notice shall be issued or Claim or demand or investigation shall be made against the Corporate Debtor or interest, penalty, fine or liability imposed by any Governmental Authority or any person whether under any Applicable Law or contract or otherwise arising out of any act or omission relating to a period prior to the Effective Date.

iii. No proceedings shall lie against the Corporate Debtor or the Resolution Applicant or against the directors of the reconstituted board of directors for any Claim, obligation, liability, damage or due relating to the period prior to the Effective Date.It is clarified that the Existing Promoters and existing shareholders, managers, directors, officers, employees, Workmen or other personnel of the Company shall continue to be liable for all the Claims, demand, obligations, penalties etc. arising out of any (i) proceedings, inquiries, investigations, orders, show causes, notices, suits, litigation etc. (including those arising out of any orders passed by the Adjudicating Authority pursuant to Sections 43, 45, 49, 50, 66, 68, 70, 71, 72, 73, 74 of the Code), whether civil or criminal, pending before any authority, court, tribunal or any other forum prior to the Effective Date or (ii) that may arise out of any proceedings, inquiries, investigations, orders, show cause, notices, suits, litigation etc (including any orders that may be passed by the Adjudicating Authority pursuant to Sections 43, 45, 49, 50, 66, 68, 70, 71, 72, 73, 74 of the Code), whether civil or criminal, that may be initiated or instituted post the approval of the Resolution Plan by the Adjudicating Authority on account of any transactions entered into, or decisions or actions taken by, such Existing Promoters and existing shareholders, managers, directors, officers, employees, Workmen or other personnel of the Company, and the Company or the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.

8. Subsidiaries

i. The issued equity in all subsidiaries and associate companies of the Corporate Debtor as on the Insolvency Commencement Date or even thereafter shall continue under the title and ownership of the Corporate Debtor and shall remain the property of the Corporate Debtor without any other liability devolving upon the reconstituted Board or the Corporate Debtor.

ii. The Resolution Applicant and the Corporate Debtor shall not be liable towards any claims or obligations (present or future, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, disputed or undisputed) towards or relating to the subsidiaries or associate companies of the Corporate Debtor, domestic or foreign, that relate to a period prior to the Completion Date, including in relation to any undertakings or guarantees issued by the Corporate Debtor for such subsidiaries and associate companies, in any manner whatsoever.

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iii. The Corporate Debtor shall be entitled to exercise control on the subsidiaries of the Corporate Debtor, including by way of appointment of directors or otherwise. The Corporate Debtor shall be entitled to substitute and alter the board of directors of its subsidiary companies, or associate companies, as the case may be, without requiring any resignation of the previous directors or nominees of the Corporate Debtor on the board of such companies.

iv. The Corporate Debtor shall continue as the proprietor of all the proprietorship concerns (including Ramsarup Industrial Corporation)owned by it prior to the Effective Date and shall be entitled to use all the assets including immovable properties owned/leased by such proprietorship concerns.

9. Limit On Liability

i. Notwithstanding anything contained in this Resolution Plan, in no event the total cash payments by the Resolution Applicant or the Corporate Debtor to its stakeholders, for claims relating to a period prior to the Completion Date (including claims recognised in this Resolution Plan and for claims that may arise in future), shall exceed Rs. 400 Crores (Rupees Four Hundred Crores) (which is other than Capex / Working Capital but inclusive of CIRP Cost and any other requirement at the sole discretion of the Resolution Applicant). However, the RA shall be responsible for all claims relating to the period after the Completion Date.

ii. (ii) Upon the approval of this Resolution Plan by the Adjudicating Authority, and in the case of creditors proposed to be paid pursuant to this Plan, upon the receipt by such creditors of such amounts, any and all rights and entitlements of any actual or potential creditors of the Corporate Debtor, or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan, shall stand permanently extinguished and the Corporate Debtor and the Resolution Applicant shall at no point of time, directly or indirectly, have any obligation, liability or duty in relation thereto.

iii. All claims that may arise in the future, including any claims from dues arising under any law for the time being in force and payable to any person, including a counterparty to a contract or to the Central Government, any State Government or any local authority, resulting from a contract, statute, judicial proceeding or otherwise, whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, disputed or undisputed, present or future, in relation to any period prior to the Completion Date, including any claims with respect to any litigation or other proceedings of the Corporate Debtor, shall be subject to the limit specified in this Clause in so far as they relate to the period prior to the Completion Date.

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iv. Notwithstanding anything contained in the Resolution Plan, it is hereby clarified that the Resolution Applicant shall be responsible to bear all such

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costs, charges, imposts by whatever name called post approval of the Resolution Plan.

10. Further funding

The Resolution Applicants may at its discretion infuse fundsby way of fresh equity and quasi equity or in any other manner for funding the capital expenditure/ working capital requirements and to settle the dues of existing creditors as well as stakeholders of the Company.

VALIDITY AND IMPLEMENTATION OF THE RESOLUTION PLAN

11. Validity Of The Plan

i. The Resolution Plan shall upon submission to the Resolution Professional remain valid in line with paragraph7.5.1 of the Process Memorandum.

ii. Notwithstanding anything contained in this Resolution Plan, no part of this Resolution Plan shall become effective or enforceable until either (i) the Resolution Plan is approved by the CoC and the Adjudicating Authority in its entirety; or (ii) if approved by the Adjudicating Authority with any variance, then in the form and substance acceptable to the CoC and the Resolution Applicant. Upon approval of the Resolution Plan by the Adjudicating Authority, this Resolution Plan shall *ipso facto* form part of the Adjudicating Authority order approving the Resolution Plan.

12. Implementation Schedule

The implementation schedule for this Resolution Plan is set-out below:

Activity	**Days**
Receipt of Letter of Intent from the CoC	Y
Issuance of Performance Bank Guarantee	Y + 5
Approval of the Plan by the Adjudicating Authority	X
Application to CCI	Not Required
Appointment of Monitoring Agency	X+1
Payment of CIRP Cost	Within X + 29days
Payment in Controlled Account	Within X+30 days
Assignment of the outstanding loan of Rs. 100 crores (**"Assigned Debt"**) by the Financial Creditors as detailed in Annexure 6 along with the underlying security interest in the manner provided herein.	Within X + 30 days
Infusion of Equity	Within 15 days of above (i.e. payment into Controlled Account)
Conversion of Debt into Equity	Within 45 days of above
Capital Reduction	Within 45 days of the above
Payment of Workmen Dues, Statutory	Within X + 30 days, however, prior

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Creditors and Operational Creditors	to deposit of Upfront Amount in the Controlled Account i.e. within X+29 days
Financial Creditors to release Encumbrances (including making filings with ROC/ sub-registrar of assurances and other governmental agencies for recording such release), execute re-conveyance deeds, issuance of no-dues certificates and redeliver documents in relation to the Resolution Plan.	Promptly upon receipt of Upfront Amount by the Financial Creditors and in any event within 30 days of receipt of the Upfront Amount.

Notwithstanding anything contained in the Resolution Plan, including the process of implementation and the timelines thereof, the payment of Upfront Amount in the Controlled Account shall be made within a period of 30 (thirty) days from the Effective Date, and no delay in the timelines will result in a delay in the payment of the Upfront Amount in the Controlled Account.

The RA shall endeavour to complete all the approvals within 1(one) year as envisaged under Sec 31(4) of the Code.

Based on the information provided in the Information Memorandum and in the Data Room, it appears that the turnover of the Corporate Debtor does not satisfy the threshold specified in the Notification No. S.O. 988(E) dated March 27, 2017 issued by the Ministry of Company Affairs. Hence, the proposed acquisition is exempt under the provisions of the Competition Act, 2002.

MANAGEMENT OF THE COMPANY BY RESOLUTION APPLICANT

13. Management of The Company

13.1 Management and control of the Company post approval of the Resolution Plan by the Adjudicating Authority

i. During the Interim Period, the Company will be monitored by a Monitoring Agency comprising the Resolution Professional, two members of the Resolution Applicant and three representatives of the CoC. The Monitoring Agency shall facilitate and supervise the implementation of the Resolution Plan during the Interim Period.

ii. Upon approval of the Plan by the Adjudicating Authority, it shall be deemed that the Adjudicating Authority has approved the constitution of the Monitoring Agency in the manner aforesaid.

iii. The existing directors of the Company shall vacate the office on the Effective Date. The day to day operations and the management of the Company shall be carried out by the MA, as appointed. The MA may appoint a professional agency to manage day to day operations of the Company.

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iv. MA shall be vested with all the power of the Board of Directors as envisaged under Companies Act, 2013 (amended from time to time)

v. The Resolution Applicant and Financial Creditors reserve the right to change their nominees to the aforesaid MA, if required for better and effective management of the assets.

vi. All fees payable to the MA and expenses incurred by the MA (including any legal costs which have arisen or may arise out of or in connection with the CIRP of the Company) shall be met out of the accruals of the Company and to the extent the internal accruals are not sufficient to meet the aforesaid costs and expenses, the same shall be paid by the Resolution Applicant.

vii. Notwithstanding the aforesaid, it is stated that all costs incurred by the MA in connection with the day today operation of the Corporate Debtor post approval of the Plan shall be at the behest of the Resolution Applicant.

13.2 Management by experienced professionals

13.2.1 **Implementation and Supervision of the Resolution Plan after the Completion Date**

After the Completion Date, the implementation of the Resolution Plan will be supervised by a suitable management team deployed by the Resolution Applicant.

13.2.2 **Formation of Board**

It is proposed that upon the Resolution Applicant acquiring control over the Company i.e. after selective capital reduction in accordance with Annexure 2 of the Plan, the existing Board will be replaced by new Board of Directors constituted with adequate representation from the Resolution Applicant and independent directors in compliance with Applicable Laws.

13.2.3 **Appointment of CEO, CFO, COO and CS**

i. The appointment of Chief Executive Officer, Chief Operating Officer and Chief Financial Officer and Other Key personnel shall be decided at the appropriate time. The Resolution Applicant reserves the right to replace the key management personnel of the Company with the appropriate persons of its choice. The profile and experience statement of the proposed key management positions is set-out in **Annexure 4**.

ii. It is hereby clarified that the managerial personnel appointed by the Resolution Applicant pursuant to this Clause shall not be liable for any past non-compliances with the provisions of applicable laws by the erstwhile key managerial personnel of the Corporate Debtor.

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13.3 Managerial Competence and technical abilities

13.3.1 **Appointment of Auditors (Statutory and Internal)**

The Resolution Applicant shall have the right to replace the existing auditors (Statutory and Internal) of the Company and appoint new auditors as deemed fit by the Resolution Applicant upon acquisition of control over the Company by the Resolution Applicant pursuant to the Resolution Plan.

13.3.2 **Retention of employee**

Upon acquisition of control over the Company by the Resolution Applicant in the manner set out in **Annexure 2** of the Resolution Plan, the Resolution Applicant proposes that the existing employee of the Company, if any, will continue to be employed by the Company if so required by the Resolution Applicant. Suitable augmentation of human resources to implement the Resolution Plan will be undertaken by the Resolution Applicant. The Resolution Applicant reserves the right to replace/remove existing employees to bring in operational efficiencies in the Company.

13.3.3 **Appointment of Turnaround experts**

i. The Resolution Applicant has an experienced technical team to restore the Corporate Debtor to operational viability. The Resolution Applicant plans to use its in-house turnaround experts as set out in **Annexure 4**. In addition to the above, the Resolution Applicant also plans to induct few more Technical experts from the industry, if necessary.

ii. For the time being, the Resolution Applicant intends to continue with the existing sales arrangements/policy of the Company and over a period of time, would review the same and implement necessary changes in consonance with this Resolution Plan. The Resolution Applicant intends to continue withtheir own customer base as there is enough demand from them which the Resolution Applicant is not able to fulfil currently due to capacity constraint. The Resolution Applicant shall endeavour that the Company successfully taps in to the international market. Resolution Applicant with his established operations in the region is confident to give a thrust in marketing the products of the Corporate Debtor which will result in domestic and export market share gain.

13.3.4 **Action Plan for Building the Capability Required (Technical, Financial, Manpower, etc.) to ramp up the Scale of Operations**

i. The operations of the Company are currently shut down on account of Lock out for more than 8 years. Thus, there are no funds at all with the Corporate Debtor to enable day to day operations. To address the aforesaid constraints, the Resolution Applicant proposes to infuse equity / arrange funds for working capital/startup expenses and capex. The Resolution Applicant also plans to use its current experienced technical team to help revive and turnaround the operations and complete the installation of the plant and machinery and Capex.

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ii. Apart from retaining the existing strong technical team, the Resolution Applicant also plans to induct senior technical experts as per requirement and have long standing experience in Steel industry. This will help to revive and turnaround the operations. Further, the Resolution Applicant shall identify the training requirements of employees and impart necessary training to upgrade their skills.

14. FINANCIAL PROPOSAL

As set out in **Annexure 2** of the Resolution Plan, below is the summary of the Resolution Applicant's financial proposal relating to the Corporate Debtor:

Particulars	**Amount** Rs Cr	**Remarks**
Payment of CIRP Process Cost	[.]	Will be paid on actuals
Payment towards Workmen Dues	7.00	Will be paid on actuals
Payment to Financial Creditors	351.0	
Payment to Operational Creditors (Other than Statutory Dues and Workmen Dues)	3.50	
Payment towards Statutory Dues	3.00	
Capex / Working Capital	306.00	
Total	**670.5**	

i. Out of the Admitted Debt of Rs.5853.09crores (Rupees Five Thousand Eight Hundred and Fifty Three Crores and Nine Lakhs), an amount of Rs. 100 crores along with all the underlying securities including the guarantees of Vanguard and EES to the extent of the Assigned Debt and mortgages over the Durgapur Land and EES Kalyani Land, shall be assigned by the Financial Creditors specified in Annexure 6, to NarantakDealcomm Limited, which is eligible under section 29A of the Code, for a consideration of Rs. 100. Out of the proportionate amount payable towards the balance Admitted Debt, an amount of **Rs. 351.0 Crores (Rupees Three Hundred and Fifty One Crores)** is proposed to be carved out as sustainable debt (**"Sustainable Debt"**) and proposed to be paid upfront,from the funds brought by the Resolution Applicant. The Sustainable Debt shall be paid within 30 days from the Effective Date by transfer of the amount to the Controlled Account.

ii. Balance amount of Rs. 5402.09 Crores (Rupees Five Thousand Four Hundred and Two Crores and Nine Lakhs) (arrived at by subtracting Upfront Payment and the Assigned Debt from the Admitted Debt), is proposed to be converted into equity shares which shall be held by the Financial Creditors (**"Unsustainable Debt"**). This will be followed by capital reduction in the manner set out in **Annexure 2**.

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iii. The Resolution Applicant may further infuse fund of **Rs. 306.00 crores (Rupees Three Hundred Six Crores)** towards capex / working capital/ any other requirement at the sole discretion of Resolution Applicant, in the manner set out in **Annexure 2.**

iv. The Resolution Applicant proposed NIL payment under the Resolution Plan towards claims of the Operational Creditors or the other creditors or stakeholders of the Corporate Debtor (including dues to employees (other than Workmen), government dues, taxes, etc. and other creditors and stakeholders), other than as specified in the table above. Such payments shall be brought in prior to payment of the Financial Creditors in the manner provided in Clause12 of Part C: Resolution Plan.

v. CIRP Costs shall be paid on actuals as per the timeline specified in the implementation schedule in Clause 12 above. In the event any insolvency resolution process costs are incurred after the Effective Date, such costs shall first be met out of the funds available with the Corporate Debtor (other than funds earmarked for specific payouts under the Plan). In the event the funds available with the Corporate Debtor are not sufficient to pay such costs, the payment for the balance cost shall be required to be made by the Resolution Applicant. Such payment by the Resolution Applicant shall be made within 15 (fifteen) days from the date of demand by the Monitoring Agency.

15. ADDITIONAL TERMS

15.1 Severability and right to modify

i. In the event it is determined that any provision of the Resolution Plan is unenforceable per seor as applied to any claims or transaction and/or in the event any provision of the Resolution Plan becomes invalid for reasons other than by breach of any party, the new management of the Corporate Debtor may apply to the Adjudicating Authority for appropriate modification of such provisions of the Resolution Plan, to the satisfaction of the Adjudicating Authority and such invalidity and/or unenforceability of the provision of the Resolution Plan shall not render the whole Resolution Plan ineffective, unless otherwise directed by the Adjudicating Authority by order.

In case any such modification is required in the Resolution Plan after the receipt of approval of the Adjudicating Authority to comply with any laws currently in force or to apply for certain approvals as required under the Resolution Plan or for any other requirements, not jeopardising the rights of the creditors under the currents plan, the new management of the Corporate Debtor can do so only after approval of NCLT.

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15.2 Validity

Unless this Resolution Plan is submitted for an approval by the Adjudicating Authority, this Resolution Plan shall expire on expiry of the time for the corporate insolvency resolution process.

15.3 Implementation

Upon approval of the Resolution Plan by the Adjudicating Authority, the Resolution Applicant shall ensure its effective implementation. However, if this Resolution Plan cannot be implemented for any reason not attributable to the Resolution Applicant, then the Resolution Applicant shall have no liability on this account. Provided however, as specified in Clause 12 of the Additional Terms, if the approvals, extinguishments and waivers sought under Annexure 3 are not granted, it will not in any way jeopardize the implementation of the Resolution Plan, and the Resolution Applicant shall remain responsible for such implementation of the Resolution Plan.

15.4 Co-operation for handover

In the event there is any impediment in handing over any of the assets as captured in the Information Memorandum and the Resolution Plan, the Resolution Applicant shall be entitled to make an application to the Adjudicating Authority for necessary directions on the way forward.

15.5 Co-operation by Financial Creditors

In the event that any proceedings are instituted against the Corporate Debtor or the Resolution Applicant or the CoC or the Resolution Professional opposing the approval of the Resolution Plan or seeking to prevent its implementation, the Financial Creditors of the Corporate Debtor who approved the Resolution Plan shall support the Resolution Applicant for the approval of the Resolution Plan.

Financial Creditors shall promptly provide for satisfaction of all the charges and issuance of No Objection Certificate to the RA after due payment to the Financial Creditors in the manner contemplated herein, subject to the Financial Creditors' right to proceed against the guarantors,any other entity as part of the Existing Promotersor any of their assets in the manner contemplated herein.

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15.6 Effect of the order of Adjudicating Authority

A certified copy of the approved Resolution Plan shall constitute conclusive evidence of the rights and entitlements of the Corporate Debtor as provided in the Resolution Plan and subject to making the payments as contemplated in the Resolution Plan, evidence of the settlement of claims with the Financial Creditors proposed to be paid and discharged and extinguishment of all other claims and obligations, rights and entitlements of the creditors in accordance with the Resolution Plan by deemed satisfaction, discharge or extinguishment. A certified copy of the approved Resolution Plan shall, where applicable,

constitute conclusive evidence of any creation, modifications or cancellation or abandonment of contractual arrangements or agreements or leases or licenses as recorded in the Resolution Plan. The mere production and delivery of a certified copy of the approved Resolution Plan shall constitute proof of amendment of any constitutional documents of the Corporate Debtor, proof of the authority to create security over the assets of the Corporate Debtor in favour of any refinancing creditor, proof of change in the shareholding of the Corporate Debtor or its loan capital, or of change in the management of the Corporate Debtor, or of appointment of key managerial personnel of the Corporate Debtor, or of removal of the statutory auditor of the Corporate Debtor or of revisions in agreements or arrangements by modification or cancellation or abandonment thereof, without any further act or deed.

ii. The mere production and lodgement of a certified copy of the approved Resolution Plan or a notarially certified copy of the approved Resolution Plan before any court or tribunal or regulator or government or arbitral tribunal or any administrative authority or any other authority shall be adequate and sufficient for such authorities (or the counter parties to the Corporate Debtor to constitute the revised agreements or arrangements or deemed modification or cancellation or abandonment thereof) to cause the abatement of any cause of action against the Corporate Debtor, or for discharge or abatement of any suit or action or claim made in arbitration against the Corporate Debtor, or in any other judicial, quasi-judicial, regulatory, administrative or government proceedings of whatsoever nature in accordance with the approved Resolution Plan. Any pending or future proceedings against the Corporate Debtor which are contrary to or inconsistent with the terms of the Resolution Plan shall be deemed to be not maintainable or to have been terminated and closed upon the production and lodgement of the certified copy of the approved Resolution Plan or a notarially certified copy of the approved Resolution Plan.

15.7 Removal of difficulties

In the event that any difficulty arises in the implementation of this Resolution Plan, the Corporate Debtor or the Resolution Applicant shall be entitled to move an application before the Adjudicating Authority and the Adjudicating Authority shall consider passing such orders or modifications of the Resolution Plan as removes the difficulty in its implementation without the requirement of any further decision or vote of the CoC who shall stand discharged in accordance with the Resolution Plan, and whose rights under the current Resolution Plan shall not be jeopardized in any manner whatsoever.

15.8 Declaration to the effect that the Resolution Plan is not in contravention of provisions of any Applicable Law:

The Resolution Applicant declares that this Resolution Plan is not in contravention of the provisions of any applicable laws.

15.9 Statement in relation to how the Resolution Plan has dealt with interests of all stakeholders, including financial and operational creditors of the Company:

As set out above in the Resolution Plan, the Resolution Plan for the Company has

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dealt with the interests of all the stakeholders in the Company, including the Financial Creditors and operational creditors of the Company.

Unless otherwise expressly stated in this Resolution Plan, no creditor, existing shareholder or any other stakeholder of the Company shall be entitled to receive any settlement more than the proportionate settlement payable to a similarly placed class of creditors, shareholders or stakeholders, as stated in this Resolution Plan.

15.10 Payments of Contingent Liabilities

Any claims not received by Cut-off Date shall be extinguished and will not be payable and shall stand to be extinguished and NIL. The Financial Creditor shall not be entitled to any charges, penal interest or any other claim other than those provided for under this resolution plan.

15.11 Statement in Compliance of Section 29A of the Code

The Resolution Applicant confirms that, as on the date of this Resolution Plan and on the basis of the records of the Resolution Applicant, the Resolution Applicantis eligible under Section 29A of the Code to submit the Resolution Plan.

15.12 Concessions, Reliefs and Dispensation Sought:

The Resolution Applicant requests for the reliefs, concessions and dispensations set out in **Annexure 3**. Upon approval of the Plan by theAdjudicating Authority it shall be deemed that the reliefs, concessions and dispensations set out in Annexure 3 have been granted. The Resolution Applicant clarifies that in the event the aforesaid reliefs, concessions and dispensations are not granted, the same will not have a bearing on the successful implementation of the Resolution Plan.

15.13 Retention of All Investments / Rights/Licenses/Registration / Agreements

Upon approval of this Resolution Plan, all investments (including but not limited to the investment in key infrastructure facilities), statutory rights, licenses, agreements, registrations or any similar approval by whatever name called and fundamental for running the business on going concern shall be in complete force and valid.

15.14 Assumptions

The Resolution Applicant has prepared this Resolution Plan on the basis of certain assumptions set out below, and has assumed that upon approval of this Resolution Plan by the Adjudicating Authority, the Corporate Debtor and the Resolution Applicant, as the case may be, shall be entitled to the following and the same shall be deemed to form a part of the order of the NCLT:

1. Consents and approvals, authorizations etc.
Upon approval of this Resolution Plan by the Adjudicating Authority, all actions stated in this Resolution Plan shall be deemed to be approved. Accordingly, any action or implementation of this Resolution Plan shall not be a ground for termination of any consents, approvals, concessions,

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authorizations, permits or the like that has been granted to the Corporate Debtor or for which the Corporate Debtor has made an application for renewal or grant.

ii. Licenses/ Approvals/Contractual Rights and Benefits

(a) The Resolution Applicant is praying that upon approval of this Resolution Plan by the Adjudicating Authority and since the Resolution Applicant will acquire the Corporate Debtor on a going concern basis, all subsisting consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled to shall, notwithstanding any provision to the contrary in their terms, be deemed to continue without disruption for the benefit of the Corporate Debtor.

(b) For the avoidance of doubt, it is hereby clarified that all consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled to, which were in place on the date of shut down of the plant pursuant to lock-out ("**Shut Down Date**"), shall be deemed to continue without disruption for the benefit of the Corporate Debtor for a period of 12 months from the Completion Date or until renewed by the relevant authorities, whichever is later. Without any liability for the non-compliance during the time specified above, the Resolution Applicant undertakes to cause the Corporate Debtor to expeditiously identify such expired consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled to, evaluate the steps required to address the same and take steps to remedy the same to the extent practically possible.

(c) The period of non-operation i.e. from the Shut Down Date to the Effective Date shall not be counted upon i.e. any approval, grant, license, etc shall be treated to be in effect as the same was in effect on the Shut Down Date and shall remain valid for their residual tenor as on the Shut Down Date with effect from the Effective Date.;

(d) Upon approval of this Resolution Plan by the Adjudicating Authority, any claims by any person (whether admitted or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future) against the Corporate Debtor accruing due to the commencement or pendency of insolvency proceedings against the Corporate Debtor, whether arising under the terms of subsisting consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or any contractual arrangements entered into by the Corporate Debtor, shall, notwithstanding any

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provision to the contrary in their terms, stand extinguished without any recourse.

(e) During the Interim Period, neither the Resolution Professional nor any creditor (including any Financial Creditor and government agency) or any stakeholder involved in this Resolution Plan or otherwise connected with this Resolution Plan, the CoC, the Monitoring Agency nor the Corporate Debtor shall:

(f) take any action or omission that could reasonably be expected to have a material adverse impact, directly or indirectly, on the Resolution Plan or its successful implementation; or

(g) institute or continue any proceedings against the Corporate Debtor or transfer, encumber, alienate or dispose of any of the assets or interests of the Corporate Debtor or enforce any encumbrance or security interest created by the Corporate Debtor or on the securities of the Corporate Debtor.

iii. Liability for past actions or omissions

(a) The Resolution Applicant will acquire control over the Corporate Debtor in accordance with the Plan approved by the Adjudicating Authority and not pursuant to the usual acquisition process which would ordinarily include a detailed due diligence and representation, warranties and indemnities in relation to the affairs of the Corporate Debtor from its Existing Promoters. Therefore, the Resolution Applicant may take some time to discover any non-compliances that may exist in relation to the Corporate Debtor on the date of acquisition of control by the Resolution Applicant over the Corporate Debtor. As such the Resolution Applicant may take some time to identify such non-compliances and to address them.

(b) In light of this, the Resolution Applicant, the Corporate Debtor and its directors, officers and employees shall have immunity from any actions and penalties (of any nature) under any laws for any non-compliance of laws in relation to the Corporate Debtor or by the Corporate Debtor, as well as with the terms of any agreement or arrangement entered into by the Corporate Debtor, which was existing as on the Completion Date and such immunity shall continue for a period of up to 12 months from the Completion Date. Without any liability for the non-compliance during the time specified above, the Resolution Applicant undertakes to cause the Corporate Debtor to expeditiously identify such non-compliances, evaluate the steps required to address such non-compliances and take steps to remedy such non-compliances to the extent practically possible. The Resolution Applicant and the Corporate Debtor shall be entitled to apply to and approach the Adjudicating Authority for relief for continued implementation of the approved Resolution Plan before or

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after any coercive action is taken against the Corporate Debtor or the Resolution Applicant.

(c) This Resolution Plan will be implemented pursuant to an order of the Adjudicating Authority, and all actions stated in this Resolution Plan shall be deemed to be approved by the Adjudicating Authority. Accordingly, any action or implementation of this Resolution Plan shall not be a ground for termination of any contracts entered into by the Corporate Debtor.

iv. Inquiries, investigations etc.

(a) Upon approval of this Resolution Plan by the Adjudicating Authority, all inquiries, investigations and proceedings, whether civil or criminal, notices, causes of action, suits, claims, disputes, litigation, arbitration or other judicial, regulatory or administrative proceedings against, or in relation to, or in connection with the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future, (including without limitation, any investigation, action, proceeding, prosecution, whether civil or criminal, by the Central Bureau of Investigation, the Enforcement Directorate or any other regulatory or enforcement agency), in relation to any period prior to the Completion Date or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan shall stand withdrawn or dismissed and all liabilities or obligations in relation thereto, whether or not set out in the balance sheets of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, will be deemed to have been written off in full and permanently extinguished and the Corporate Debtor and the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto notwithstanding any adverse order that may be passed in respect of the same by any authority prior to or after the Completion Date. Upon approval of this Resolution Plan by the Adjudicating Authority, all new inquiries, investigations, whether civil or criminal, notices, suits, claims, disputes, litigation, arbitration or other judicial, regulatory or administrative proceedings will be deemed to be barred and will not be initiated or admitted against the Corporate Debtor in relation to any period prior to the acquisition of control by the Resolution Applicant over the Corporate Debtor or on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan. In any event the Resolution Applicant, the Corporate Debtor or the reconstituted board of directors shall not be responsible for any non-compliances relating to the period prior to the Completion Date.

v. Tax exemptions

(a) With the approval of this Resolution Plan by the Adjudicating Authority, it is assumed that an exemption shall be deemed to have

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been granted to the Corporate Debtor from the obligation to pay taxes in accordance with the exemptions granted under the Finance Act 2018.

(b) The Corporate Debtor shall be entitled to carry forward the unabsorbed depreciation and accumulated losses under Income tax and minimum alternate tax and to utilize such amounts to set off future tax obligations.

(c) Any tax demand whether from Income Tax or any indirect tax authority relating to the period prior to the Effective Date shall be permanently extinguished on and from Effective Date, upon approval of the Plan by Adjudicating Authority.

(d) The Resolution Applicant requests the State Government of West Bengal to grant it suitable tax and financial incentives as per the prevailing policy of the State Government or any other policy for revival of distressed companies, considering the revival of the Corporate Debtor in order to achieve financial viability of the Corporate Debtor.

vi. Contracts

(a) For a period of 6 months from the Completion Date, all subsisting contracts and arrangements entered into by the Corporate Debtor shall continue to be in subsistence.

(b) For a period of 6 months from the Completion Date, the Corporate Debtor shall have a right to review and terminate any contract that was entered into prior to the Completion Date.

(c) If during such review, the Corporate Debtor terminates any contracts then the Corporate Debtor shall not be liable towards any claims with respect to termination of such contracts, including but not limited to any claims, penalty, damages (liquidated or otherwise), arbitration claims or claims for specific performance.

(d) All contracts between the Corporate Debtor and related parties (as defined in Section 5(24) of the Code) other than to the extent provided otherwise in the Plan, shall stand terminated with effect from the Completion Date unless otherwise notified by the Resolution Applicant by the Completion Date, and the Corporate Debtor shall not be liable towards any claims with respect to termination of such contracts, including but not limited to, any claims, penalty, damages (liquidated or otherwise), arbitration claims, claims for specific performance or claims for interim relief.

(e) All financial obligations under any contract to which the Corporate Debtor is a party, relatable to a period prior to the Completion Date, if not provided for under this Resolution Plan, shall stand extinguished.

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(f) The Resolution Applicant has assumed that since the Plan will be approved by the Adjudicating Authority under a statutory process and is binding on all stakeholders under Sections 31(1) and 238 of the Code, all concerned regulators, including RBI, shall give expeditious approvals to facilitate the Resolution Plan of the Corporate Debtor and its implementation.

(g) Notwithstanding anything contained in the Resolution Plan, if any of the assumptions specified in this Clause are not true or correct, it shall not have a bearing on the successful implementation of the Resolution Plan, and the Resolution Applicant shall remain responsible for implementation of the Resolution Plan.

15.15 Transfer of Durgapur Land and Kalyani Land

Upon sanction of the Plan by the NCLT, the following directions shall be deemed to have been incorporated as a part of the order of the NCLT sanctioning the Plan:

15.15.1 Durgapur Land

i. Vanguard has inter alia provided corporate guarantees dated April 23, 2009 to Axis Bank Limited and corporate guarantees dated July 30, 2009 and May 27, 2009 to Punjab National Bank. The corporate guarantees referred to herein above are collectively referred to as Vanguard Guarantee Deeds. Vanguard has also mortgaged the land owned by it in Durgapuradmeasuring approximately 54 acres ("**Durgapur Land**") by way of equitable mortgage in favour of the Punjab National Bank Limited to secure the indebtedness of the Corporate Debtor which has subsequently been transferred to Asset Reconstruction Company (India) Limited on a paripassu basis with Axis Bank Limited.

ii. Upon approval of the Plan by the Adjudicating Authority, the Durgapur Land shall stand transferred to the Corporate Debtor such that the Corporate Debtor shall be vested to be in possession and have absolute and good and marketable title, rights and interest in the Durgapur Land, and without any further documentary, filing, registration, permissions, approvals, or other requirements to be effected by any of the Corporate Debtor, Vanguard, any Financial Creditor or any Government Authorities in order for the Durgapur Land to be transferred to the Corporate Debtor.

iii. The Financial Creditors as specified in Annexure 6 shall assign certain loans (to the extent stipulated by the Monitoring Agency) in favour of NarantakDealcomm Limited along with the underlying security over the Durgapur Lands.The Financial Creditors will promptly provide all original documents (as available with them) and adequate details of all available agreements and property related documents (including original title deeds), copies of the Vanguard Guarantee Deeds, title deeds pertaining to the Durgapur Land and all other documents in respect of the Durgapur Lands to

the Monitoring Agency, Corporate Debtor and/or Resolution Applicant, as required to effect transfer and all Encumbrances in favour of the Financial Creditors in respect of the Durgapur Lands shall stand released. In any event upon assignment of the Assigned Debt, NarantakDealcomm Limitedshall alone be entitled to the mortgage and security interest over the Durgapur Land and all the subsisting security interest of the Financial Creditors over the Durgapur Land shall stand extinguished. All the title sale deeds, maps, khatians to the Durgapur Lands shall be vested in the Corporate Debtor and all original title sale deeds, maps, khatians, allotment letters, permissions and any other documents required for valid transfer of title under all Applicable Laws for the Durgapur Lands shall be provided to the Corporate Debtor and/or Resolution Applicant.The Financial Creditors shall hold the original Vanguard Guarantee Deeds also on behalf of the Resolution Applicant and shall hand over the originals as and when required by the Resolution Applicant.The Financial Creditors shall provide all assistance as may be required by the Resolution Applicant for transfer of the Durgapur Land to the Corporate Debtor.

iv. The approval of this Resolution Plan by the NCLT will be binding on Vanguard pursuant to section 31 of the Code, and Vanguard as a stakeholder in the Corporate Debtor pursuant to the Code is directed to promptly (i) pass the necessary corporate resolutions; (ii) provide all approvals, execute all documents, documents, deed, instruments, notices, certificates or powers of attorney in the formats provided by the Resolution Applicant/Corporate Debtor; (iii) do all filings and take all actions and do all registrations and/or other requirements to be effected for transfer of the Durgapur Land under Applicable Laws to the Corporate Debtor; and (iv) take all actions and do all deeds as may be required by or as directed by the Resolution Applicant to transfer all the Durgapur Land to the Corporate Debtor or to such person as Resolution Applicant may direct, within 30 (thirty) days of the date of NCLT Order.Transfer of the Durgapur Lands to the Corporate Debtor shall be for a consideration of Rs. 90,000 (Rupees ninety thousand only) payable by the Resolution Applicant or Corporate Debtor to Vanguard upon conveyance of the Durgapur Lands being effective to the Corporate Debtor. The Resolution Applicant shall pay the stamp duty and the relevant registrar of sub-assurances fees to effect all registration requirements in relation to the transfer of the Durgapur Land under Applicable Laws.

15.15.2 EES Kalyani Land

i. Efficient Engineering Services ("EES") had entered into a 999 (nine hundred and ninety nine) years leasehold interest under an indenture of lease dated January 21, 2004 ("Lease Deed") between the Governor of the State of West Bengal and Efficient Engineering in respect of land measuring 1 Bigha, 1 Cottahs, 14 Chittaks and 26 square feet lying at plot no. 7 (A) sub block, Industrial Area in Block D in the township of Kalyani Sub-Division, Kalyani Thana, Kalyani ("**EESKalyani Land**"). EES has provided guarantee in favour of certain Financial Creditors.The EES Kalyani Land is mortgaged in favour of the Financial Creditors as detailed in Annexure 6 as security for the

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financial indebtedness of the Corporate Debtor by way of equitable mortgage. Upon sanction of the Plan, the leasehold interest of EES in the EES Kalyani Land will be transferred on the Effective Date to the Corporate Debtor such that the West Bengal Government assigns the leasehold interest of EES in the EES Kalyani Land to the Corporate Debtor in favour of the Corporate Debtor, on the same terms as contained in the existing Lease Deed so that the Corporate Debtor is vested to be in possession and shall have absolute lease interest rights in the EES Kalyani Land. Neither the Resolution Applicant nor the Corporate Debtor shall be required to pay any consideration/premium to the Government of West Bengal or EES or any other person for the assignment. Further the Resolution Applicant/Corporate Debtor shall not be responsible for any arrears of rent or interest thereon and all the arrears/interest on arrears, if any, shall stand waived/extinguished. On and from the date of sanction of the Plan, the Corporate Debtor shall be vested to be in possession and have absolute and good and marketable title, rights and interest on the EES Kalyani Land. No further documentary, filing, registration, permissions, approvals, stamp duty or other requirements to be effected by any of the Corporate Debtor, EES, any Financial Creditor or any Government Authorities in order for the EES Kalyani Land to be transferred to the Corporate Debtor. Upon sanction of the Plan, the Government Authorities shall be deemed to have granted their approval for the transfer of the EES Kalyani Land and no further approval shall be required for transfer of the EES Kalyani Land.

ii. The Financial Creditors as specified in Annexure 6 shall assign certain loans (to the extent stipulated by the Monitoring Agency) in favour of NarantakDealcomm Limited along with the underlying security over the EES Kalyani Lands. The Financial Creditors will promptly provide all original documents (as available with them) and adequate details of all available agreements and property related documents (including original title deeds), copies of the guarantee deeds executed by EES, title deeds pertaining to the EES Kalyani Land and all other documents in respect of the EES Kalyani Lands to the Monitoring Agency, Corporate Debtor and/or Resolution Applicant, as required to effect transfer and all Encumbrances in favour of the Financial Creditors in respect of the EES Kalyani Lands shall stand released. In any event upon assignment of the Assigned Debt, NarantakDealcomm Limitedshall alone be entitled to the mortgage and security interest over the EES Kalyani Land and all the subsisting security interest of the Financial Creditors over the Durgapur Land shall stand extinguished. All the title sale deeds, maps, khatians to the EES Kalyani Lands shall be vested in the Corporate Debtor and all original title sale deeds, maps, khatians, allotment letters, permissions and any other documents required for valid transfer of title under all Applicable Laws for the EES Kalyani Lands shall be provided to the Corporate Debtor and/or Resolution Applicant. The Financial Creditors shall hold the original deed of guarantee executed by EES also on behalf of the Resolution Applicant and shall hand over the originals as and when required by the Resolution Applicant.The Financial Creditors shall provide all assistance as may be required by the Resolution Applicant for transfer of the EES Kalyani Land to the Corporate Debtor.

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iii. The approval of this Resolution Plan by the NCLT will be binding on EES pursuant to Section 31 of the Code and as a stakeholder in the Corporate Debtor pursuant to the Code and EES is directed to promptly (i) pass the necessary resolutions; (ii) provide all approvals, execute all documents, documents, deed, instruments, notices, certificates or powers of attorney in the formats provided by the Resolution Applicant; (iii) do all filings and take all actions and do all registrations and/or other requirements to be effected for transfer of the EES Kalyani Land by way of a new lease under Applicable Laws to the Corporate Debtor; and (iv) take all actions and do all deeds as may be required by or as directed by the Resolution Applicant to create the leasehold interest in favour of the Corporate Debtor under Applicable Laws over the EES Kalyani Land, within 15 (fifteen) days of the date of NCLT Order. The Resolution Applicant shall pay the stamp duty and the relevant registrar of sub-assurances fees for the assignment of the lease in relation to the EES Kalyani Land as required under Applicable Laws.

iv. Nothing in the Plan shall prevent NarantakDealcommLimited,being the assignee of the Assigned Debt from enforcing its security interest over the Durgapur Land and the EES Kalyani Land and Vanguard and EES shall as stakeholders of the Corporate Debtor shall be bound by such enforcement and shall without any challenge, protest or demur unconditionally convey the Durgapur Land and their interest in the Kalyani Land in favour of the Corporate Debtor or such person as the Resolution Applicant may direct. Vanguard and EES shall not be entitled to challenge the enforcement and such enforcement shall be a mandatory direction on them to transfer the aforesaid lands in favour of the Corporate Debtor. The restructuring of the debt of the Financial Creditors in the manner contemplated in the Plan,shall not release Vanguard and EES of its obligations under the guarantees provided by them to the Financial Creditors nor shall it constitute a release of the mortgage over the Durgapur Land and the EES Kalyani Land.The security interest created over the Durgapur Land and the EES Kalyani Land shall continue and remain in full force and effect in favour of NarantakDealcomm Limited.Vanguard and EES shall not be entitled to any right of subrogation against the Corporate Debtor pursuant to such enforcement of security interest by NarantakDealcomm Limited and such right of subrogation shall be deemed to be waived/extinguished.

15.15.3 Other Kalyani Lease Land

Ramsarup Industrial Corporation ("**RIC**"), a unit of the Corporate Debtor has obtained a 999 years leasehold interest over the following:

(a) property situated at Plot No. 6 & 7, Block D in the townshipof Kalyani Sub Division, PS Ranaghat, District Nadia, measuring about 267 Cottah 10 Chittak and 44 Sq ft., pursuant to a registered indenture of lease dated September 1, 1975 with the Governor of West Bengal;

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(b) Property situated at Plot No. 6 & 7, Block D in the township of Kalyani Sub Division, P.S Ranaghat, District Nadia measuring about 194 Cottah 4 Chittak and 37 Sq ft pursuant to a registered indenture of lease dated September 1, 1975 with the Governor of West Bengal.

Pursuant to the order of the NCLT approving the Plan, it shall de deemed that the grant of the lease to RIC shall accrue in favour of the Corporate Debtor and the leases shall continue on the same terms and conditions as contained in the respective deed and the Corporate Debtor shall continue to enjoy and be entitled to use the leasehold lands described above for the purposes of its operations in accordance with the terms of the said lease deeds.It is further clarified that RIC shall continue to remain a unit of Corporate Debtor even after sanction of the Plan. The Financial Creditors shall upon receipt of the Upfront Amount promptly release all their charges over the Other Kalyani Lease Land and hand over all the original title deeds, maps, khatians, allotment letters, permissions and any other documents pertaining to the Other Kalyani Lease Landin accordance with Annexure 2. In any event upon sanction of the Plan and payment of Upfront Amount, all the security interest of the Financial Creditors over the Other Kalyani Lease Land shall stand released.

15.15.4 Other Kalyani Land

All that piece and parcel of land measuring 2cottah 4 chittacks and 15 sqft. situated at plot no. 6488, Khatian No.353, Kalyani MouzaNo.28, owned by RIC and land measuring about 2 cottah7 chittacks and 15 Sq ft under plot no. 6488 , Khatian No.353 Kalyani mouza, Block D, PO& PS Kalyani, Dist. Nadia also owned by RIC shall continue to remain in the ownership of RIC. RIC shall be an integral part of the Corporate Debtor and thus the ownership rights over the Other Kalyani Land shall accrue in favour of theCorporate Debtor. The Financial Creditors shall promptly upon receipt of the Upfront Amount, release all their charges over the Other Kalyani Land and hand over all the original title deeds, maps, khatians, allotment letters, permissions and any other documents pertaining to the Other Kalyani Landin accordance with Annexure 2. In any event upon sanction of the Plan and payment of the Upfront Amount, all the security interest of the Financial Creditors over the Other Kalyani Land shall stand extinguished/released.

15.15.5 Kharagpur Land

Upon sanction of the Plan, the lease granted by WBIDC in favour of RamsarupLoh Udyog over approximately 315 acres of land in Kharagpur ("**Kharagpur Land**") shall stand transferred to the Corporate Debtor from the Effective Date in a manner such that the Corporate Debtor is vested to be in possession and shall have absolute lease interest rights in the Kharagpur Land. Sanction of the Plan by the NCLT shall constitute a direction on WBIDC to expeditiously ensure transfer of the lease in favour of the Corporate Debtor on the same terms and conditions as contained in the existing lease agreement and without the requirement of payment of any fee, consideration or premium.

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WBIDC shall not be entitled to any penalty, arrear lease rent or any interest on arrears and all such amounts shall stand extinguished/waived upon approval of the Plan.On and from the date of sanction of the Plan, the Corporate Debtor shall be vested to be in possession and have absolute and good and marketable title, rights and interest on the Kharagpur Land. Further sanction of the Plan shall also constitute a direction on WBIDC to accord expeditious approval for creation of mortgage over the leasehold interest by the Corporate Debtor in favour of its lenders.

16. OTHER TERMS

i. Binding, Further Assurance

Upon approval of this Resolution Plan by the Adjudicating Authority, this Resolution Plan shall be binding on the Company employees, members, creditors, guarantors, contracting parties, Governmental Authorities and all other stakeholders who are involved in the Resolution Plan and/or otherwise concerned or connected with the Company.

As the Resolution Plan shall be binding on each of the stakeholders mentioned above, all such Persons including but not limited to the MA, employees, guarantors, creditors and shareholders/members shall use their best efforts to do or cause to be done, such further acts, deeds, matters and things and execute such further documents as may be reasonably required by the Resolution Applicant to give full effect to the terms of this Resolution Plan in accordance with its terms and conditions. If required by the Resolution Applicant as the evidence of discharge, the creditors of the Resolution Plan shall provide all documentation and/or execute documents evidencing the full and final discharge of their Claims.

ii. Confidentiality

By the receipt and deliberation of this Resolution Plan, the Resolution Professional and the Financial Creditors of the Company agree and undertake that they shall not reveal, and shall ensure that their directors, officers, managers, employees (including those on secondment), affiliates, legal, financial and professional advisors and bankers (collectively, "**Representatives**") to whom Confidential Information is made available do not reveal, to any third party, any Confidential Information, without the prior written consent of the Resolution Applicant provided however that the provisions shall not be applicable to any disclosure pursuant to Applicable Law subject to any practicable arrangements to protect confidentiality. The Resolution Applicant shall be entitled to injunctive relief, specific performance and other remedies to enforce this Clause.

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iii. Conflict

In the event of any repugnancy or inconsistency between this Resolution Plan and any other documents, the provisions contained in this Resolution Plan shall prevail for all purposes and to all intents.

For S. S. NATURAL RESOURCES PVT. LTD.

Director/Authorised Signatory

For RAMSARUP INDUSTRIES LTD.

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iv. **Entire Resolution Plan**

The Resolution Plan along with its Annexures constitutes the entire resolution plan of the Resolution Applicant within the meaning of Section 30 of the Code and Regulation 38 of the CIRP Regulations and supersedes and cancels any prior oral or written plan, agreement or understanding in this regard.

v. **Going Concern**

The Resolution Applicant would take over the Company as a going concern as per the provisions of the Code. The operations and management of the company will be continued in the normal course of the business upon implementation of the proposed Plan.

Should the Adjudicating Authority or the Appellate Authority finally reject the Resolution Plan as proposed by the Resolution Applicant, then the Resolution Plan shall fail. In such a scenario the amount infused by the Resolution Applicantshall be refunded within 30 days from the date of such rejection. Occurrence of a *force majeure* event may also lead to failure of this Resolution Plan. It is clarified that force majeure event shall be an event after the Effective Date.

ANNEXURE 1: DEFINITIONS AND INTERPRETATIONS

1. **Definitions**

In addition to the definitions provided elsewhere, the following words used in the Resolution Plan shall have the meaning ascribed to it hereunder:

"**Adjudicating Authority**" means the NCLT, Kolkata;

"**Admitted Debt**" is defined in Part B, Clause 2.2;

"**Admitted Workmen and Employees dues**" is defined in Clause 3 in Part C: Resolution Plan, this Resolution Plan;

"**Annexures**" shall mean annexures to the Resolution Plan;

"**Appellate Authority**" shall mean the National Company Law Appellate Tribunal and the Supreme Court;

"**Applicable Law**" means all applicable statutes, enactments or acts of any legislative body in India, laws, ordinances, rules, bye-laws, regulations, notifications, guidelines, policies, directions, directives and orders of any Governmental Authority or any licenses, consents or approvals granted by any Governmental Authority, and any modifications or re-enactments of each thereof;

"**Board / Board of Directors**" means board of directors of the Company as constituted by the Resolution Applicant in accordance with this Resolution Plan;

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"**BSE**" means BSE Limited;

"**CCI**" means Competition Commission of India;

"**CEO, CFO, COO**" means the Chief Executive Officer, the Chief Financial Officer and the Chief Operating Officer respectively;

"**CIRP Cost**" shall mean the insolvency resolution process cost as defined under Section 5(13) of the Code read with Chapter IX of the CIRP Regulations;

"**CIRP Regulations**" means the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process against Corporate Persons) Regulations, 2016 (as amended from time to time);

"**Claims(s)**" means a right to payment, right to remedy arising pursuant to a contract, under any law for the time being in force, if such breach gives rise to a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, matured, unmatured, secured or unsecured, contingent, crystallised or fructified, of any nature whatsoever including any indemnity, losses, interest, damages, sanctions, penalties, penal interest, cost, charges, fines and any other sums whether claimed by any Governmental Authority, supplier, creditor or any other Person;

"**Clause**" means a clause in this Plan;

"**CoC**" means the committee of financial creditors of the Corporate Debtor that has been constituted pursuant to section 21 of the Code;

"**Code**" means the Insolvency and Bankruptcy Code, 2016, as amended from time to time;

"**Companies Act**" means the Companies Act, 2013, as amended or the Companies Act, 1956 to the extent applicable, as the case may be;

"**Competition Act**" means the Competition Act, 2002 and the rules, notifications and clarifications issued thereunder;

"**Completion Date**" means the date by which all measures specified in **Annexure 2** will be completed;

"**Corporate Debtor / Company**" means Ramsarup Industries Limited, incorporated under the Companies Act, 1956, with corporate identity number: L65993WB1979PLC032113;

"**Cr**" means crore;

"**Cut Off Date**" shall mean the date on which the Plan is approved by the CoC;

"**Data Room**" means the virtual data room hosted on the relativity datasite, where

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information pertaining to the Company was made available to the Resolution Applicant and its representatives;

"**Delisting Regulations**" means the Securities and Exchange Board of India (Delisting and Equity Shares) Regulations 2009;

"**Earnest Money**" means Rs. 5,00,00,000.00 (Rupees Five Crores only) provided by the Resolution Applicant pursuant to the request for resolution plan submission;

"**EBITDA**" means the earnings of the Corporate Debtor, before exceptional and extra ordinary items, interest expense, taxes, depreciation and amortization, calculated as per Indian generally accepted accounting principles;

"**Effective Date**" means the date on which the Resolution Plan is approved by the Adjudicating Authority;

"**Encumbrance**" means any mortgage, pledge, options, equitable interest ,assignment by way of security, hypothecation, right of other person, claim security interest, encumbrance, title defect, title retention agreement , voting trust agreement, interest lien, charge restriction or limitation of any nature whatsoever, encroachment, right of way, easementary rights, including restriction on use, voting rights , transfer, receipt of income or exercise of any other right related to ownership, or any other security interest of any kind whatsoever, or any arrangement, whether conditional or otherwise, to create any of the above and includes any arrangement that has the commercial effect of an encumbrance or security interest;

"**Existing Promoters**" means the persons mentioned as promoters and promoter group of the Company in the regulatory or stock exchange filings at any point of time, prior to the Effective Date, including but not limited to each member of Ashish Jhunjhunwala family;

"**Financial Creditors**" shall have the meaning ascribed to such term under Part B, Clause 2.3of the Resolution Plan;

"**Financial Proposal**" means the financial proposal proposed by the Resolution Applicant under Part B, Clause 2.1 of the Resolution Plan and under the heading Financial Proposal in Part C of the Plan;

"**Force Majeure**" means any circumstance or event not within the reasonable control of the Resolution Applicant, but if and only to the extent that: (i) such circumstance, despite the exercise of reasonable diligence and the observance of best practices cannot be or be caused to be prevented, avoided or removed, and (ii) such circumstance materially and adversely affects the ability of the Resolution Applicant to perform its obligations. Force Majeure shall include but not be limited to:

(a) An act of God (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods);
(b) War, hostilities (whether war be declared or not), invasion, act of foreign;
(c) enemies, mobilisation, requisition or embargo;

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(d) Rebellion, revolution, insurrection, or military or usurped power or civil war;
(e) Riot, commotion, strikes, lock outs or disorder;
(f) Acts or threats of terrorism;
(g) Any change in law arising after the Effective Date which renders the implementation of the Plan void.

"**FY**" means a Financial Year;

"**Governmental Authority**" means the President of India, the GOI, the Governor and the Government of any state in India, any Ministry or department of the same, any municipal or local government authority, any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any agency, department, board, commission or instrumentality, any court, tribunal, arbitrator, commission or other judicial or quasi-judicial body, and shall include, without limitation, any stock exchange, depository and any regulatory body;

"**ICDR Regulations**" means the Securities Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 (as amended from time to time);

"**Information Memorandum / IM**" means the information memorandum dated June 28, 2018 prepared by the Resolution Professional and made available to the Resolution Applicant in the Data Room and shall include the List of Creditors;

"**Insolvency Commencement Date**" shall mean January 8, 2018;

"**Interim Period**" means the period between the Effective Date and the Completion Date;

"**List of Creditors**" means the list of creditors of the Company as provided in the Data Room and as updated from time to time;

"**Liquidation Value**" shall have the meaning ascribed to it in regulation 2(1)(k) of the CIRP Regulations;

"**LODR Regulations**" means the Securities Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (as amended from time to time);

"**LOI**" means the letter of intent issued by the CoC to the successful resolution applicant;

"**MCA**" means the Ministry of Corporate Affairs;

"**Monitoring Agency (MA)**" shall have the meaning as ascribed in Part C, Clause 13;

"**MT**" means Million Tonnes;

"**MTPA**" means Million Tonnes Per Annum;

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"**New Equity Shares**" is defined under Step 6 of **Annexure 2;**

"**NCLT**" means the National Company Law Tribunal;

"**NCLAT**" means the National Company Law Appellate Tribunal;

"**NSE**" means the National Stock Exchange of India Limited;

"**Non-Compliance**" means any delay, default, non-compliance, breach, violation, contravention by the Company, any member or shareholder of the company or by any Person associated with the Company in any manner under the terms of Applicable Law or any agreement or arrangement binding on the Company and any imposition of fines, penalties, default interest, damages, and any amounts of whatsoever nature in relation thereto.

"**Operational Creditors**" shall mean all operational creditors of the Corporate Debtor other than employees and workmen and statutory creditors;

"**Permits**" means all consents, licenses, permits,permissions, authorizations, rights, clarifications, approvals, clearances, confirmations, declarations, waivers, exemptions, registrations, filings from or relating to any Governmental Authority under Applicable Law including but not limited to the permits listed in **Annexure 3;**

"Person" shall mean a proprietorship enterprise (whether incorporated or not), Hindu undivided family, union, association, government (central, state or otherwise) or any agency, authority or political subdivision thereof; and where relevant, shall be deemed to include, as appropriate, that person's respective successors, permitted assigns;

"**Promoter and Promoter Group**" shall have the meaning ascribed to it in regulation 2(1)(oo) and 2(1)(pp) of Securities and Exchange Board of India (Issue and Capital Disclosure Requirements) Regulations, 2018;

"**Provisional Balance Sheet**" means the statement of assets and liabilities of the Company as of January 1, 2018 and as uploaded in the Data Room;

"**RBI**" means the Reserve Bank of India;

"**Resolution Applicant/RA**" shall mean the consortium of SSNRPL and SSPL, with SSNRPL being the lead partner;

"**Resolution Plan**" or "**Plan**" means this resolution plan submitted by the Resolution Applicant to the Resolution Professional for the proposed corporate insolvency resolution of the Corporate Debtor in accordance with the Code, as amended from time to time, and shall include all the Annexures;

"**Resolution Professional/RP**" means Mr. KshitizChhawchharia, an insolvency professional with IBBI Reg No. IBBI/IPA-001/IPP00358/2017-2018/10616, who has been appointed and confirmed as the resolution professional for the Corporate Debtor;

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"**ROC**" means the Registrar of Companies;

"**Rs.**" means the Indian Rupee, the lawful currency of the Republic of India;

"**SEBI**" means the Securities and Exchange Board of India;

"**SSNRPL**" means SS Natural Resources Private Limited, a private company incorporated under the provisions of the Companies Act, 1956 under the corporate identity number U10300WB2015PTC204962 and having its registered office at S. S. Chambers, 5, C. R. Avenue, 2nd Floor Kolkata, West Bengal 700072;

"**SSPL**" shall mean Shyam SEL and Power Limited, a company incorporated under the provisions of the Companies Act, 1956 under the corporate identity number U27109WB1991PLC052962 and having its registered office at S. S. Chambers, 5, C. R. Avenue, 2nd Floor Kolkata, West Bengal 700072;

"**Stock Exchanges**" means NSE and BSE;

"**Sustainable Debt**" shall have the meaning ascribed to it in Financial Proposal of this Resolution Plan;

"**Takeover Regulations**" means the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (as amended from time to time);

"**Taxation of Tax or Taxes**" means all forms of taxes and statutory, governmental, state, provincial, local governmental or municipal impositions, duties, contributions and levels and whether levied by reference to income, profits, book profits, gains, net wealth, asset values, turnover, goods, services, stamp duty, added value or otherwise and shall further include payments in respect of or on account of Tax, whether by way of deduction at source, advance tax, minimum alternate tax or otherwise and shall include all penalties, charges, costs and interest relating thereto;

"**TPA**" means Tonnes Per Annum;

"**WBIDC**" means West Bengal Industrial Development Corporation Limited;

"**Workmen**" shall have the meaning ascribed to themin the Industrial Disputes Act, 1947.

2. Interpretation and Construction:

Unless a contrary intention appears and unless inconsistent with the Subject or context thereof, any reference in this Resolution Plan to:

(a) Words denoting singular number only shall include the plural number and vice- versa;

(b) Any agreement or instrument referred to in this Resolution Plan is a reference to that agreement or instrument as amended, novated, supplemented, restated

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(however fundamentally and whether or not more onerously) or replaced from time to time;

(c) Reference to any legislation or Applicable Law shall include references to any such legislation or Applicable Law as it may, after the date thereof, from time to time, be amended, supplemented or re-enacted and any successor legislation or Applicable Law, and any reference to a statutory provision shall include any subordinate's legislation made from time to time under that provision;

(d) Unless otherwise stated, (i) all references in this Resolution Plan to Sections, Schedules, Annexures and Appendices shall be construed as a reference to the Sections, Schedules, Annexures and Appendices of this Resolution Plan. And (ii) any reference to Paragraphs in an Annexure shall be construed as a reference to the Paragraphs of that Annexure;

(e) All references to the term "**Person**" shall include an individual, natural person, corporation, partnership, limited liability partnership, joint venture, a trust, body corporate, association company, Governmental Authority and in case of a company and a body corporate shall include their respective successors and assigns and in case of any individual his or her respective legal representative, administrators, executors and heirs and in case of trust shall include the trustee(s) for the time being and from time to time. The term "persons" shall be construed accordingly;

(f) Capitalised terms defined by inclusion in quotations and / or parenthesis have the meanings so ascribed; and

(g) All terms and words not defined in this Resolution Plan shall, unless repugnant or contrary to the context or meaning thereof, have the same meaning ascribed to them in the Code, the CIRP Regulations, the Companies Act, the Securities Contracts (Regulation) Act, 1956. The Depositories Act, 1996, the Income -tax Act, 1961 (**"IT Act"**), SEBI Act and other Applicable Law, rules, regulations, bye laws, as the case may be, including any statutory modification or re-enactment thereof from time to time;

(h) Any statement in the Resolution Plan in relation to RA's financial information (including but not limited to EBITDA, revenues, sales turnover, cash, cash equivalents, bank balance and Net Debt) shall be considered on a consolidated basis;

(i) A reference to "**in writing**" includes any communication made by letter or fax but not e mail (unless otherwise expressly provided in this Resolution Plan.);

(j) Unless otherwise specified, any reference to a time of day is to Indian Standard Time;

(k) Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those

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terms;

(l) Where the context permits, other and otherwise are illustrative and shall not limit the sense of the words preceding them.

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ANNEXURE 2: STRUCTURE FOR ACQUISITION OF CONTROL OVER THE COMPANY

1. Shareholding pattern of the Company as on 30thDecember, 2017

Category of shareholders	No of Shares*	Percentage
Promoter and Promoter group	**1,31,88,896**	**37.60%**
Public Shareholders	**2,18,88,305**	**62.40%**
Financial Institutions	*15,21,542*	*4.34%*
Bodies Corporate	*27,69,573*	*7.90%*
NRIs	*2,95,411*	*0.84%*
Individual Shareholders	*1,55,00,174*	*44.19%*
Others	*18,01,605*	*5.14%%*
Total	**3,50,77,201**	*100.00%*

2. Genesis of Resolution Plan

As an integral part of the Resolution Plan, the Resolution Applicant proposes to acquire a controlling stake in the Company in the manner set out in the Resolution Plan and upon implementation of each of the following steps in the sequence set out hereunder:

Date of Resolution Plan 'taking effect' and 'becoming operative'

The Resolution Plan as set out herein in its present form or with any modification(s), as may be approved or imposed or directed by the Adjudicating Authority, shall become effective from the Effective Date.

3. Pre-Requisite for Implementation of the Plan

Before Plan implementation and upon approval of the Plan on Effective Date, the trading in the shares of Corporate Debtor shall be immediately suspended and the Order by Adjudicating Authority approving the Plan shall be deemed to be a directive order upon stock exchanges to suspend the trading in equity shares of the Corporate Debtor

4. Detailed Steps of Financial Proposal

Following steps shall take place in the order of sequence (except otherwise mentioned in any step or any part of the step) mentioned below as an integral part of the Resolution Plan, within the timelines mentioned in the implementation schedule in Clause 12 of Part C of the Resolution Plan. It is intended that all the transactions mentioned below shall be consummated in the manner stipulated herein and shall be effective in the manner contemplated in the Plan. It is provided that the procedure, timeline and the sequence of steps listed below are only indicative and that they may be rearranged as may be required based on discussion between the parties or with

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necessary Governmental Authorities, and at all times in compliance with Applicable Law.

Step 1: Payment of CIRP Cost, Operational Debt and Workmen's Dues

(a) The Resolution Professional shall certify the CIRP Cost in writing within 1(one) day from the Effective Date. The Resolution Applicant shall pay the CIRP Cost as per the timeline specified in Clause 12 of Part C: Resolution Plan.

(b) The Resolution Applicant shall thereafterinfuse the following sums in the Corporate Debtor:

- Sum of Rs. 3,50,00,000 (Rupees three crore fifty lakhs) towards payment to Operational Creditors (other than Workmen and statutory liabilities);
- sum of Rs. 3,00,00,000(Rupees three crore) towards payment of statutory liabilities; and
- a sum of Rs. 7,00,00,000 (Rupees seven crore) towards payment of Admitted Workmen and Employees Dues.

The aforesaid sums aggregating to Rs. 13,50,00,000 (Rupees thirteen crores fifty lakhs) shall be transferred to a separate bank account from where payments shall be released by the Monitoring Agency from time to time, in accordance with the Plan.

All such amounts shall be brought in within a maximum period of 30 (thirty) days from the Effective Date and in any event 1 (one) day before the Upfront Payment is made into the Controlled Account.

Step 2: Payment of Consideration in Controlled Account:

(a) The Resolution Applicant shall bring in Rs. 351 crores payable upfront to the Financial Creditors (**"Upfront Amount"**) within 30 (thirty) days from the Effective Date (Date of Approval of the plan by Adjudicating Authority) as unsecured loan in the Corporate Debtor.

(b) The Upfront Amount shall be depositedin a controlled account (**"Controlled Account"**). The Controlled Account will be operated in accordance with the account operating agreement entered intoby the authorized representative of the Monitoring Agency and the Resolution Applicant, along with the account bank. The Upfront Amount shall be released from the Controlled Account to the Financial Creditors upon a written confirmation being provided by the Monitoring Agency to the effect that all the steps contemplated herein i.e. cancellation of Preference Shares, conversion of Unsustainable Debt into Equity Shares, issuance of New Equity Shares (as defined herein after) and completion of selective capital reduction have been completed or on the 90th day from the Effective Date, whichever is earlier.

(c) If some of the steps contemplated herein have not been completed by the 90th day from the Effective Date, the Financial Creditors shall provide all support and

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take all actions and measures as may be required to be provided or taken by them to implement such steps in the manner contemplated herein, notwithstanding the release of the Upfront Amount to the Financial Creditors.

(d) The Financial Creditors shall promptly on release of the Upfront Amount, provide a no dues certificate in full and complete satisfaction of all debts owed to the Financial Creditors by the Corporate Debtor., including all guarantees/indemnities/undertakings which may have been provided by the Corporate Debtor to the Financial Creditors, for credit facilities availed by any third party or the Corporate Debtor, as the case may be,shall also stand satisfied. Provided however, the Financial Creditors shall retain their right to proceed against the guarantors (save and except the guarantee provided by Vanguard and EES to the extent of Assigned Debt), the Existing Promoters and their assets other than the EES Kalyani Land and Durgapur Land. The Financial Creditors shall release all Encumbrances over all the assets of the Corporate Debtor and sign all documents required in this regard, including all forms and documents for filing of satisfaction of charge with the RoC or for recording the release at the registrar of assurances in such form and manner as required by the Resolution Applicant. In any event upon release of the Upfront Amount to the Financial Creditors, the security interest of the Financial Creditors over the assets of the Corporate Debtor shall stand extinguished and all the assets shall become free of all Encumbrances.

(e) It is however clarified that if any appeal is preferred against the order approving the Plan before any Appellate Authority and any stay is granted by the Appellate Authority, the timeline for deposit of the Upfront Amount or release of the Upfront Amount to the Financial Creditors, as the case may be, shall stand extended till the vacation of the stay or disposal of the appeal, whichever is earlier. Where the Appellate Authority is the NCLAT, in calculating the period of extension, the time available (including any extension thereof) under section 62 of the Code, for filing an appeal against the order of NCLAT before the Supreme Court shall also be added.

Step 3: Assignment of Admitted Debt of Rs. 100 crores to the Corporate Debtor

(a) The EES Kalyani Land is mortgaged in favour of the Financial Creditors mentioned in Part I of Annexure 6. Further, EES has also provided a guarantee to the Financial Creditors as set out in Part I of Annexure 6. The Durgapur Land is mortgaged in favour of the Financial Creditors set out in Part II of Annexure 6 of the Plan. Vanguard has provided a deed of guarantee in this regard to the Financial Creditors set out in Part II of Annexure 6. The Financial Creditors mentioned in Annexure 6 shall simultaneously with the deposit of the Upfront Amount in the Controlled Account and in any event on the same day, assign the Admitted Debt of Rs. 100 crore to NarantakDealcomm Limited for a consideration of Rs. 100, as per the proportion agreed upon by the Monitoring Agency, along with the guarantee of Vanguard and EES to the extent of Rs. 100,00,00,000 (Rupees one hundred crores) and the equitable mortgage over the EES Kalyani Land and Durgapur Land. Upon such assignment, the Financial

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Creditors shall promptly handover the original title deeds, maps, plans, record of rights, allotment letters, permissions and any other documents as available and as required for valid transfer and other title documents in their possession and all the rights/security interest of the said Financial Creditors over the said EES Kalyani Land and Durgapur Land shall stand extinguished/released. It is hereinafter clarified that the assignment of the guarantees provided by Vanguard and EES will be only to the extent of the Assigned Debt and the relevant Financial Creditors will have a right to claim against Vanguard and EES for the remaining amount.

Step 4: Cancellation of Preference Shares

(a) The Resolution Applicant proposes to cancel the entire preference shares capital without any consideration paid to the Preference Shares holders of the Corporate Debtor along with any preference dividend whether due or not.

(b) As on date, the following Preference Shares of the Company are outstanding:

Category	Nos of Shares	Face Value	Share Capital
5 % Redeemable Cumulative Preference Shares	13,00,000	10	1,30,00,000
4 % Redeemable Cumulative Preference Shares	31,60,000	10	3,16,00,000
5 % Redeemable Non - Cumulative Preference Shares	2,24,99,920	10	22,49,99,200
Total	**2,69,59,920**		**26,95,99,200**

Upon the approval of the Plan, it shall be deemed that all the applicable provisions of the Companies Act, regulations of SEBI and other Applicable Law relating to cancellation of preference shares have been complied with and separate approvals from the shareholders and preference shareholders including approvals under section 61 or 66 of the Companies Act shall not be required to be taken under the Applicable Laws.

Step 5: Conversion of Debt into Equity:

(a) The Financial Creditors shall convert at par, the nonsustainable debt (i.e. the amount arrived by subtracting the Assigned Debt and the Upfront Amount from the Admitted Debts of the Financial Creditors) into equity shares of the Corporate Debtor (**"Converted Equity Shares"**). The Converted Equity Shares shall be issued to the security trustee appointed pursuant to a security trustee agreement entered into between the Corporate Debtor, the Financial Creditors and the Resolution Applicant who shall hold the shares for and on behalf of the Lenders

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and for the benefit of the Resolution Applicant. In case it is not possible for any reason to issue shares in favour of the security trustee, the Monitoring Agency will decide an alternative. It is hereinafter clarified that the Financial Creditors are agreeing to allow the Corporate Debtor to convert the amount lying as debt in the Corporate Debtor's books into equity at par, only in pursuance to the process of resolution and in order to maximize the value of the Corporate Debtor during the resolution process. The conversion is only to provide a legal nature of release of dues and claims under the debt and settlement of debt due qua the Corporate Debtor. Therefore, it is emphasized, that the implication of conversion at par shall not in any way be considered to be a complete write-off of the debt due, in relation to the guarantors and other obligors.

(b) The authorized share capital of the Corporate Debtor shall stand increased to such an amount so as to accommodate the issuance of the Converted Equity Shares and the capital clause of the memorandum of association of the Corporate Debtor shall stand accordingly amended.

(c) The Converted Equity Shares so issued to the security trustee for and on behalf of the Financial Creditors shall be held for the benefit of the Resolution Applicant till such shares are dealt with in accordance with the Resolution Plan. Any compliance of provisions of the Banking Regulations Act or any other statute prohibiting Financial Creditors to hold such shares shall be deemed to be waived upon approval of the Resolution Plan.

(d) Notwithstanding anything contained in this Resolution Plan, no payments over and above the payments set out above shall be made by the Resolution Applicant towards any charges, imposts or amount called in whatever name save and except the fees payable to the security trustee.

(e) Notwithstanding anything contained in this Resolution Plan or any other document including the guarantee deeds in favor of the Financial Creditors, the act of conversion of debt into equity shall not tantamount to release of the guarantors against whom the Financial Creditors have taken / may take appropriate legal proceedings to recover the remainder of the debt. The legal effect of the conversion of debt into equity would be merely to extinguish the right of the Financial Creditors to recover debt from the Corporate Debtor without affecting the liability of the guarantors to repay the debt to the Financial Creditors.

(f) Upon the approval of the Plan, it shall be deemed that all the applicable provisions of the Act, regulations of SEBI and other Applicable Law relating to conversion of debt into equity shares have been complied with and separate approvalsshall not be required to be taken under the Applicable Laws including approvals under section 62 and other applicable provisions of the Companies Act.

(g) If the Plan is finally set aside by the Supreme Court, all actions taken including conversion of debt to equity shall be nullified and the original status shall be restored and the Financial Creditors shall refund all amounts paid by the

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Resolution Applicant within 30 (thirty) days from the date of the order of the Supreme Court setting aside the Plan. Further, the Resolution Professional and the operational creditors shall also be refund all sums received pursuant to the Plan within the said period of 30 (thirty) days.

Step 6: Infusion of funds by the Resolution Applicant:

(a) The Resolution Applicant shall infuse nominal fund of Rs. 5,00,00,000.00 (Rupees Five Crores Only) to acquire a shareholding interest in the Corporate Debtor. The Corporate Debtor will issue these shares to the Resolution Applicant. The same shall be used towards payment of capex / refurbishment / working capital / investments or any other purpose at the sole discretion of the Resolution Applicant.

(b) The authorized share capital of the Corporate Debtor shall stand increased to such an amount so as to accommodate the issuance of new equity shares to the Resolution Applicant ("**New Equity Shares**") and the capital clause of the memorandum of association of the Corporate Debtor shall stand accordingly amended. No separate approval under section 61 and other applicable sections of the Companies Act shall be required.

(c) Approval of shareholders' if any for issuance of the New Equity Shares shall be deemed to have been granted pursuant to approval of the Plan by the Adjudicating Authority and no separate approval shall be required to be taken. Further, compliances under SEBI - ICDR Regulations and Takeover Regulations shall not apply to such issuance of New Equity Shares.

Step 7: Selective Capital Reduction:

(a) The entire shareholding of the existing shareholders (Other than the New Equity Shares but including Converted Equity Shares) of the Corporate Debtor shall be subject to a capital reduction process and shall be reduced to nil and no consideration shall be paid for the same. The security trustee shall take all actions as may be required to be taken for extinguishment of the Converted Equity Shares.

(b) Accounting Treatment: The equity share capital held by the existing shareholders shall be reduced the balance shall be adjusted with accumulated losses and assets of the company shall be suitably impaired to reflect the current value.

(c) Subsequent to the cancellation of the existing share capital, the entire share capital of the Corporate Debtor will be held by the Resolution Applicant. The Corporate Debtor being a public limited company is required to have a minimum of 7 shareholders and therefore, the Resolution Applicant along with its respective nominees shall subscribe to the New Equity Shares. The nominees proposed to subscribe to the New Equity Shares will be eligible under Section 29A of the Code.

(d) The approval of the Resolution Plan by the Adjudicating Authority shall be

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deemed to constitute compliance with all the procedural requirements in terms of Section 66 of the Companies Act and NCLT (Procedure for Reduction of Share Capital), Rules 2016 and no separate compliance shall be required under the Act or the regulations of SEBI or under any other Applicable Law including filing of application for reduction is required. The capital reduction shall not require the consent of any of the creditors of the Corporate Debtor or approval of the shareholders of the Corporate Debtor as the Plan upon being approved by the NCLT shall be binding on the Corporate Debtor and its stakeholders (including its creditors and shareholders). Further, the requirement of adding the words "and reduced" in the name of the Corporate Debtor shall be dispensed with.

(e) For avoidance of doubt, the approval by the CoC of the Resolution Plan shall be deemed to be consent of the Financial Creditorso such Capital Reduction. Without prejudice to what has been stated herein, in the event any consent is required each of the Financial Creditors shall provide its consent in the form that is required by the Adjudicating Authority under the Applicable Laws.

Step 8: Delisting of Equity Shares

(a) As an integral part of the Plan and simultaneously with the capital reduction, the equity shares of the Company shall stand delisted. The liquidation value of the Corporate Debtor is insufficient to make any payment to the existing shareholders of the Company therefore, no consideration shall be payable by the Corporate Debtor to the shareholders.

Step 9: Capex

(a) Post completion of the aforesaid steps, Resolution Applicant shall bring in funds as required, in the manner at the discretion of the RA, towards capital expenditure to run the Company on going concern. The Financial Proposal contemplates that a sum of Rs. 306 crores shall be brought in towards capex/working capital.

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ANNEXURE 3 – APPROVALS, EXTINGUISHMENTS AND WAIVERS

1. The Resolution Applicant requests that the approvals / directions / clarifications stated below be granted so as to enable implementation of the Resolution Plan and to effect a turn-around of the business of RIL with a view to provide maximum value to all the stake holders concerned. All the approvals/directions/clarifications shall be deemed to form a part of the order sanctioning the Plan.

2. The approval of the Adjudicating Authority and the CoC shall constitute adequate approval for cancellation of the existing share capital and accordingly, no approval/consent shall be necessary from any other Person/Governmental Authority in relation to either of these actions under any agreement, the constitutional documents or under any Applicable Law.

3. In case of capital reduction, the requirement of adding "and reduced" in the name of the Corporate Debtor to be dispensed with (on account of reduction of share capital of the Corporate Debtor).

4. The approval of this Plan by the Adjudicating Authority shall be deemed to have waived all the procedural requirements under the Companies Act, 2013, LODR Regulations, the NCLT (Procedure for Reduction of Share Capital) Rules, 2016 and other Applicable Laws for reduction of share capital and issuance of equity shares to the Resolution Applicant and/or the Financial Creditors.

5. Approval of the Resolution Plan shall be deemed to be a waiver of any case initiated, by the Securities & Exchange Board of India (SEBI), Stock Exchanges or any such authority, for any violation, by the Existing Promoter Group or the Corporate Debtor and any property attached towards recovery of the same shall be deemed to be released on approval of the Resolution Plan.

6. Waiver of any fee payable to any stock exchange or any such regulatory body towards any past dues or towards fee dues pursuant to any of the steps as contemplated in the Resolution Plan including but not limited to any delisting fee, etc

7. An order directing that the right, title and interest of the Company over any land owned by the Promoter/Promoter Group or any person related to the Corporate Debtor or Promoter/Promoter Group ("Third Party Owner") shall not cease and the Company shall continue to remain in possession and occupation of such land and such Third Party Owner shall enter into valid lease agreements at nominal rent with the Corporate Debtor.

8. Directions that all the statutory liabilities be permitted to be written off / cancelled.

9. Direction to authorities for providing key infrastructure facilities and approvals like Consent to Establish, Consent to Operate, Water approval, Railways approval, etc. expeditiously without insisting on payment of arrear payments

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including any dues/penalties, fines etc.

10. Waiver of all the Operational Creditors due as specified in the Information Memorandum as the Liquidation Value payable to them is NIL.

11. Waiver of any dues of whatsoever nature towards Railways, Water authorities or any such infrastructure provider and waiver of all statutory liabilities as the Liquidation Value is nil.

12. Withdrawal of litigations initiated by the Financial Creditors against the Corporate Debtor.

13. Extinguishment and waiver of all dues to the Existing Promoter group by Corporate Debtor.

14. The trading on the shares of the Corporate Debtor shall stand suspended in all the stock exchanges where the shares are listed on and from the Effective Date without any further act or deed.

15. SEBI and the stock exchanges shall delist the Corporate Debtor with effect from the Effective Date in accordance with the Resolution Plan and pursuant to the order of the Adjudicating Authority approving the Resolution Plan.

16. Relinquishment of all / any promise to pay towards any obligation including corporate guarantee, pledge on any shares, mortgage or charge on any specific asset, etc. issued by Corporate Debtor in favour of or on behalf of any of its subsidiaries, associates, group companies or any third party.

17. Specific waiver of transaction costs related leading to implementation of the Resolution Plan including but not limited to any incidence of stamp duty, ROC fees, Income Tax, any statutory levy, renewal charges, etc. The Resolution Plan envisages increase in the authorised capital for implementation. The ROC fees towards the same shall be specifically waived.

18. To direct / grant all approvals required for undertaking the capital reduction envisaged in Annexure 2 of the Resolution Plan without the requirement of filing any separate application for reduction and the Plan so submitted shall be treated as an application for reduction.

19. Permitting waiver of all liabilities and taxes arising out of implementation of the transactions contemplated in the Resolution Plan and instructing the relevant authorities concerned accordingly.

20. Directions from Adjudicating Authority that other than actions by the CoC / Resolution Professional against the guarantees extended by the Existing Promoters , all legal suits, proceedings, certificate proceedings and/or quasi-legal proceedings that have been initiated against the Corporate Debtor or the Existing Promoter Group, subsidiaries / associates / related party(ies) of the Existing Promoter Group, which may have an adverse impact on the Corporate Debtor of any nature whatsoever, shall stand quashed, including but not limited to:

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(a) for recovery of any debts and dues (including but not limited to statutory dues like Central/State Sales Tax/value added tax/Central Excise/Service Tax/ Goods and Services Tax, Income Tax, Custom Duty, etc. or any other statutory dues) pending against the Corporate Debtor and 100% waiver of all such claims/dues thereunder;

(b) those related to taxation, related to environment and forest laws, railway claims/disputes, proceedings under the Foreign Exchange Management Act 1999, Prevention of Money Laundering Act 2002, criminal matters, etc.

21. Directions from Adjudicating Authority to the relevant parties concerned to ensure continuity of critical infrastructure contracts/arrangements.

22. Directions to the concerned ROC and State Governments to waive stamp duty and fees applicable to the implementation of the Resolution Plan.

23. Directions from Adjudicating Authority to Resolution Professional / MA to ensure all the assets shall be fully insured till the time their possession is handed over to the new management.

24. Directions from Adjudicating Authority allowing Corporate Debtor to use the brought forward losses for the purpose of the Income Tax Act, 1961.

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ANNEXURE 4: PROFILES OF TURNAROUND EXPERT

The Resolution Applicant proposes to use its in-house technical team namely Mr. V.V. Rao & Mr. K.V. Rao who has substantial turnaround & operational expertise in steel industry.

Mr. V. Veerabhadra Rao is an Engineering Graduate in Mechanical from Nagarjuna University with rich experience of about 23 years in the field of Manufacturing Sector. He started his career with GMR Vasavi Industries Limited, had a brief stint in Information Technology Industry for 2 years. Presently working as General Manager at Durgapur Plant of Shyam Group and managing the overall operations of the plant. He has proved his capabilities in achieving the Business Objectives of the organization by optimal utilisation of available resources and increasing Operational Efficiency at the plant level. Under his leadership Durgapur Plant is producing niche products in Ferro Alloys, which are well known for its unique quality parameters valued by the customers.

Following are the various positions held by Mr. V.V Rao in various organizations:

Shyam Group	General Manager	2003 to till date
Srimata Cyber Services Limited	Project Manager	2001 – 2003
GMR Vasavi Industries Limited	Manager – Engineering	1993 -2001

K VenkateswararaRao, an Engineering Graduate in Metallurgical Engineering from Indian Institute Of Metals, Kolkata, an astute professional with over 29 years of executive, leadership & management expertise in manufacturing industries. He has been proficient in translating business results into Operating Parameters in uniquely challenging situation directed towards sustainable profits and growth of organizations. He started his career with Nava Bharat Ferro Alloys Ltd. After that, he has been part of various esteemed organisations at a senior level.

- Maithan alloys Ltd
- Sri Vasavi Industries Ltd
- Shyam Group.

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ANNEXURE5: PREVIOUS EXPERIENCE, CREDITWORTHINESS AND FINANCIAL CAPABILITY

1. Background of Resolution Applicant(s)

1.1. Background of SSNRPL

1.1.1 SSNRPL is a Shyam SEL group entity. It was incorporated in 1991. It has registered office at 5 C.R. Avenue, Princep Street, Kolkata 700072. The corporate identity number of SSNRPL is _U10300WB2015PTCWB204962.

1.1.2 **Shareholders**: The shareholders of SSNRPL as on date is as set out below:

S. No.	Name of Equity Holder	Number of Equity Shares	% of Holding
1.	Sheetij Agarwal Family Trust	150000	25%
2.	Mittu Agarwal	150000	25%
3.	Sumitra Devi Agarwal	66000	11%
4.	Dilipp Agarwal	80000	13%
5.	Sitaram Agarwal	84000	14%
6.	Deepak Kumar Agarwal	80000	13%

1.1.3 **Directors**: Bajrang Lal Agarwal and Dilipp Agarwal.

1.1.4 **Business**: SSNRPL is a special purpose vehicle of Shyam Group formed for the purpose of acquiring new business / assets in the steel industry and related activities

1.2. Background of SSPL

1.2.1 Shyam SEL & Power Limited ("**SSPL**"), a Shyam SEL group entity, is a closely-held company, incorporated in 1991. The corporate identity number of SSPL is U10300WB2015PTC204962, and its registered address is at S S Chambers, 5 C R Avenue, 2nd Floor, Kolkata 700072.

1.2.2 Shareholders: SSPL, is a subsidiary of Shyam Metallics & Energy Limited ("**SMEL**") with SMEL holding 100% shareholding in SSPL. SSPL was incorporated on 05 September 1991.

The shareholding pattern of SSPL as on date is as set out below:

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S. No.	Shareholders' name	Number of Shares	% shareholding
1	ShyamMetalics& Energy Ltd.	44125044	99.9986
2	Brij Bhushan Agarwal (nominee)	100	0.0002
3	Mahabir Prasad Agarwal (Nominee)	100	0.0002
4	Sanjay Agarwal (Nominee)	100	0.0002
5	Mahabir Prasad Agarwal (Nominee)	100	0.0002
6	Bajrang Lal Agarwal (Nominee)	100	0.0002
7	Mittu Agarwal (Nominee)	100	0.0002
	TOTAL	**44,125,644**	**100**

1.2.3 **Business:** SSPL is an integrated TMT/Rolled/Structural products manufacturer. The manufacturing operations of SSPL are located at RanigunjandJamuria in West Bengal. SSPL manages semi-integrated operations for manufacturing iron and steel products and generating power for captive consumption.

1.2.4 **Capacity**

The manufacturing capacity SSPL across various products is as tabulated below:

Products	UOM	Capacity
Pellet Plant	TPA	6,00,000
Sponge Iron (DRI)	TPA	3,85,800
Steel Melting Shop (SMS)	TPA	2,01,600
Rolling Mill	TPA	60,000
Structural Rolling Mill	TPA	53,000
Ferro Alloys	TPA	94,320
Captive Power Plant	MW	89

1.2.5 **Financials**

The brief financials of SSPL are as under:

Particulars(Rs Cr)	FY 16 (A)	FY 17 (A)	FY 18 (A)
Revenue from Operations	892.13	1288.11	2034.63
Other Income	15.86	20.72	39.29
EBITDA	111.20	170.37	436.01
PBT	-13.15	34.79	306.16
Debt	345.53	333.37	179.86
Cash Balance	1.95	18.08	2.81
Net Worth	1011.65	954.70	1189.83

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1.2.6 Credit Rating of SSPL

Based on the rating undertaken by CARE in March, 2018, SSPL received long term debt rating of A+ and short-term debt rating as A1+. This was an improvement to the earlier ratings of the company on account of improved financial and operational parameters.

1.2.7 Group Companies

SSPL is part of the Shyam group, with the group being a leading manufacturer of Iron & Steel products in Eastern India with turnover of around INR 70 billion and employing more than 9,000 employees in its production chain. The major companies under Shyam group are as under:

- Shyam SEL & Power Limited(being a part of the consortium submitting the Resolution Plan)
- ShyamMetalics and Energy Limited

1.2.8 Detailed Financials

Particulars (Rs Crore)	FY 15 (A)	FY 16 (A)	FY 17 (A)	FY 18 (A)
Profit & Loss Statement				
Revenue from Operations	1148.38	892.13	1288.11	2034.63
Other Income	10.95	15.86	20.72	39.29
EBITDA	147.40	111.20	170.37	436.01
Finance Cost	38.74	28.41	26.09	23.10
PBT	23.54	(13.15)	34.79	306.16
PAT	30.80	(5.82)	19.78	238.13
Balance Sheet				
Total Equity	38.75	40.91	44.13	44.13
Long term borrowing	267.34	199.88	128.57	74.13
Short term borrowing	200.02	145.65	204.80	105.73
Cash Balance	117.87	1.95	18.08	2.81
Total Current liability	483.19	470.72	517.69	520.41
Fixed Asset (Incl. CWIP)	882.45	1283.48	1104.09	1038.75
Total current Asset	622.12	511.70	603.35	848.56
Net Working Capital	138.92	40.98	85.66	328.15
Ratios				
Net Worth	695.89	1011.65	954.70	1189.83
Current Ratio	1.29	1.09	1.17	1.63
Long term Debt/ Equity	6.90	4.89	2.91	1.68
Interest Coverage	1.61	0.54	2.33	14.24
EBITDA Margin	12.84%	12.25%	13.02%	21.02%
Net Profit Margin	2.68%	-0.64%	1.51%	11.48%

- The Company has continued to focus on developing new markets for their products which have a growing domestic & international market.

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- Cost efficiencies, product mix, sales mix and optimum utilization of available resources have helped the Resolution Applicant improve its performance notwithstanding competition and recession in the sector.

- The capacity utilization of most products manufactured by SSPL has improved over past few years on account of increase in demand in domestic and export markets. The export sale of SSPL has also increased correspondingly. This has helped the Company in attaining a CAGR of ~ 14% in its turnover.

- The EBITDA margins improved on account of increased capacity utilization and optimization of various costs overheads. EBIDTA increased 2.5 times in FY18 over corresponding figures in FY17.

- As against EBIDTA of Rs 436.01 Cr in FY18, the total debt is Rs 230.26 Cr. the company's leverage ratios are comfortably placed viz-a-viz most mid-sized and big peers in the Steel industry.

- Interest costs of SSPL has gradually declined on account of gradual reduction in debt.

- PAT improved from Rs. 30.80 Cr in FY 2015 to Rs. 238.13 Cr in FY 2018 mainly on account of improved sales realization, better EBITDA margins and reduction in financial cost. Also the Net Profit Margin has improved in FY 18 as compared to FY 15 due to cost optimization measures taken by the Company over the years.

- Improvement in operational efficiencies and operating leverage helped SSPL to record good financial performance over past few years.

- Shyam Group has an established position in the ferro-alloy industry with a track record of around two decades. In the recent past, Shyam Group has forayed into the production of niche products, like medium carbon and low carbon ferro alloys, which earn a significant premium over high-carbon ferro alloys, thereby providing some cushion against volatility in prices.

1.2.9 **Promoters & Key Managerial Persons**

Promoter Details

SSPL is promoted by Mr. Mahabir Prasad Agarwal &MrBrij Bhushan Agarwal.

The day- to- day affairs of SSPL are looked after by Mr. Brij Bhushan Agarwal, son of Mr. Mahabir Prasad Agarwal with adequate support from a team of experienced professionals. Brief profiles of the Key Promoters and Management are as below:

Mr. Mahabir Prasad Agarwal, a B.Com Graduate from Calcutta University, is the founder of the Shyam group and has more than 35 years of experience in the steel business. The overall administration and strategic planning is executed under his able leadership. Under his guidance and dynamic leadership, the group has become one of the major players in the iron and steel industry in eastern India and is amongst the largest manufacturers of ferro alloys in India.

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Mr. Brij Bhushan Agarwal- Having done his Bachelor of Commerce from Calcutta University, Mr Bhushan Agarwal has also participated in various strategy programs at Harvard University. Under his guidance and dynamic leadership, the group has achieved many milestones. His vision, foresight and ability to execute projects in a timely and cost effective manner has been instrumental in SSPL achieving a dominant position in the Industry.

Details of Directors

DIN	FULL NAME	PRESENT RESIDENTIAL ADDRESS	DESIGNATION
00235978 ACWPA3142K	BAJRANG LAL AGARWAL	SECTOR-I, CA-54, SALTLAKE CITY, KOLKATA- 700064	WHOLE-TIME DIRECTOR
01125056 ACGPA0365A	BRIJ BHUSHAN AGRAWAL	3B, ASHOKA ROAD, 2ND FLOOR, ALIPORE, KOLKATA - 700027	MANAGING DIRECTOR
00232938 ACVPA5953H	SANJAY KUMAR AGARWAL	CA 54, BIDHNAGAR, SALTLAKE, 700064, West Bengal, INDIA	MANAGING DIRECTOR
00424400 ADFPA5631B	KIRAN VIMAL AGARWAL	VIMAL SADAN, OPP. KETAV AUTO SERVICE STATION, DR V S ROAD, AMBAWADI, AHMEDABAD, 380015, Gujarat,	DIRECTOR
07035891 AGCPM4470G	VENKATA KRISHNA NAGESWARA RAO MAJJI	SHREE RAM NAGAR, GARIVIDI VIZIANAGARAM, VISAKHAPATNAM, 535101, Andhra Pradesh, INDIA	INDEPENDENT DIRECTOR

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06507365 AAOPJ4526C	YUDHVIR SINGH JAIN	P-13, MIG FLATS, PRASAD NAGAR, NEW DELHI 110005	INDEPENDENT DIRECTOR
00040825 ACDPC4040P	AJAY CHOUDHURY	375 PRINCE ANWAR SHAH ROAD, FLAT- 32C, TOWER 1, SOUTH CITY, PS-JADAVPUR, KOLKATA 700068,	INDEPENDENT DIRECTOR
02705232 ABCPM2518J	BIKRAM MUNKA	240, S.N. ROY ROAD, METRO TOWERS, 5TH FLOOR, FLAT 17A, SAHAPUR, KOLKATA – 38	WHOLE TIME DIRECTOR

1.2.10 Debt Outstanding

The debt outstanding of SSPL as on 31-03-2018 is as tabulated under:

(Rs in Cr)

Facility	Outstanding
Long Term Borrowings (including current maturities within one year)	124.53
Short Term Borrowings	105.73
Total	**230.26**

2. Asset Classification of Resolution Applicant

As on date, the account of Resolution applicant is **Standard** with its lending banks

3. Overview of Shyam Group

As mentioned earlier, SSPL is part of the Shyam group, which is a leading manufacturer of Iron & Steel products in Eastern India. Shyam Group was promoted by Mr. Mahabir Prasad Agarwal and the group has a turnover of over INR 70 billion employing more than 9,000 individuals in its production chain.

The Group has a track record of around three decades with its manufacturing/operating facilities spread across various states like Ranigunj, Durgapur, Burdwan, Siliguri and Howrah in West Bengal; Sambalpur and Barbil in Orissa; Lumshong and Brynihat in Meghalaya, and Vizag in Andhra Pradesh. Further, the group also has strategic investments in various companies spanning diverse sectors like power (biomass, waste heat, thermal and hydel), cement, logistics and industrial parks.

With the confidence gained post serving domestic customers, the group has embarked upon large scale exports of steel and ferroalloys to overseas markets of Italy, Netherlands, Poland as well as Taiwan, Thailand and other South-East Asian countries.

The major companies under the Shyam group are as under:

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- Shyam SEL & Power Limited(being a part of the consortium comprising the Resolution Applicant)
- ShyamMetalics and Energy Limited

The details of the other companies apart from SSPL is as under:

a. ShyamMetalics and Energy Limited:

ShyamMetalics& Energy Limited (SMEL), is an unlisted Public Limited Company incorporated on 10 December 2002. It has its registered office at Trinity Towers, 83 Topsia Road, 7th Floor, Kolkata 700 046.

SMEL manufactures iron and steel products, ferro-alloys and power for captive consumption. Its manufacturing operations are located inPandloi, Rengali in Sambalpur, Odisha.

The manufacturing capacity of SMEL across various products is as tabulated below:

Product	UoM	SMEL
		Sambalpur
Iron Pellet	TPA	3,00,000
Sponge Iron	TPA	6,27,000
Billet	TPA	3,37,920
TMT and Structural Products	TPA	1,56,000
Ferro Product	TPA	98,000
Captive Power Plant	MWH	85 MW

Financials

(Rs. Cr)

Particulars	FY 15 (A)	FY 16 (A)	FY 17 (A)	FY 18 (P)
Profit & Loss Statement				
Revenue from Operations	1168	957	1157	1805
EBITDA	157	57	162	327
PBT	66	(95)	41	203
Debt	279	273	254	300
Cash	5	10	22	2
Net Worth	1197	1220	1279	1531

Credit Rating of SMEL

CARE Ratings had undertaken credit rating of SMEL along with the group company Shyam SEL and Power Ltd (SSPL) based on the financial statements as on 31st March, 2018. Consolidated financials of SSPL & SMEL were taken in to consideration on account of same promoter group, financial linkages between the company and same line of business.

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Synopsis of the credit rating details of SMEL is as under:

Facilities	mount (INR Crore)	Rating	Remarks
Term Bank Facilities	67 (reduced from 363)	ARE A+; Stable	d from CARE A
Term Bank Facilities	302.00	CARE A1+	sed from CARE A1
	606.67		

As seen from the above, CARE rating had revised the ratings upwards taking in to consideration improvement in debt protection metrics and improved liquidity position of the company and group. The revision in ratings also took in to consideration successful completion of the ongoing projects in the group

4. Experience in Iron & Steel/ Ferro Alloys Sector

Shyam Group has an established position in the ferro-alloy industry with a track record of around two decades. In the recent past, group has forayed into the production of niche products, like medium carbon and low-carbon ferro alloys, which earn a significant premium over high-carbon ferro alloys, thereby providing some cushion against volatility in prices.

The company has a total of fourteen furnaces, five each at its units at Burdwan and Durgapur and remaining four at Vishakhapatnam, which gives the company substantial flexibility to align the product mix depending on the market demand.

The Shyam group, with its past track record and huge experience of successfully running and scaling up operations.

In terms of current sales arrangement, group undertakes contract manufacturing for Tata Steel for supplying low-carbon ferro alloys, which accounts for a significant share of its installed capacity, and thus partially insulates the company from the volatility in prices due to lack of vertical integration.

The company is primarily dependent on imports for procuring key raw materials like manganese ore, coke, thermal coal, which exposes it to foreign currency fluctuation risk. However, the risk is mitigated to some extent by export sales, which provides a natural hedge, and a defined hedging mechanism followed by the company.

Given the power-intensive nature of operations, the competitive tariff rates enjoyed by group from Durgapur Projects Limited, Andhra Pradesh State Electricity Board and Damodar Valley Corporation result in the company having a favorable cost structure compared to other non-integrated ferro alloy producers.

5. Financial Resourcefulness of Resolution Applicant

(i) Credit Rating- Positive

The rating action reflects the steady performance of the company in recent years and its established position in the domestic ferro-alloys industry, particularly

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after its successful foray into niche products like medium and low-carbon ferro alloys.

(ii) **Experienced Management team**

The Shyam group ventured in to manufacturing of steel products in 1991 and commenced production of billets in 1996. Over the years, the group has expanded its Steel manufacturing operations by integrating its operations and adding products across the value chain of long steel products. The promoters have a track record of performance across difficult market cycles. Thus the team brings along with a long standing experience of setting up large scale manufacturing facilities and to run and scale up the operations efficiently.

(iii) **Strong Market outreach and distribution network**

- The Shyam group, with its fourdecade old presence in the market has a strong marketing outreach and distribution network spread across India.
- Currently, the Resolution Applicant exports 60% of its products to US, Europe, Middle East and around 40% is sold in the domestic market to large consumers namely Tata Steel, JSW, JSL, etc.
- Thus, the Resolution Applicant has an extensive market presence and a large established network which will help build a pan India presence for SSPL's products.

(iv) **Snapshot of the Consolidated Financials of SSPL and SMEL**

Particulars (Rs Cr)	FY16 (A)	FY17 (A)	FY18 (A)
Sales	19,745.82	25,124.65	38,875.63
EBITDA	1,831.84	3,396.53	7,723.07
PBT	(1,079.28)	755.63	5,092.34
Debt	6,288.43	5,923.21	4,795.95
Cash	121.86	404.43	51.38
Net worth	22,317.24	22,333.17	27,208.00

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ANNEXURE 6: DETAILS OF FINANCIAL CREDITORS FOR THE ASSIGNED DEBT

Part 1: Financial Creditors having charge over EES Kalyani Land

SN	Name of Creditor
1.	Asset Reconstruction Company(India) Limited
2.	Vijaya Bank
3.	UCO Bank
4.	Kotak Mahindra Bank Limited
5.	Pegasus Assets Reconstruction Private Limited

Part 2: Financial Creditors having charge over Durgapur Land

SN	Name of Creditor
1.	Asset Reconstruction Company (India) Limited
2.	Axis Bank Limited

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Annexure "R-15"

MINUTES OF THE EIGHTEENTH MEETING OF THE MONITORING AGENCY OF RAMSARUP INDUSTRIES LIMITED ("COMPANY") HELD ON MAY 05, 2022 VIA VIDEO CONFERENCING WHICH COMMENCED AT 05:00 P.M. AND CONCLUDED AT 07:30 P.M.

PRESENT:

Sr. No.	Name	Designation/Organisation	Mode of Presence
1	Mr. Kshitiz Chhawchharia	Erstwhile Resolution Professional (Ex-RP)/ Chairman of MA	Video Conference
2	Mr. Prasun Bhattacharya	Axis Bank	Video Conference
3	Mr. S. Jegankovilmani	Punjab National Bank (erstwhile United Bank of India)	Video Conference
4	Mr. Ajay Kumar Gupta	Resolution Applicant/ RA (SS Naturals)	Video Conference
5	Mr. Shyam Somani	Resolution Applicant/ RA (SS Naturals)	Video Conference
6	Mr. Trilochan Sharma	Resolution Applicant/ RA (SS Naturals)	Video Conference
7	Mr. Pankaj Bagla	Resolution Applicant/ RA (SS Naturals)	Video Conference

SPECIAL INVITEES (present with the permission of the members of Monitoring Agency):

Sr. No.	Name	Designation/Organisation	Mode of Presence
1.	Ashish Chhawchharia and team members	Representatives from Grant Thornton (support firm)	Video Conference
2.	Dhaval Savla and team members	Representatives from Equilex (legal advisors)	Video Conference
3.	Mr. Manoj Banthia	Corporate Secretarial team of RA	Video Conference
4.	Ms. Sakshi Mehta	JMF ARC	Video Conference
5.	Mr. Y Sriram Kumar and team members	ICICI Bank	Video Conference
6.	Ms. Shivangi Agarwal	Pegasus ARC	Video Conference
7.	Mr. Darpan Garg and team members	Indian Renewable Energy Development Agency Limited	Video Conference
8.	Ms. Komal Sahasrabuddhe	SBI Global factors Limited	Video Conference
9.	Mr. Kazi Rahman and team members	IDBI Bank	Video Conference

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For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

MINUTES OF THE EIGHTEENTH MEETING OF THE MONITORING AGENCY OF RAMSARUP INDUSTRIES LIMITED ("COMPANY") HELD ON MAY 05, 2022 VIA VIDEO CONFERENCING WHICH COMMENCED AT 05:00 P.M. AND CONCLUDED AT 07:30 P.M.

1. THE ERSTWHILE RESOLUTION PROFESSIONAL TO TAKE THE CHAIR

The meeting of the monitoring agency ("**Monitoring Agency/MA**") of Ramsarup Industries Limited ("**the Company**" or "**Corporate Debtor**" or "**CD**") was conducted through video conferencing. Mr. Kshitiz Chhawchharia, the Chairman of the MA (appointed in the second monitoring agency meeting) took the chair and presided over the meeting of the MA. The Chairman welcomed the members and invitees.

2. QUORUM OF THE MEETING

The 18th meeting of the Monitoring Agency commenced at the scheduled time and representatives from Axis Bank, PNB, and resolution applicant (SS Naturals and Shyam SEL and Power Limited) ("**Resolution Applicant/ RA**") joined the meeting.

Pursuant to the decision taken by the members in the 14th MA meeting, held on April 13, 2022, members of the erstwhile committee of creditors of the Company ("**CoC members**") were also permitted to attend the meeting as silent observers. In light of the aforementioned, representatives of ICICI Bank, IREDA, SBI Global factors Limited, IDBI, Pegasus and JMF ARC joined the meeting.

Representatives of CFM ARC did not join the meeting at the scheduled time. The Chairman requested the members of the MA ("**Members**") to wait for 10 minutes before commencing the meeting. Thereafter, as the representatives of CFM ARC did not join the meeting, the Members recording the absence of CFM ARC commenced the meeting.

The Chairman welcomed all the **Members** and the representatives of the CoC members who joined and were present at the meeting and proceeded with taking note (roll call) of all the Members/representatives present in the meeting. The Chairman informed the Members that as per the decision made in the 2nd meeting of the MA held on September 18, 2019, the meeting of the MA shall be quorate if minimum three Members are present, whether physically or through video/audio conference, out of whom, at least one must be a representative of the CoC and one must be a representative of the Resolution Applicant.

The Chairman, after considering the presence of the Members present through video conferencing, declared that the quorum is met and the meeting is in order and duly constituted.

Thereafter, the discussions on the agenda items took place.

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3. TAKING ON RECORD THE MINUTES OF 17th MA MEETING OF THE MA HELD ON MAY 02, 2022

The Chairman stated that the 17th MA meeting was held on May 02, 2022. It was also placed on record that the minutes of the 17th MA meeting were circulated to all the Members on May 03, 2022. Thereafter, certain comments were received from the RA on May 04, 2022 and updated version of the minutes was circulated to the Members on May 05, 2022.

The Chairman enquired from the Members if there were any further comments on the 17th MA minutes. Considering there were no comments, the minutes of the 17th MA meeting were taken on record by the Members present in the meeting.

Thereafter, the Chairman, apprised the Members about the following –

a. Appeal filed by CFM ARC at the Hon'ble Supreme Court – It was mentioned that the Chairman was served a copy of the Civil Appeal 3633 of 2022 filed by CFM ARC in the Supreme Court against the order of the Hon'ble NCLAT dated April 19, 2022, earlier on the same day, before commencement of the MA meeting.
b. Email communication sent by CFM ARC to refrain from proceeding with further implementation steps – The Chairman apprised that an email was sent by CFM ARC to all the Members informing that CFM is taking steps for urgent listing and hearing of the aforesaid appeal in the Supreme Court and requesting the MA to refrain from taking any steps towards implementation of the plan, in view of the pendency of such appeal.

Subsequently, the Chairman invited the views of the Members on the aforesaid update. The Chairman mentioned that it would be imperative for the Members to decide on whether they should proceed with the remaining steps of plan implementation or not. Representatives of the RA mentioned that since there is no stay order from any forum, and significant steps of implementation of the resolution plan have already taken place, the remaining steps of plan implementation should be carried out as per the directions of the Hon'ble NCLT vide its order dated April 06, 2022, and thereafter upheld by NCLAT in it's order dated April 19, 2022

Mr. Jegan from PNB, also concurred with the views of the RA and accorded his consent to proceeds with the remaining steps towards successful implementation of the resolution plan. Thereafter, the Chairperson requested the representatives of Axis Bank to present their views. The representatives of Axis Bank requested to hear the views of Equilex, the legal counsel of the MA before presenting their views.

In light of the above, representatives of Equilex stated that the Hon'ble NCLT, vide its order dated April 06, 2022, directed the MA to complete the implementation of the

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resolution plan within 30 days of the date of order ("**April NCLT Order**"). Further, in an appeal filed by CFM ARC against the impugned April NCLT Order, the Hon'ble National Company Law Appellate Tribunal, dismissing the said appeal has upheld the April NCLT Order. Further, in light of the appeal filed by CFM ARC before the Hon'ble Supreme Court, it was highlighted that the said appeal has not yet been heard nor there is any order directing a stay on the operation of the April NCLT Order. Hence, to ensure compliance with the April NCLT Order, the MA should proceed with the implementation of the resolution plan.

Thereafter, the Chairman requested Mr. Prasun from Axis Bank to provide their views in this regard. Mr. Prasun apprised that Chairman and Members that certain amount of time would be required to obtain internal approvals for providing consent on the subject matter and therefore, requested the Chairman to adjourn and re-convene the meeting in half an hour.

Accordingly, the meeting was adjourned and reconvened post one hour.

The Chairman re-ascertained the quorum and found the same in order.

Mr. Prasun from Axis Bank mentioned that internal approvals have been obtained in this regard and accorded his consent to proceed with the implementation of the resolution plan, in concurrence with the views of PNB.

The Chairman recorded the consent of all the Members present to proceed with the implementation of the resolution plan and thereafter the discussions on the following agenda items commenced.

4. TO TAKE NOTE OF PAYMENT TO FINANCIAL CREDITORS AS PER REVISED DISTRIBUTION METHODOLOGY AND UPDATE ON THE STATUS OF NO DUES CERTIFICATE

The Members were informed that in pursuance to the decisions taken in the 17th Monitoring Agency meeting held on May 02, 2022, the process of payments to financial creditors for the lower of the two amounts as computed for the respective creditors under Situation 1 (distribution methodology as approved by the CoC along with resolution plan approval) and Situation 2 (considering the amendment to Sec 30(2)(b) of the Code and discussions and decisions of the CoC at the time of plan approval by the CoC), was initiated. It was also recorded that the order of payments, required to be followed in terms of the Code and the resolution plan was followed.

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As decided in the 17th MA meeting, payments were made to the financial creditors who had confirmed to provide No-Dues Certificates (NDC) post receipt of payment. A table depicting status of the payments to financial creditors and NDC received was presented before the Members as below:

Sr. No.	Financial Creditor	Lower of the 2 amount (INR)	Status of payment	Status of NDC
1	SREI Equipment Finance Limited	22,688,494	Paid	Received on email
2	SBI Global factors Limited	10,744,323	Paid	Received on email
3	Bibby Financial Services India Private Limited	1,829,923	Paid	Received on email
4	Axis Bank Ltd	175,884,455	Paid	Pending
5	Pegasus Assets Reconstruction Private Limited	166,797,097	Paid	Received on email
6	Bank of Baroda Ltd (erstwhile Vijaya Bank)	85,966,570	Paid	Received on email
7	Bank of India	37,650,967	Paid	Pending
8	ICICI Bank Ltd	19,865,974	Paid	Pending
9	LIC Mutual Fund	8,783,629	Paid	Pending
10	UCO Bank Limited	5,397,026	Paid	Pending
11	Small Industries Development Bank of India	3,536,973	Paid	Received on email
12	IDBI Bank Limited	2,851,605	Paid	Received on email
	Total amount paid	541,997,036		
13	CFM Asset Reconstruction Pvt Ltd	2,480,209,427	Unpaid	Pending
14	JM Financial ARC Limited	90,112,405	Unpaid	Pending
15	West Bengal Industrial Development Corporation	60,597,828	Unpaid	Pending
16	Indian Renewable Energy Development Agency Limited	28,078,141	Unpaid	Pending
17	Punjab National Bank (Erstwhile United Bank of India)	21,258,272	Unpaid	Pending
18	Kotak Mahindra Bank Limited	8,012,480	Unpaid	Pending
19	IFCI Limited	7,813,814	Unpaid	Pending
20	Tata Capital Financial Services Ltd	4,305,804	Unpaid	Pending
21	IFCI Factors Limited	2,740,057	Unpaid	Pending
	Total amount pending to be paid	2,703,128,228		

Further, the Chairman reiterated that, as decided in the 17th MA meeting, certain amounts as detailed below shall continue to be held in the existing bank account of the MA of the Corporate Debtor wherein the sole signatory would be the Chairman of the MA ("**MA Controlled Account**")–

- the minimum amount to be paid to the financial creditors shall be held in trust on their behalf until receipt of consent/ confirmation to sign the NDC,
- the balance amount remaining after payment of the lower of the 2 amounts as per Situation 1 (approved distribution methodology) and Situation 2 (considering the amendment to Sec 30(2)(b) of the Code and discussions and decisions of the CoC at the time of plan approval by the CoC), which shall be be paid to financial creditors in accordance with the order of the Hon'ble NCLT in the matter regarding the application filed by Kotak Mahindra Bank , challenging the approved distribution matrix and seeking the minimum amount (as prescribed under law) to be paid to dissenting financial creditors is adjudicated ("**Kotak Application**").
- Reversal of payments made towards insolvency resolution process costs/ employees & workmen/ operational creditors due to technical issues,
- Balance amount remaining towards funds earmarked for expenses incurred by the committee of creditors ("**CoC**"), litigation fund and security expenses as per the approved distribution matrix, (that was approved by the CoC in the 24th CoC meeting) after making payments towards CoC expenses and security expenses as decided by the MA in the 17th MA meeting.
- Any residual amounts in the nature of interest on fixed deposits and PBG interest.

The Members took note of the same.

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5. TO RECORD AND RATIFY THE TERMS OF APPOINTMENT OF PROFESSIONAL ADVISORS

The Members were informed that the outstanding fees of Mr. Kshitiz Chhawchharia (Chairman of the MA), GT Restructuring Services LLP (support firm) and Equilex (legal advisors to the MA) for the services provided during the Monitoring Agency Period, is required to be paid by the Company/Resolution Applicant. The MA was informed that the below-mentioned fee (as agreed by the RA) should be paid on or before May 15, 2022.

The Members took note of the same and accordingly, the below resolution was passed with the consent and approval of all the Members:

*"**RESOLVED THAT** the members hereby approve the professional fees (as per the details provided in below table) along with applicable taxes and out of pocket expenses, if any, pursuant to the appointment of Mr. Kshitiz Chhawchharia, erstwhile Resolution Professional as the Chairman of the Monitoring Agency, GT Restructuring Services LLP as the support firm to the MA and Equilex as the legal counsel to the MA".*

INR Crores

Particulars	For Sep'19- Mar'22 (Lumpsum)	For Apr'22- Jun'22 (Lumpsum)	Total
Fee for professional advisors	1.76	0.24	2.00

6. TO TAKE NOTE OF TOTAL COSTS INCURRED POST APPROVAL OF THE PLAN BY HON'BLE NCLT I.E. DURING THE ENTIRE MA PERIOD AND METHOD OF SETTLEMENT OF THE UNPAID COSTS

The Chairman informed the Members that various costs have been incurred during the period post approval of the resolution plan by Hon'ble NCLT i.e. September 04, 2019 ("**MA Costs**"), to maintain the status of the Corporate Debtor as a going concern. As per the provisions of the approved resolution plan, such costs are required to be funded out of internal accruals of the CD, and shortfall, if any, is required to be funded by the RA.

Thereafter, the details of the estimated MA Costs were presented before the Members for their information and records. The snapshot of the same is as below:

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For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

MINUTES OF THE EIGHTEENTH MEETING OF THE MONITORING AGENCY OF RAMSARUP INDUSTRIES LIMITED ("COMPANY") HELD ON MAY 05, 2022 VIA VIDEO CONFERENCING WHICH COMMENCED AT 05:00 P.M. AND CONCLUDED AT 07:30 P.M.

INR Lakhs

Particulars		MA Cost Paid	MA Cost unpaid (as on 30 April '22)	Estimated accruals (upto 05 May'22)	Total
Security Charges		402.23	-	1.83	404.06
Ace Protection Group (Durgapur)	87.37				
ASI Services (Shyamnagar)	55.13				
Gdx Facility (Kharagpur)	226.74				
Uttar Banga (Kalyani)	25.56				
J.Panda & Co.Pvt.Ltd. (Custodian)	7.43				
Employees (Salaries)		41.77	-	0.21	41.99
Litigation expenses (including senior counsel)		30.11	14.46	3.54	48.11
Electricity		2.29	0.21	0.15	2.64
Fee Payable to Auditor & Secretarial Professional		7.18	2.56	2.02	11.74
IT expense		1.91	0.48	-	2.39
Insurance Premium		31.00	-	-	31.00
Compliance exps (RTA, depositories fee and AGM exps)		10.40	1.05	3.57	15.02
Office Rent		6.20	0.20	0.03	6.43
Other Office Expenses		5.33	3.66	0.20	9.20
Telecommunication Services		0.05	0.23	0.05	0.33
Water		0.16	0.56	0.05	0.77
TDS		7.96	0.20	-	8.16
GST		27.25	0.03	-	27.28
Professional advisors fee (MA period)				236.00	236.00
Total		573.83	23.64	247.65	845.11

The Chairman apprised the Members that the total estimated MA costs of INR 8.45 crores has been incurred during the MA period from September 04, 2019 to May 05, 2022.

The total MA Cost has been funded as per the table below. INR 2.56 crores was funded by erstwhile CoC members post approval of the resolution plan by Hon'ble NCLT, while INR 1.82 crores were contributed by RA post the order of the Hon'ble Supreme Court dated May 04, 2021 and some accruals through interest on the funds parked in fixed deposits.

Source of Funds	Amounts (INR crores)
Interest on FDs	1.18
Insurance claim payout	0.01
Lenders contribution	2.56
Contribution from RA	1.82
Total	**5.56**

Thereby, after payment of the MA Costs from the aforementioned funds, an amount of approximately INR 2.71 crores towards MA Costs remains unpaid as on May 05, 2022.

Further, it was reiterated that contribution received from the erstwhile CoC members during the MA period has to be repaid to the respective erstwhile CoC members and various follow up emails have been received demanding the same. It was placed on record that the funds in excess of the resolution proceeds received from the RA shall be used towards payment of the unpaid MA Costs till 05 May 2022 and shortfall, if any, shall be borne by the Resolution Applicant.

The Members took note of the same.

It was placed on record that the MA Controlled Account shall continue to be operated by the Chairman, in accordance with the Code, the approved resolution plan and as per the decisions taken in previous MA meetings. In relation of the above, the RA has also

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provided an Undertaking dated May 02, 2022, in favor of the Chairman (acting on behalf of the MA and the stakeholders). The funds available in the MA Controlled Account shall only be utilized towards payments of the balance amounts to be paid to the financial creditors (immediately upon receipt of NCLT order in the matter of Kotak application), any residual plan proceeds and unpaid MA costs, in terms of the decisions taken in the MA meetings and as per the terms of the approved resolution plan.

The Members present took note of the same.

7. **TO APPROVE THE APPOINTMENT OF MR. DEV KUMAR TIWARI (DIN: 02432511), MR. SUMIT CHAKRABORTY (DIN: 09568458), MR. VIKASH RUNGTA (DIN: 00583309) AND MR. GOPAL KRISHNA SHARAN (DIN: 00762839) AS DIRECTORS OF THE COMPANY**

The Members were apprised that as per Part - A Clause 13.2.2 of the approved resolution plan, the RA has proposed the appointment of the following persons, to act as directors of the Company w.e.f. the Completion date i.e. 05 May 2022 (hereinafter collectively referred to as "**Reconstituted Board**" or "**Board of Directors**"). In this regard, the recommended directors have tendered an affidavit dated 02 May 2022 and 03 May 2022, confirming that such persons are not ineligible under Section 29A of the IBC Code.

Name	Director Identification Number (DIN)
Mr Dev Kumar Tiwari	02432511
Mr Sumit Chakraborty	09568458
Mr Vikash Rungta	00583309
Mr Gopal Krishna Sharan	00762839

It was highlighted to the Members that any and all further actions to be undertaken in connection with the implementation of the approved resolution plan shall be undertaken and effected by the Reconstituted Board or Board of Directors of the Company.

The Members were further intimated that for appointment of the Reconstituted Board, each member of the Reconstituted Board has given his/her consent to act as a director of the Company in Form DIR-2 in accordance with Section 152 (5) of the Companies Act, 2013 read with Rule 8 of the Companies (Appointment and Qualification of Director) Rules, 2014.

The RA representative stated that as per the Resolution Plan, the existing Directors of the Company, Ramsarup Industries Limited, shall vacate the office with effect from Completion Date i.e. May 05, 2022 and further as per the NCLT order dated Sep 04, 2019, approval of this plan shall be deemed approval for removal of Directors from the record of the Company as appearing on the Ministry of Corporate Affairs portal/ website/ income tax website/ any indirect tax website and certified copy of the order approving resolution plan shall be a direction on such statutory authorities to do the needful.

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The Chairman further informed the members that with regard to the approved Resolution Plan, the Company is required to appoint a nominee director as the director of the Company through the back end process of the Ministry of Corporate Affairs. In this regard, RA has nominated Mr. Sumit Chakraborty (DIN: 09568458) for appointing him as Director in the company with immediate effect.

The Members discussed the matter and passed the following resolutions:

*"**RESOLVED THAT** pursuant to (i) the provisions of Section 161 (1) and other applicable provisions, if any, of the Companies Act, 2013 read with the rules made thereunder, (including any statutory modification thereto or re-enactment thereof for the time being in force) to the extent applicable, (ii) the provisions of Section 30(2)(e) and other applicable provisions, if any, of the IBC Code read with the rules made thereunder, (including any statutory modification thereto or re-enactment thereof for the time being in force) to the extent applicable, (iii) the Memorandum and Articles of Association of the Company, and (iv) resolution plan for the Company submitted by the consortium of S.S. Natural Resources Pvt Ltd and Shyam SEL & Power Limited duly approved by the committee of creditors of the Company and the Hon'ble National Company Law Tribunal, Kolkata Bench vide order dated 04 September 2019 ("Resolution Plan"), as being implemented by the Consortium of SS Natural Resources Private Limited and Shyam SEL & Power Limited, the consent of the Monitoring Agency constituted as per the Resolution Plan be and is hereby accorded to appoint, Mr. Dev Kumar Tiwari (DIN: 02432511), Mr.Sumit Chakraborty (DIN : 09568458), Mr Vikash Rungta (DIN : 00583309) and Mr Gopal Krishna Sharan (DIN:00762839) as directors of the Company, with immediate effect, to hold office up to the conclusion of the next annual general meeting of the Company".*

***"RESOLVED FURTHER THAT** Mr. Vikash Rungta and Mr. Sumit Chakraborty, directors of the Company be and are hereby severally authorized to file, sign, verify, and execute all such e-forms, papers or documents as may be required and do all such acts, matters, deeds and things as may be necessary and incidental to take all necessary actions for giving effect to the above resolutions, including updating the statutory registers and filing requisite forms, returns/documents with the Ministry of Corporate Affairs in relation to appointment of the new directors and any other authority, as applicable."*

***"RESOLVED FURTHER THAT** consent of the Monitoring Agency constituted as per the Resolution Plan be and hereby accorded to appoint Mr Sumit Chakraborty (DIN: 09568458) as the Director of the Company through offline route / back-end process of Ministry of Corporate Affairs."*

In light of the discussions, it was decided in the MA meeting that the agenda for appointment of directors would be recorded prior to other agenda items authorizing the new directors to carry out the required compliances. Thus, the same has been modified.

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8. **TO PROVIDE AN UPDATE ON THE AGMS HELD FOR THE 4 FINANCIAL YEARS FOR FY 2017-18, FY 2018-19, FY 2019-20 AND FY 2020-21 HELD ON 5 MAY 2022**

The Members were informed that the financial statements for 4 financial years being FY 2017-18, 2018-19, FY 2019-20 and FY 2020-21, were approved by the Members on March 10, 2022.

Thereafter, the Chairman apprised the Members that notice was issued on April 12, 2022 to conduct the annual general meeting of the Corporate Debtor ("**AGM**") on May 05, 2022 (through video-conferencing), for the aforesaid 4 years. Accordingly, the Members were further updated that prior to the MA meeting, earlier on the same day, AGMs for the 4 financial years were conducted by the Chairman. The aforesaid AGMs were concluded post approval of all scheduled business agendas.

The Members were informed that post conclusion of the AGM, various compliances are required to be done with statutory authorities such as intimation to stock exchanges, filing of annual returns with the Registrar of Companies ("**ROC**"), public announcement etc. In view of the scheduled dissolution of the MA at the end of the 18th meeting, it was proposed that the Members authorise the newly appointed directors – Mr. Vikash Rungta and Mr Sumit Chakraborty, either jointly or severally to carry out compliances related to the aforesaid AGMs.

The Members discussed the matter and passed the following resolution:

*"**RESOLVED FURTHER THAT** Mr. Vikash Rungta and Mr. Sumit Chakraborty, directors of the Company be and are hereby severally authorized to file, sign, verify, and execute all such e-forms, papers or documents as may be required and do all such acts, matters, deeds and things as may be necessary including updating the statutory registers and filing requisite forms, returns/documents on behalf of the company with the Ministry of Corporate Affairs and the Stock Exchanges with respect to the 39th, 40th, 41st and 42nd Annual General Meeting held on 05 May 2022 for complying with the provisions of Companies Act, 2013 and LODR Regulations including any statutory enactment and modifications thereto."*

9. **TO TAKE NOTE OF THE LEGAL OPINION OBTAINED BY RA REGARDING CORPORATE SECRETARIAL COMPLIANCES AND RA TO UNDERTAKE TO CARRY OUT ALL CORPORATE SECRETARIAL COMPLIANCES POST DISSOLUTION OF MA**

As decided in the 16th MA meeting, the Members had approved the following resolutions to carry out the implementation steps as envisaged in the approved resolution plan:

- Increase in Authorised Share Capital
- Conversion of non- sustainable debt of financial creditors to equity
- Issue of equity shares to lenders by conversion and in lieu of unsustainable portion of debt due to them.
- Selective Capital Reduction to reduce the shares (except that allotted to the RA) of the Company to NIL
- Cancellation of preference shares

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The outcome of the 16th MA meeting was filed with the stock exchanges on April 27, 2022.

Thereafter, the representatives of the RA have communicated that as per the legal opinion obtained by them, the April NCLT Order has not refused any waiver or permission with respect to "immediate delisting" of the Corporate Debtor.

Accordingly, the RA highlighted that as per the legal opinion procured by them, the April NCLT Order is a single window clearance with respect to all approvals required from stock exchanges regarding the implementation of the approved resolution plan and no further approval of regulatory authorities such as Stock Exchanges etc. would be required to implement any part of the Approved Plan.

Further, in addition the RA has also communicated that all necessary ROC compliances with regard to increase in authorized share capital, conversion of debt to equity, allotment of shares to lenders, selective capital reduction with respect to shares allotted to the lenders, cancellation of preference shares shall be undertaken by the RA upon ceding control of the Corporate Debtor in accordance with the legal opinion obtained by the RA and in compliance with the provisions of applicable laws, and no further action is required to be undertaken in this regard by the Monitoring Agency, the Chairman, or the lenders, with regard to the aforesaid resolutions passed by the Monitoring Agency in its 16th MA meeting. The way forward proposed by RA was noted and agreed upon by the other Members.

In view of the above, the RA stated that all corporate secretarial actions and stock exchange compliances shall be carried out by themselves in the requisite manner, upon taking control of the Corporate Debtor. Thereafter, the RA further clarified that no liability in nature of fee, fines and penalties, etc with regard to aforesaid corporate secretarial actions/ LODR compliances shall fall upon the Monitoring Agency, its Chairman and advisors or the lenders.

Thereafter, the RA has stated that, it shall indemnify and hold harmless each of the Members (including the Chairman), erstwhile resolution professional, Equilex and GT Restructuring Services LLP, and their respective affiliates, officers, directors, employees, counsels, advisors and agents ("**Indemnified Parties**") against any and all losses, liabilities, damages, costs and expenses (including, without limitation, fees and expenses of counsel on a full indemnity basis) which may be incurred, sustained or which may arise in or on the non-performance or non-observance of any of the undertakings on the part of the RA shared or given in the resolution plan or during the MA period.

Members took note of the same.

10. <u>TO APPROVE THE ALLOTMENT OF 50,00,000 EQUITY SHARES OF INR 10 EACH OF THE COMPANY TO THE RESOLUTION APPLICANT AND ITS NOMINEES</u>

The Members took note of the resolutions passed in the 16th meeting of the MA held on April 20, 2022 wherein the Members accorded their consent to offer, invite to subscribe for and to issue 50,00,000 (fifty lakhs) equity shares of INR 10/- (Indian Rupees Ten)

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each to S.S. NATURAL RESOURCES PVT LTD along with its nominees as stated below for a total consideration of INR 50,000,000/- (Indian Rupees Five Crore) in accordance with the approved resolution plan.

The Committee further took note that the RA has deposited an amount of INR 5,00,00,000/- (Indian Rupees Five Crores) towards allotment of the said 50,00,000 (fifty lakhs) equity shares in accordance with the resolution Plan, as approved by the Hon'ble National Company Law Tribunal, Kolkata Bench vide its order dated 04 September 2019("Approved Resolution Plan").

The Members discussed that as per the terms of the Approved Resolution Plan, the Company would allot 50,00,000 (fifty lakhs) equity shares of INR 10/- (Indian Rupees Ten) each to S.S. NATURAL RESOURCES PVT LTD along with its nominees against a consideration of INR 5,00,00,000/- (Indian Rupees Five Crore). The Members further discussed that in accordance with the procedure for allotment of equity shares of the Company as applicable under the relevant provisions of the Companies Act, 2013, Form PAS-3 is required to be filed with the Ministry of Corporate Affairs within a period of 30 (thirty) days of the allotment of the equity shares of the Company.

The Members discussed the matter and passed the following resolutions:

*"**RESOLVED THAT** consent of the Monitoring Agency constituted as per the resolution plan for Ramsarup Industries Limited ("Company") submitted by the consortium of S.S. Natural Resources Pvt Ltd and Shyam SEL & Power Limited ("Resolution Applicants" or "RA") duly approved by the committee of creditors of the Company and the Hon'ble National Company Law Tribunal, Kolkata Bench vide order dated 4th September 2019 ("Resolution Plan") and pursuant to Sections 23, 42, 62(1)(c) and other applicable provisions, if any, of the Companies Act, 2013 read with the Companies (Share Capital and Debentures) Rules, 2014 and Companies (Prospectus and Allotment of Securities), Rules 2014 and other rules made thereunder, to the extent applicable (including any statutory modification thereto or re-enactment thereof for the time being in force), Section 30(2)(e) and other applicable provisions, if any, of the Insolvency and Bankruptcy Code 2016 and the rules framed thereunder (including any statutory modification thereto or re-enactment thereof for the time being in force) ("Code"), the Memorandum and Articles of Association of the Company, the consent of the Monitoring Agency be and is hereby accorded to allot 5,000,000 (Fifty Lakh) equity shares at a value of INR 10/- (Indian Rupees Ten Only) per share amounting to INR 50,000,000/- (Indian Rupees Five Crore Only) to the persons mentioned below ("Allottees") on private placement basis.*

SN	Name of the Proposed Allotees	No. of Equity Shares to be allotted
1	S S Natural Resources Pvt Ltd	49,99,600
2	Brij Bhushan Agarwal	96
3	Mahabir Prasad Agarwal	96
4	Sanjay Agarwal	48
5	Sitaram Agarwal	40
6	Deepak Agarwal	60

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7	Dilipp Agarwal	60
Total no of shares		**50,00,000**

The Members discussed the matter and passed the following resolutions:

*"**RESOLVED FURTHER THAT** the said Equity Shares so issued and allotted to the RA pursuant to the Resolution Plan shall be in dematerialized form, fully paid-up and shall rank pari passu in all respects with the existing fully paid up Equity Shares of the Company."*

*"**FURTHER RESOLVED THAT** Mr. Vikash Rungta and Mr. Sumit Chakraborty, directors of the Company be and are hereby severally authorized to issue allotment letters to the persons mentioned above, make appropriate entries to reflect the allotments in the statutory registers maintained by the Company, issue instructions to the depository participant of the Company to credit the Equity Shares in the respective DEMAT accounts of the persons mentioned above and to sign and submit all documents on behalf of the Company, activation of new ISIN for the Equity Shares allotted to the Allottees by making necessary applications with the depository(ies), as may be required and make all filings in this regard."*

*"**FURTHER RESOLVED THAT** Mr. Vikash Rungta and Mr. Sumit Chakraborty, directors of the Company be and are hereby severally authorized to sign, file, verify and execute all such e-Forms including e-Form PAS-3 with the jurisdictional Registrar of Companies, or any other forms, papers, filings, writings and/ or documents as may be required to be filed with the stock exchanges (where the Company is listed) and the Securities and Exchange Board of India or any authority to report the allotment of Equity Shares to the financial creditors and to do such other acts, deeds, matters and things and to execute such documents and writings as may be considered necessary, usual, proper, expedient or incidental in connection with the allotment of the aforesaid equity shares or to give effect to the above resolutions."*

11. **TO APPROVE CHANGE OF THE SIGNATORY IN THE AXIS BANK ACCOUNT # 918020018303207 AND SHARE SUBSCRIPTION ACCOUNT # 922020023291611 FROM ERSTWHILE RP TO NOMINEE OF RA**

The Members were apprised that the current account 918020018303207 maintained with Axis Bank, BBD Bagh Branch was functional during the CIRP period and Mr. Kshitiz Chhawchharia is the sole authorized signatory in the aforesaid account.

Further, Mr. Kshitiz Chhawchharia is the sole authorized signatory for the Share Subscription account # 922020023291611.

The Members are requested to discuss the change of signatory for both the aforesaid bank accounts of the Company.

The Members were intimated that the RA has proposed the below mechanism for the new authorized signatory of the aforesaid bank account –

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S. No.	Signatory	Mode of Operations
1	Mr. Mr Vikash Rungta	Any one of the 2, jointly with any one of the 2 stated in #2
	Mr. Gopal Krishna Sharan	
2	Mr Mahabir Prasad Agarwal	Any one of the 2, jointly with any one of the two stated in #1
	Mr Deepak Kumar Agarwal	

The Members discussed the matter and passed the following resolution unanimously:

*"**RESOLVED THAT** the below given Personnel from the team of successful resolution applicant are jointly authorized to act as Bank Signatories of the Axis bank account 918020018303207 and Share Subscription account # 922020023291611 of the Company"*

S. No.	Signatory	Mode of Operations
1	Mr. Mr Vikash Rungta	Any one of the 2, jointly with any one of the 2 stated in #2
	Mr. Gopal Krishna Sharan	
2	Mr Mahabir Prasad Agarwal	Any one of the 2, jointly with any one of the two stated in #1
	Mr Deepak Kumar Agarwal	

In light of the discussions, it was decided in the MA meeting that the agenda for change in signatories would be recorded after the agenda for appointment of directors. Thus, the same has been modified.

12. TO TAKE ON RECORD DEEMED RESIGNATION OF THE SUSPENDED DIRECTOR(S) OF THE COMPANY

In accordance with the provisions of the Approved Resolution Plan, the following individual(s) being the suspended director(s) of the Company shall be deemed to have resigned with immediate effect simultaneously with the appointment of the abovenamed directors:

Name	Director Identification Number (DIN)
Mr. Aashish Jhunjhunwala	00351451

The Members took note of the same and accordingly the following resolutions were passed:

*"**RESOLVED THAT** according to the terms of the resolution plan for Ramsarup Industries Limited ("Company") submitted by the consortium of S.S. Natural Resources Pvt Ltd and Shyam SEL & Power Limited duly approved by the committee of creditors of the Company and the Hon'ble National Company Law Tribunal, Kolkata Bench vide order dated 4th September 2019 ("Resolution Plan"), as being implemented by consortium of S.S. Natural Resources Pvt Ltd and Shyam SEL & Power Limited, the Monitoring Agency constituted as per the Resolution Plan hereby takes on record, the cessation of the existing directors of the company i.e. Mr. Aashish Jhunjhunwala (DIN*

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00351451), with effect from the Effective Date i.e. 05 May 2022 in accordance with the terms of the Resolution Plan".

***"RESOLVED FURTHER THAT** Mr. Vikash Rungta and Mr. Sumit Chakraborty, directors of the Company be and are hereby severally authorized to file, sign, verify, and execute all such e-forms, papers or documents as may be required and do all such acts, matters, deeds and things as may be necessary and incidental to take all necessary actions for giving effect to the above resolutions and deemed resignation of all the directors of the now dissolved Board of Directors of the Company, including updating the statutory registers and filing requisite forms, returns/documents with the Ministry of Corporate Affairs in relation to vacation of office of the existing directors and any other authority, as applicable."*

13. TO TAKE NOTE OF COMPLETION OF IMPLEMENTATION OF APPROVED RESOLUTION PLAN

The Members took note that pursuant to the approved resolution plan as approved by the CoC and Hon'ble NCLT vide its order dated September 04, 2019, all the implementation steps related to payment to stakeholders and transfer of control to the resolution applicant as per the Approved Resolution Plan of consortium of S.S. Natural Resources Pvt Ltd and Shyam SEL & Power Limited and as decided by the Monitoring Agency, have been completed on the Completion Date, i.e. May 05, 2022.

The RA has undertaken that it shall ensure that all necessary secretarial compliances and other filings in this regard shall be completed by them in due course and no liability in this regard shall fall upon the MA, its Chairman or the lenders.

The Members are requested to take note of the same.

14. TO TAKE NOTE OF HANDOVER OF CUSTODY AND CONTROL OF THE COMPANY TO THE RECONSTITUTED BOARD

The Members noted that the implementation of approved resolution plan had been completed, and thereafter the custody and control of the Corporate Debtor was handed over to the Reconstituted Board.

It was noted that all the relevant documents relating to the process and in relation to the Company would be handed over to the Reconstituted Board and the representatives of resolution applicant.

The Chairman requested the Members to note that being the erstwhile resolution professional, copies of certain documents are to be retained by him in accordance with prescribed Insolvency and Bankruptcy Board of India requirements. All the other data/documents (to the extent available with the Chairman and his team) would be made available to the Reconstituted Board and the representatives of SS Natural Resources P Ltd.

The Members took note of the same.

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15. TO TAKE NOTE OF THE CONTINUED APPOINTMENT OF THE EX-RP AND GTRS TO SUPPORT THE SRA POST IMPLEMENTATION OF RESOLUTION PLAN AND HANDOVER OF THE DOCUMENTS

The Members were apprised that the RA has requested the Ex-RP, GT Restructuring Services LLP and Equilex to continue providing their support to the RA upto June 2022, or extended as mutually agreed, post implementation of Resolution Plan and handover of the documents.

It is stated that the terms of the commercials of the Ex-RP, GT Restructuring Services LLP and Equilex have been discussed mutually between RA and GT team and noted in agenda item A-5. It was also highlighted that the legal costs incurred or to be incurred by the Chairman pursuant to such appointment shall also be borne by the RA.

The Chairman, thereafter, requested the lenders members to specify in case they have any objections with regard to the aforesaid appointment. Representatives of Axis Bank and PNB stated that do not have any issues with regard to the aforesaid appointment.

The Members took note of the same.

16. TO DISCUSS AND TAKE ON RECORD THE MINUTES OF THE 18TH MA MEETING HELD ON 05 MAY 2022

The Chairman informed the Members that post the conclusion of 18th MA meeting, the MA is scheduled to be dissolved and as such no subsequent meeting of the same can be held to take record of the minutes of the 18th MA meeting.

It was further mentioned that as a good practice the minutes of the 18th meeting should be adopted in the 18th meeting itself subject to confirmation by email from the Members in no more than 2 working days from the time of circulation of the minutes. Post receipt any comments/ observations from the Members, the minutes shall be amended and re-circulated.

The Members agreed to the approach and provided their consent to revert on the minutes within 2 working days, which would be considered as the minutes being adopted by the MA.

Thereafter, the representatives of the RA stated that the suitable applications against OMPL, SREI and Mr. Ashish Jhunjhunwala are required to be filed in light of the non-compliance of the order of the Hon'ble NCLT dated September 04, 2019.

Mr. Sharma, representative of the RA, stated that they would seek expert advice in the matter and thereafter proceed with making adequate filings in NCLT. The Members noted and agreed with the approach.

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17. **DISSOLUTION OF THE MA PURSUANT TO THE COMPLETION OF THE IMPLEMENTATION OF THE APPROVED RESOLUTION PLAN**

The Members were informed that pursuant to the approved resolution plan as approved by the CoC and Hon'ble NCLT vide order its dated September 04, 2019, all the steps of the implementation stated in the approved resolution plan submitted by consortium of SS Natural Resources P Limited and Shyam SEL Limited have been completed on the Completion Date, i.e. May 05, 2022, within a period of 30 days in compliance with the April NCLT Order dated April 06, 2022.

The Chairman congratulated the RA for completion of successful handover and also thanked all the Members for their support and co-operation.

Accordingly, the MA stands dissolved.

The Members took note of the same

There being no other agenda, the meeting was concluded with vote of thanks.

DATE: May 05, 2022

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Director / Authorised Signatory

Annexure "R-16"

WEST BENGAL POLLUTION CONTROL BOARD
Paribesh Bhawan, 10A, Block LA, Sector III
Salt Lake City, Bidhan Nagar, Kolkata – 700 106, INDIA
Website : www.wbpcb.gov.in, e-mail : wbpcbnet@wbpcb.gov.in

Category of the Industry : RED
Application Type: CTO
CTO No.: WBPCB/4413695/2023 **Date : 18/03/2024**

Consent to Operate (CTO) under Section 25 & 26 of the Water (Prevention and Control of Pollution) Act, 1974 as amended and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 as amended.

Reference: Application No.: 4413695

The West Bengal Pollution Control Board (hereinafter referred to as State Board) under the provisions of Section 25 & 26 of the Water (Prevention and Control of Pollution) Act, 1974 as amended and Section 21 of the Air (Prevention and control of Pollution) Act, 1981 as amended, and Rules and Orders made thereunder hereby grants Consent to **Ramsarup Industries Limited** (hereinafter referred to as Applicant) for its unit located at **PO-Rakha Jungle, PS-Kharagpur(L), Dist-Paschim Mednipur, Pin-721301** for the period from **18/03/2024** to **28/02/2029** to operate the industrial unit/project and to discharge liquid effluent and gaseous emission from the premises / land of the industrial unit/project, in accordance with the conditions as mentioned below, provided that on any day at any instance the quantity and quality of liquid discharge and gaseous emission shall not exceed the permissible limit as specified in this consent letter and in the Environment (Protection) Act, 1986 and Rules thereunder, as amended.

Breach of the conditions and / or failure to comply with the directions as mentioned below shall render the industry/project liable for prosecution under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 as amended and Section 21 of the Air (Prevention and control of Pollution) Act, 1981 as amended.

The State Board reserve the right to revoke, withdraw or make any reasonable variation / change / alter the conditions of this consent letter giving one month's notice to the industry.

Conditions :

1 This Consent is valid for the following activities :

Sl.No	Name of Activity/Products/By-products	Production Capacity (Per Month)
1	Captive Power using 54 TPH WHRB	12.5 Megawatt
2	Sponge Iron (DRI)	12500 Metric Tonnes/Month

2 The industry shall remain responsible for quantity and quality of liquid effluent and air emission.

3 Daily waste water generation and discharge shall not exceed :

No. of outlets	Source of Waste Water	Quantity in Kilo Liters/day	Place of discharge

4 To bring into any altered or new outlet / outfall or to change the place of discharge, the industry shall have to inform the Board and obtain prior permission of the Board in this effect.

5 The industry shall provide comprehensive facility for treatment of industrial liquid waste and domestic liquid waste (sewage, sullage and liquid effluent generated from canteen), and operate and maintain the same continuously so that the quality of final effluent conforms to the Standard as given below:

Outlet No.	Nature of effluent	Parameters and standard			Frequency of sampling
		Parameters	Standards	Unit	

NOTARY KOLKATA CHHAYA NARAYAN PANDEY REGN. NO. 10324/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Provisions shall be made to install sensor-based Water Quality monitoring system and flow meter to share the information with the state board on a Real Time basis.

6 Daily water consumption for the following purposes shall not exceed

SL NO.	Purpose of Water Use	Quantity (KL/Day)
1.	Cooling	2000.0
2.	Domestic	30.0

7 The Industry shall install suitable digital device for measuring the volume of water consumed for different purposes as mentioned above giving correct result to the satisfaction of the State Board. The device shall be able to provide information to disseminate the quantity on a real time basis.

8 All the stacks connected to various sources of emissions must be designated by numbers.

9 The industry shall install comprehensive pollution control equipment and operate and maintain the same to conform to the standard as given below:

Stack height from ground level (m	Stack attached to emission sources	Capacity of emission source	Cons up-Unit	Fuel details		Control system(if any)	Concentrations of parameters not to exceed							Frequency of sampling	Remarks
				Fuel used	Quantity		PM(mg/Nm3)	CO(%)	Acid Mist(mg/Nm3)	Pb(mg/Nm3)	SO2(mg/Nm3)	NOX (mg/Nm3)	Others		
55	Kilns	500	Metric Tonnes/Day	Coal	12650 Metric Tonnes/Month		50							Quarterly	one 500TPD DRI Kiln attached with WHRB of 54 TPH and ESP
45	Cooler exit	0	Metric Tonnes/Day		0 Metric Tonnes/Day		50							Quarterly	Stack attached to Cooler discharge,product house, raw material preparation section,intermediate bunker provided with bag filter

WEST BENGAL

NOTARY KOLKATA SHIVA NARAYAN PANDEY REGN NO. 13024/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director/Authorised Signatory

10 The industry shall provide ports in the stack(s) and other necessary permanent facilities such as ladder, platform etc. for monitoring / sampling the air emissions and the same shall be made available for inspection and use by the State Board's staff as well as State Board's authorized agencies.

11 Waste generation, treatment and disposal shall be as specified below :

S.No	Description of Waste	Quantity	Treatment and Disposal
1	Dolochar	3960 Metric Tonnes/Month	To be used as fuel in FBC boiler

The Industry shall obtain Authorisation for waste and also register for EPR wherever applicable.

12 The industry shall take adequate measures for control of noise level from its own sources within the premises within the limit given below :

Time	Limit in dB (A) Leq
Day time (06 a.m. to 10 p.m.)	65
Night time (10 p.m. to 06 a.m.)	55

Noise barriers should be installed if the Noise Level is found to be exceeding the desired levels.

13 The industry shall at all times maintain good house-keeping and control pollution (including fugitive emissions) from all sources to maintain clean environment in & around factory premises and in surrounding areas.

14 The Industry shall bring about at least 33% of the total land area under the tree cover.

15 The Industry shall provide sufficient alternate electric power source like Green DG or Storage Battery System etc. to operate all pollution control facilities. In absence of such alternate power source, the production shall be stopped/controlled to conform to the conditions of the Consent.

16 The industry shall install a separate energy meter showing the consumption of energy for operation of pollution control devices and shall install suitable device for measuring the volume of water consumed for different purposes as mentioned in Sl.No. 3.

17 The Industry shall provide drainage system for discharge of industrial and domestic effluent and a separate drainage system for storm-water.

18 The industry shall maintain a separate register showing consumption of chemicals used in pollution control systems.

19 The Industry shall get the samples of hazardous wastes / leachates analysed at least once in a year from a laboratory recognised by the West Bengal Pollution Control Board and ensure that they conform to the limits stipulated. Test reports shall be sent to the Board.

20 The Industry shall submit the Environmental Statement Report for the financial year ending 31st March of the current year in the prescribed form (Form V) as required under the provisions of Rule 14 of the Environment (Protection) [Second Amendment] Rules 1992 by 30th September of every year, to the WBPCB.

21 The Industry shall allow the officers of the State Board to enter into the premises of the unit at any reasonable time to inspect the pollution control systems and shall provide adequate and safe facility for collection of air, wastewater and solid waste samples for monitoring by the State Board as well as by authorized agencies of the State Board, as and when required by them.

22 The industry shall maintain an Inspection Book in the factory premises which shall be made available to inspecting officers of the State Board for inspection, review and to write down any direction or observation as is deemed necessary during the inspection.

23 The Industry shall furnish to the State Board all information in respect of quality, quantity, rate of discharge, place of discharge of liquid effluent and air emission.

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For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

24 The Industryshall maintain adequate number of qualified and trained personnel among its staff for propermaintenance and operation of the effluent treatment and/or emission control devices and for overallenvironment management of the industry.

25 The Industry shall have to make registration for the use of groundwater if any, with State Water Investigation Directorate (SWID).

26 The Industry shall intimate to the State Board immediately of any occurrence or apprehension of occurrence of discharge of any poisonous, noxious or pollutants in excess of quality as well as quantity as mentioned earlier to any receiving water body/receiving system or to atmosphere owing to accident or other unforeseen incident/event including natural disaster. The Applicant shall (i) take all steps adequate to prevent such accident discharge / release of poisonous, noxious or pollutants and to limit their consequences to persons and the environment, (ii) provide to the persons working on the site with the information, training and equipment including antidotes necessary to ensure their safety and mitigate the accidental release of poisonous noxious or pollutants to the environment.

27 If the Industry is using Diesel Generator set or generating any other hazardous waste, it should install a Digital Display Board to discriminate all information as stipulated in this regard.

28 The industry shall make an application to the State Board in the prescribed form for renewal of the consent at lease 120 (one hundred & twenty) days before the date of expiry of this Consent.

29 The industry shall not make any alteration / expansion / modification in the existing manufacturing process and equipment, pollution control system and shall not alter or bring in any new outlet/outfall or stack or change the place of discharge, without prior approval of the Board.

30 The industry shall comply with all applicable Environmental Acts and Rules.

31 The Industry shall comply with the provisions of relevant Waste Management Rules and also submit Annual Returns / Manifests on regular basis.

32 Concealing factual data or submission of false or fabricated data/information may result in revocation of Consent to Operate and attract action under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981.

Special Conditions:

1.Gaseous Emission levels including secondary fugitive emission from all the sources shall be controlled within the latest permissible limit issued by the Ministry vide G.S.R. 414 (E) dated 30/05/2008.

2.The unit shall maintain Zero effluent discharge.

3.Dry Fog System and mist cannon shall be provided for controlling fugitive emission.

4.Good house-keeping shall be maintained.

5.The occupier shall comply with the National Air Quality Emission Standards issued by the Ministry vide G.S.R.no. 826(E) dt 16/11/2009.

6.The unit should obtain all the statutory licenses as applicable from other concerned Govt. Department.

7.All internal roads shall be paved.

8.Green belt shall be developed as per the condition imposed in the EC dt.03.10.2006.

WEST BENGAL

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13824/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

9.The unit shall operate in compliance with the conditions imposed in the EC dt.03.10.2006.

Any violation of the aforesaid conditions shall entail cancellation of this Consent for Operate.

For and on behalf of West Bengal Pollution Control Board

R Sinha

18/03/2024

Senior Environmental Engineer
Operation & Execution Cell

WEST BENGAL

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 13624/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure "R-17"

WEST BENGAL POLLUTION CONTROL BOARD

Paribesh Bhawan, 10A, Block LA, Sector III , Salt Lake

Kolkata 700 098,INDIA; Ph 335 9088,& Fax : (0091) (33) 335 8073

Application for Consent to Operate for Red & Orange Category Industries

Application for Consent to Operate for discharge of effluent, *under Scction 25 and Section 26* **of Water (Prevention and Control of Pollution) Act, 1974 and emission/continuation of emission** *under Section 2l* **of the Air (Prevention and Control of Pollution) Act, 1981.**

Application No. : 4413695 **Date of Submission : 06/11/2023**

Category : RED

Industry Type : Ferrous and Non-ferrous metal extraction >1 MT/hr involving different furnaces through melting, refining, reprocessing, casting and alloy making and including metal extraction from Lead [including gold and silver smithy using greater than 1.0 litre sulfuric acid / nitric acid per month, forging with coal fired boilers and smelting, lead, zinc and other metals]

From : Ramsarup Industries Limited,

Ramsarup Industries Limited, PO-Rakha Jungle, PS-Kharagpur(L), Dist-Paschim Mednipur

(Name and Address of the Unit)

To : The .....

.....

.....

.....

Sir,

1. I/We hereby apply in the application form for both Consent to Operate (Fresh/Renewal) (i) under sub-section (2) of Section 25 and Section 26 of Water (Prevention and Control of Pollution) Act, 1974 to make discharge from land/premises and (ii) under sub-section (2) of Section 2l of the Air (Prevention and Control of pollution) Act, 1981 to make emission from a proposed industrial plane owned by Sumit Chakraborty for a period upto 06/11/2023

2. The Annexure, Appendices, other particulars and plans are attached .
3. I/We further declare that the information furnished in the application form, Annexure/Appendices and plans is correct the best of my/our knowledge.
4. I/We hereby submit that in case of a change either or a point or the quantity of discharge or the quantity of emissin, a fresh application for consent shall be made and until such consent is granted, no change shall be made.
5. I/We hereby agree to submit to the board, application for renewal of consent two months in advance of the date of expiry of the consented period, if to be continued there after.
6. I/We undertake to furnish any other information within seven days of its being called for by the State Board.
7. I/We enclose herewith Challan of Rs. deposited at Branch on in favour of **West Bengal Pollution Control Board** being the 'Consent to Establish application fee'.

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO 10824/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director/Authorised Signatory

Date:.....

(Signature.....)
Seal.....

Name of the applicant : Sumit Chakraborty
Designation : Director
Application on behalf of : Ramsarup Industries Limited
Address of applicant : I-17, Baishnabghata, Patuli Township, Panchasayar, Kolkata, 700094

PART - A : (GENERAL INFORMATION)

01. Full address of the proposed factory (mentioning Post Office, : Ramsarup Industries Limited, PO-Rakha Jungle, PS-Kharagpur(L), Dist-Paschim Mednipur Police Station, local body with Ward No. etc.)

Telephone : 033-40164080 Fax : -
Police Station : Kharagpur (Local) P. O. & Pin Code : Rakhajungle 721301
LocalBody : Municipality Ward No : 11
J.L. No : 130, 131, 134, to 139 Plot No. & Dag No. :

02. Full address of the Registered Office/City Office : I-17, Baishnabghata, Patuli Township, Panchasayar, Kolkata, 700094

Telephone : 033-40164080 Fax : -
E-mail : nawnit.sharma@shyamgroup.com Website :

03. a) Size of industry (Large / Small[]) : Large
b) Power Supply Agency at the factory premises
[viz, C.E.S.C/W.B.S.E.B/Others /specify)] : WBSEDCL

04. Year of commissioning of the industry : November/2023

05. (i) Number of persons engaged by the factory : 655
a) Workers/Labour (including contract engagements : ,,,,,,,,,,,,,,,,,,,,
b) Management Staff : 75
c) Others(Night watchman ete.) : 20
(ii) a) No. of working hour per day : 24
b) No. of working day per year :
,yes,yes,yes,yes,No,yes,yes,yes,yes,yes,yes,yes,yes,yes,No,yes,yes,yes,yes,yes,yes

06. Population residing in the Quarters / Colony, if applicable :

07. Gross capital investment on land, building, plant & machinery Lakhs.0
excluding capital investment on pollution control system the unit till the date if application

(To be supported an undertaking affidavit, annual report or certificate from a Chartered Accountant).

08. Give the list of raw materials (including fuel) with consumption per month
(if the space provided below is for inadequate, please attach :

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. T-3629/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

separate sheet giving information using the same format).

SL NO.	Name of Raw Materials(including fuel)	Quantity per Month
1	Quarzite	1067 Metric Tonnes/Month
2	Limestone	2700 Metric Tonnes/Month
3	Iron Ore	47133 Metric Tonnes/Month
4	Coke	12892 Metric Tonnes/Month
5	Dolomite	2142 Metric Tonnes/Month
6	Coal	12650 Metric Tonnes/Month

09. List of products and by-products manufactured :
(if the space provided below is for inadequate, please attach separate sheet giving information using the same format).

Name	Production Capacity (Per Month)	Average Production (Per Month)
Pig Iron	2608 Metric Tonnes/Month	2608 Metric Tonnes/Month
Hot Metal	19008 Metric Tonnes/Month	19008 Metric Tonnes/Month
Dolochar	3960 Metric Tonnes/Month	132 Metric Tonnes/Day
Granulated Slag	5458 Metric Tonnes/Month	182 Metric Tonnes/Day
Sponge Iron (DRI)	12500 Metric Tonnes/Day	416.66 Metric Tonnes/Day
Power	20 MegaWatt Hour	20 MegaWatt Hour

PART - B : INFORMATION REQUIRED IN CONNECTION WITH PERVENTION AND CONTROL OF WATER POLLUTION

10. Water consumption for different uses

Type of Use	Sources of supply (Strike out which if/are not applicable)	Quantity (M3/day)
Local body	Domestic purpose	530 KLD
Local body	Cooling water	6600 KLD

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13824/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

11. **Information regarding liquid waste discharged.**

Do not give information on storm water discharged.

Sources (Place of generation)	Quantity(M3/day)	Place of discharge)

(If the space provided above inadequate, please attach separate sheet giving information the same format).

(**Note:** Please attach a diagram showing liquid waste flow from its place of generation upto the of final discharge.)

12. **Whether facilities available for liquid waste treatment : Yes/No**
if yes.
(a) Quantity of Liquid waste reted :
(b) Describe the facility along with a diagram :
(Please attach separate sheet)

13. **Attach latest `analysis report` of the Board or Board's recogzised laboratory showing quality of liquid waste discharge (before and after treatment) :**

14. **Whether water meter at water intake points installed : No,**
15. **Whether energy meter of E.T.P. installed :**
16. **Whether waste water flow measuring device installed : No**

PART - C : INFORMATION REQUIRED IN CONNECTION WITH PERVENTION AND CONTROL OF Air POLLUTION

17. **Details of source of emission--**

(A) **(From manufacturing process) :.....**
Name the unit operation causing emission of pollutants
(Please attach additional sheet if required) :

Type	Details/Capacity/Unit/NA

(B) **(From Furnaces, Heaters,Kiln etc.)**

Type of Furnace/Heaters/Kiln	No. of Units	Capacity of each unit	Fuel used (nature & quantity) in individual Furnace

(C) **(From Boilers)**

Number of boilers	Capacity of each boiler	Fuel used (nature & quantity) in individual boilers

NOTARY KOLKATA BIKASH KUMAR PANDEY REGN NO 13024/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

D. (From Diesel Generator Sets)

No. of DG sets	Capacity of each DG sets	Height of the stack above DG sets	Height of the DG room
2	1000 KVA	15 Meters	15

E. (Noise pollution control measures)

Acoustic enclosure/acoustic treatment of DG room	Exhaust mufflet
Yes	Yes

17. Emission Details.

Emission Type	Stack Attached To	Height of the Stack	Stack Diameter	Fuel Consumption	Quantity	Gas Quantity(m^3/hr))	Fuel	SMF	Plant Capacity	Consp-Unit	Stack Draft Type	Remarks	Pollution Control Equipments
Flue Gases Stack	Furnace	50	Mts	BF Gas	Metric Tonnes/Day	0	0	Yes	34.00	Metric Tonnes/Hour	ID Fan	Blast Furnace Stack	Bag Filter
Flue Gases Stack	Furnace	50	1.9 Mts	coke	Metric Tonnes/Day	0	0	Yes	350	Cubic Meters/Hour	ID Fan	Blast Furnace Stack	Electrostatic Precipitator
Process Stack	Kilns	45	1.98 Mts	Coal	Metric Tonnes/Day	0	0	Yes	500	Metric Tonnes/Day	ID Fan		Electrostatic Precipitator
Flue Gases Stack	Boiler	55	1.6 Mts	Waste Gas	Metric Tonnes/Day	0	0	Yes	54	Metric Tonnes/Hour	ID Fan	WHR Boiler	Electrostatic Precipitator

If the space provided above is inadequate, please attach separate sheet giving information using the same format

(Attach latest `analysis report` of the Board's recogzised laboratory)

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13024/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director/Authorised Signatory

PART - D : OTHER INFORMATION

19. Give details regarding solid waste

Type of Waste	Description of waste (Lump/Paste/Dust, etc.)	Quantity per month	unit	Method of disposal
Metal scrap & slag	Mixed waste (iron/scrap/slag)	500	Metric Tonnes/Day	Recycled/sold out/ dumped in land fills

20. Attach a separate sheet (not applicable to small scale unit) Providing a brief write-up and schematic flow sheet of the manufacturing process clearly showing sources of generation of solid (hazardous and, non-hazardous) liquid and gaseous wastes :

21. Attach layout plan showing the different outlets for liquid waste discharge :

22. Other relevant information, if any :
(Please attach separate sheet if required)

Seal Signature of Applicant.....

Check-list of accompaniments: **[Please put tick mark (-)as applicable]**

[] The THIRD PART of the challan (in original) as proof of deposition of consent application fee
[] Undertaking/Affidavit/Andull Report/certificate from a Chartered Accountant (Item No.07)
[] Additional sheet against Item No.08
[] Additional sheet against Item No.09
[] Additional sheet against Item No.11 (b)
[] Additional sheet against Item No.13
[] Additional sheet against Item No.17 (A)
[] Additional sheet against Item No.18
[] Additional sheet against Item No.20
[] Additional sheet against Item No.21
[] Additional sheet against Item No.22

Notes : => All enclosures, documents and analysis reports of Board's recogzised laboratories must be signed/counted-signed by the applicant with official seat.

=> All subsequent connection in the application form and enclosures should be signed by the applicant or any person authorised by tln applicant.

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO. 15024/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

=> Thc form is to be filled prefenbly in by type written or logiblc hand writing



For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

West Bengal Pollution Control Board

Online Consent Management & Monitoring System

West Bengal Pollution Control Board
(Department of Environment, Govt. of West Bengal)

Welcome Ramsarup Industries Limited

Date : 29-12-2023

On-line Payment Receipt

Receipt No.	231229173165312
Depositor Name	Sumit Chakraborty
Bank Id.	NA
Bank Name.	
Application No.	4413695
Name and Address of Industry	Ramsarup Industries Limited, Ramsarup Industries Limited, PO-Rakha Jungle, PS-Kharagpur(L), Dist-Paschim Mednipur, Anandapur, Paschim Medinipur
Name of Regional Office	Haldia Regional Office
Applied For	CTO - both - renew
Payment Date	Fri Dec 29 11:53:10 IST 2023
Payment Details	
Total Amount Paid (Rs.)	2869831.00
Transaction Status	

Please click on proceed button after payment and don't pay again if "make payment" is available till amount refunded to the respective account

proceed

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NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13624/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure "R-18"

By Speed Post/Online

F. No. IA-Z-12011/16/2023-IA-I (M)
Government of India
Ministry of Environment, Forest and Climate Change
(I.A. Division)

Indira Paryavaran Bhavan
Jor Bagh Road, Aliganj
New Delhi-110 003
E-mail: bhardwaj.adiraju@gov.in

Dated: 23rd August, 2023

Sub: Show-Cause Notice and Directions under Section 5 of Environment (Protection) Act, 1986 for illegal construction by "Integrated Steel Plant at Industrial Estate Kharagpur, District Paschim Medinipur, West Bengal of M/s Ramsarup Lohh Udyog Limited" - reg.

Ref: i. Ministry's EC letter No. J-11011/1229/2006-IA-II (I) dated 03.10.2006.
ii. Ministry's EC letter No. J-11011/14/2008-IA II(I) dated 03.06.2009.
iii. Complaint dated 30.06.2023 from Swami Vivekananda Mission Trust.
iv. Ministry's letter dated 19.07.2023 seeking factual report from RO, Bhubaneswar
v. Monitoring report submitted by RO, Bhubaneswar vide letter 102-494/14/EPE/37 dated 16.08.2023.

WHEREAS, Environmental Clearance (EC) was granted to **M/s. Ramsarup Lohh Udyog Limited,** for the 'Integrated Steel Plant at Industrial Estate Kharagpur, District Paschim Medinipur, West Bengal by M/s Ramsarup Lohh Udyog Limited' vide letter No. **J-11011/1229/2006-IA-II (I) dated 03.10.2006** and its modernization-cum-expansion granted vide letter No. **J-11011/14/2008-IA II(I) dated 03.06.2009**, subject to implementation of the various conditions and environmental safeguards contained therein, and

2. WHEREAS, a complaint vide reference no. **SVMT/23-24/19** dated **30.06.2023** was received in the Ministry against M/s Ramsarup Industries Limited, West Bengal regarding *"Violation of EIA Notification 2006-Commencement of construction work of Sinter Plant without getting Environmental Clearance & Consent to establish (NOC) and hiding the information, concealing factual data or submitted the false/fabricated data to obtain Transfer EC & Expansion ToR by the industry M/s ramsarup Industries Limited at Industrial Estate Kharagpur, P.O. Rakha Jungle, P.S. Kharagpur, District-Paschim Medinipur in West Bengal"*.

3. WHEREAS, the status of the matter was reviewed in the Ministry on the basis of information available on the PARIVESH portal about the project. Accordingly, the status of clearances associated with the project is as given below:

i. Environmental Clearance (EC) was granted to the project 'Integrated Steel Plant at Industrial Estate Kharagpur, District Paschim Medinipur, West Bengal by M/s Ramswarup Lohh Udyog Limited' by the Ministry vide letter No. J-11011/229/2006-IA.III dated **03.10.2006**.

ii. Modernization-cum-expansion was granted to the extant project vide letter J-11011/141/2008-IAII(I) dated **03.06.2009**.

iii. ToR Application for expansion of the project was received on PARIVESH portal on **24.03.2023** with Proposal Number IA/WB/IND1/423132/2023 entitled "Proposed

NOTARY KOLKATA SHIVAM NARAYAN PANDEY REGN NO. 13824/2019 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Expansion-cum-Modification of existing steel plant at Industrial Estate Kaharagpur, P.O. Rakha Jungle, P.S. Kaharagpur, District-Paschim Medinipur in West Bengal". EDS was raised on the ToR application, which remains pending in the absence of response from the PP.

iv. Application for EC transfer was received in the Ministry vide letter J-11011/141/2008-IA.II(I) dated **25.05.2023** on PARIVESH portal with proposal number IA/WB/IND/294044/2022 titled, "Change in Company name in the Environmental Clearances (EC) for Integrated Steel Plant at Industrial Estate Kharagpur, District - Paschim Medinipur, West Bengal from M/s Ramswarup Lohh Udyog Limited to M/s Ramsarup Industries Limited". EDS was raised and the response remain pending with PP.

Further, the evaluation of KML file of the project available on PARIVESH portal w.r.t satellite imagery dated 2nd May 2023 available on Google Earth indicate towards recent construction activity in the plant premises.

4. WHEREAS, the Joint inspection carried out by the Regional Office (RO) of this Ministry at **Kolkata** along with Regional Office of the Ministry at **Bhubaneswar** on **04.08.2023** for ascertaining alleged illegal construction activity as reported by the complainant. The said report was submitted to the Ministry vide letter dated **16.08.2023 (copy enclosed).**

5. WHEREAS, the joint report submitted for the project has been examined by the Ministry. The perusal of the report inter-alia states the following observations of RO Bhubaneswar:

i. *Project proponent vide letter dated 08.11.2017 informed that plant had been under suspension since November, 2010 and no production has been carried out from May/June, 2010.*
ii. *Repairing and maintenance activity in DRI and Blast Furnace were observed.*
iii. *New construction activity at initial stage at the proposed place of Sinter plant as per layout available in PARIVESH w.r.t Application No. IA/WB/IND1/423132/2023 was also observed.*
iv. *One stack has also been found to be under construction.*
v. *Construction activities were also observed near the present office building. From the plant layout it appears to be a part of proposed pellet plant.*
vi. *Changes in the project site due to recent construction activities in the proposed Sinter plant area and part of Pellet plant area has been further corroborated by Time Series Google Images dated 15.11.2018, 27.01.2021, 09.11.2022 and 02.05.2023.*
vii. *One oxygen plant (defunct) was also observed for which CTE and CTO has not been furnished.*

EC Condition-wise inspection report has also been submitted by RO, Kolkata. The examination of EC condition-wise inspection report indicates towards non-compliance of following major EC conditions:

i. *Bore well has been observed at the site not complying to the stipulations made by the EC condition directing no ground water shall be drawn either for construction or operation* ***(Specific condition no iv of EC dated 03.10.2006)***
ii. *Green-belt as per CPCB condition has not been observed and details of plantation carried out has not been furnished* ***(Specific condition no vii of EC dated 03.10.2006 and Specific Condition no. xvii of EC dated 03.06.2009)***
iii. *Details of health check-up of workers has not been furnished* ***(Specific condition no viii of EC dated 03.10.2006 and General Condition vi of EC dated 03.06.2009)***
iv. *Repairing activity in DRI and Blast furnace, new construction activity of proposed Sinter plant and proposed pellet plant at initial stage along with an oxygen plant whose CTE and CTO was not furnished has been observed against the stipulations made by EC condition*

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For RAMSARUP INDUSTRIES LTD.

Director/Authorised Signatory

(General condition no ii of EC dated 03.10.2006 and General Condition no. ii of EC dated 03.06.2009)

v. *Establishment of ambient air quality station has not been furnished* ***(General condition no iii of EC dated 03.10.2006)***

vi. *Noise level monitoring data has not been furnished* ***(General condition no. v of EC dated 03.10.2006, General Condition iv and General Condition v of EC dated 03.06.2009)***

vii. *Details of expenditure have not been furnished* ***(General condition no. vii of EC dated 03.10.2006 and General Condition xiii of EC dated 03.06.2009)***

viii. *Six monthly compliance reports have not been furnished regularly* ***(General condition no. viii of EC dated 03.10.2006 and General Condition xiv of EC dated 03.06.2009)***

ix. *Data has not been furnished and the display Board outside the premises for general public has not been observed* ***(Specific Condition no iii of EC dated 03.06.2009 and General Condition iv of EC dated 03.06.2009)***

x. *Details of time bound action plan to reduce solid waste, its utilization and disposal has not been furnished* ***(Specific Condition no xv of EC dated 03.06.2009)***

xi. *First Aid room, fuel for cooking has not been observed* ***(Specific Condition no xix of EC dated 03.06.2009)***

xii. *Details regarding eco-development measures including community welfare measures in the project area have not been furnished* ***(General Condition no xi of EC dated 03.06.2009)***

xiii. *Details of Environment Cell have not been furnished* ***(General Condition no xii of EC dated 03.06.2009)***

xiv. *Details of financial closure and final approval of the project has not been furnished* ***(General Condition no xv of EC dated 03.06.2009)***

xv. *Details of EC granted by the Ministry has not been furnished* ***(General Condition no xvi of EC dated 03.06.2009)***

6. Therefore, it has been observed that the unit has carried out construction of proposed Sinter Plant and proposed pellet plant without obtaining prior Environmental Clearance which is in consonance to the allegations made in the extant complaint dated 30.06.2023 and thus the construction has been undertaken by the project proponent (PP) in violation of EIA Notification, 2006 without obtaining prior EC.

7. **NOW THEREFORE, you are directed to immediately stop all the illegal ongoing construction which has been reported to be undertaken without existing EC for such constructions.**

8. In the above context, your attention is also drawn to provision of Section 5 of the Environment (Protection) Act, 1986 which is as reproduced below:

"For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes power to direct-

a. *The closure, prohibition or regulation of any industry, operation or process; or*
b. *Stoppage or regulation of the supply of electricity or water or any other service."*

9. NOW, THEREFORE, you are also **directed to submit your response as to why this Ministry should not initiate action against you under the provision of Environment (Protection) Act, 1986 for the illegal construction in violation of EIA Notification, 2006. You are advised to submit your reply within 15 (fifteen) days of the receipt of this Notice failing which Ministry will be constrained to initiate action, as deemed fit and appropriate under the provision of Section 5 of the Environment (Protection) Act, 1986 and in the circumstances of the case with or without any further notice to the Project. Further, this Show Cause is without prejudice to any other legal action which may be**

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For RAMSARUP INDUSTRIES LTD.

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taken against you which *inter-alia* includes action under section 15 & 19 of Environment (Protection) Act, 1986.

This issues with the approval of the Competent Authority.

(Dr Bhardwaj Adiraju)
Joint Director/Scientist 'D'

To,

M/s Ramsarup Lohh Udyog Limited,
7C, Kiran Shankar Roy Road,
Hastings Chambers, 1st Floor,
Kolkata-700001

Copy to:

1. The Chairman, Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi-110032.
2. The Deputy Director General of Forests (C), Ministry of Environment, Forest and Climate Change, Integrated Regional Office, A/3, Chandersekharpur, Bhubaneswar-751023.
3. Member Secretary, West Bengal State Pollution Control Board, Paribesh Bhawan, 10A, Block-LA, Sector-III, Bidhannagar, Kolkata-700106.
4. The Member Secretary, Industry-1, Ministry of Environment, Forest & Climate Change, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi-110003.

(Dr Bhardwaj Adiraju)
Joint Director/Scientist 'D'

NOTARY KOLKATA REGN. NO. 1302/2019 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure "R-19"

RAMSARUP INDUSTRIES LIMITED
S.S.CHAMBERS, 5, C.R.AVENUE, KOLKATA-700072 (INDIA)
CONTACT: +91 33 4011 1000 E-MAIL: [redacted]
CIN: L65993WB1979PLC032113

To,
Dr. Adiraju Bharadwaj,
Joint Director/Scientist "D"
Monitoring Cell, Impact Assessment Division,
Minstry of Enviornment,Forest and Climate Change,
Indira Paryavaran Bhawan, Jor Bag Road,
Aliganj, New Delhi - 110003

12/09/2023

Sub: Reply to the Show-Cause Notice and Directions u/s 5 of Environment (Protection) act 1986 for illegal Construction by " Integrated Steel Plant at Industrial Estate Kharagpur, Dist Paschim Medinipur, West Bengal of Ramsarup Industries Limited (RIL) Formerly Ramsarup Lohh Udyog Limited".

Re: Show-Cause Notice - (F No IA-Z-12011/16/2023-IA-I (M), Dated 23.08.2023)

Respected Sir,

On The Captioned Subject We would like to put forth following few lines for your sympathetic consideration and further action in this matter.

Our submission before your good self are as follows:

1. On and from 8 January 2018, RIL was admitted into Corporate Insolvency Resolution Process under the Insolvency and Bankruptcy Code, 2016 (**"IBC"**). The consortium of SS Natural Resources Private Limited and Shyam Sel and Power Limited emerged as the successful resolution applicant for acquiring RIL. The copy of NCLT order approving the resolution plan is attached herewith marked as **Annexure A**

2. Subsequent to the Plan Approval Order, various legal proceedings were commenced by various parties, including the resolution applicants, challenging either the Approved Plan or the Plan Approval Order, which travelled to Hon'ble Supreme Court and the Hon'ble Supreme Court ultimately vide order dated 12.05.2022 upheld the Approved Plan.

3. The said consortium of SS Natural Resources Private Limited and Shyam Sel and Power Limited acquired RIL and placed its directors on the board of RIL replacing the erstwhile board of directors with effect from 05th May 2022. As such, on and from the said 05th May 2022, the new management is in control of RIL. **Copy of Minutes of Monitoring Agency meeting dated 05th May 2022 and hand over certificate is enclosed herewith cumulatively marked Annexure B.**

4. **The Ramswaroop Lohh udyog obtained EC in 2006 and modernisation cum expansion EC in 2009 and also obtained CTE and CTO from West Bengal Pollution control Board. Details of EC & CTO are as follows.**

NOTARY KOLKATA SHYAM MARWOO PANDEY REGN NO. 13024/2018 GOVT. OF INDIA

RAMSARUP INDUSTRIES LTD. KOLKATA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

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1	CAST BILLET	MTPA	0.291	BILLET CASTER	TPA - (1X2/3 STRAND)- 291000	TPA	(1X1 STRAND) - 372000					
2	COLD PIG	TPA	31309	PIG CASTING MACHINE	TPD	1 X 1000				COLD PIG IRON	TPM	1046 CO13691
3	DRI	TPA	150000	DRI	TPA	(1 X 500TPD)- 150000	TPA	(1 X 50 TPD)- 150000		SPONGE IRON (DRI)	TPM	1250 CO13580
4	BLAST FURNACE (HOT METAL)	M3 (TPA)	350 238300	BLAST FURNACE	TPA	(1 X 350M3)- 264100	TPA	(1 X 350M3)- 310900		BLAST FURNACE	M3	350 CO17521
5	SLAG (CAF)	TPA	300000	LADLE FURNACE	T	(1 X 50 T)		(1 X 70 T)		GRANURATED SLAG	TPM	5455 CO13601
6	CPP (ORI & BF WASTE GAS)	MW	20	EAF	TPA	(1X50 T)- 300000	TPA	(1X70 T)- 583200				
7				POWER PLANT	MW	20	MW	45				
				WHRB	TPH	1X52.5	TPH	1X52.5		POWER (WHRB- DRI)	MW	12.5 CO13550
				BF (GAS FIRED BOILER)			TPH	1 X 35		POWER (BF GAS FIRED BOILER (35T/H))	MW	7.5 CO13661
				CFBC	TPH	1X35	TPH	1X 120				
8				SINTER PLANT		--	TPA	(1X660/2)- 660000				
9				OXYGEN PLANT		--	Nm3/Hr	7300				
10				ROLLING MILL		--	MTPA	0.8				

5. The plant was in running condition till March 2010 of which valid CTO was there and the previous management had done construction work of which they had valid EC and CTE . The plant was shut down since 2010 and was handed over to new management in May 2022. After March 2010 The Plant was in shut down condition and till date the operation of the plant has not started.

6. After taking up the plant the new management assessed the physical position of the plant and found all the plant and machinery that was in running condition till 2010 is now obsolete and needs massive repairing and renovation to make them in working condition.

7. While our repairing and renovation work was under process surprisingly, we have received notice From MOEF and CC that our plant will be jointly inspected by IRO Bhubaneswar and Kolkata based on the Complains made by some organisations.

8. While going through the complaint we found that the Complainant is from Jammu & Kashmir and the name of the organisation is GAYOOR Foundation having its address is at Munawarabad, OPP Hotel Asian Park, Srinagar, J&K. and the name of the chairman of this organisation is Er Showkat Gayoor. This organisation has nothing to do with our plant at khargapur west Bengal. The applicant has made false and fabricated allegation on us without going through the actual facts and records. Its more over looks like that somebody else is using this organisation against us to venting his own anger.

9. After joint inspection we have been served with a show cause notice u/s 5 of Environment protection Act 1986. In the show cause notice we observe one main complaint against us i.e Construction of Sinter Plant and Pellet Plant without obtaining prior Environmental clearance.

10. In this regard we would like to submit that:

A. Approval for Sinter Plant was there In EC 2009 (**Copy of EC 2009 marked as Annexure C**)

B. The previous owner/management has started some work to **establish** the Sinter Plant which can be evident from the Records enclosed herewith.**(Copy of valuation report marked as Annexure D)**

C. Previous Management had procured some plant and machinery related to sinter plant and

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that was lying unutilised at the plant site and they also started some civil work for the sinter plant.

D. After taking up the plant when we found that plant & machinery related to sinter plant is lying in a damaged/rusted condition and if proper care immediately not taken to them then it cannot be utilised in future also and the the Civil/structural work which was done earlier required immediate repairing so that it could be saved from further damaged, in this scenario we have only started painting work and some repairing to the civil work to protect the structure and machinery so that it can be utilised in future after obtaining valid CTE and CTO.

E. As per the Approved Resolution Plan of Hon'ble NCLT it has been clearly mentioned that all licenses of RIL should be continuing, including the 2006 EC and the 2009 EC, and such proposal was duly approved by the NCLT and ultimately by the Hon'ble Supreme Court. The relevant extracts from the Resolution Plan pertaining to validity of licenses, registrations, permits and clearances are as follows: (Copy of Resolution Plan **marked Annexure E)**

Clause 15.13 on Page 26 of the Resolution Plan	*Upon approval of this Resolution Plan, all investments (including but not limited to the investment in key infrastructure facilities), **statutory rights, licenses,** agreements, **registrations or any similar approval by whatever name called and fundamental for running the business on going concern shall be in complete force and valid.***
Clause 15.14 on Pages 26 to 27 of the Resolution Plan	*The Resolution Applicant has prepared this Resolution Plan on the basis of certain assumptions set out below, and has assumed that **upon approval of this Resolution Plan by the Adjudicating Authority, the Corporate Debtor and the Resolution Applicant**, as the case may be, **shall be entitled to the following and the same shall be deemed to form a part of the order of the NCLT**:* *... ...* *ii. Licenses/ Approvals/ Contractual Rights and Benefits* *(a) The Resolution Applicant is praying that upon approval of*

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO. 13824/2018 GOVT. OF INDIA

RAMSARUP INDUSTRIES LTD. KOLKATA

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	this Resolution Plan by the Adjudicating Authority and since the Resolution Applicant will acquire the Corporate Debtor on a going concern basis, ***all subsisting consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled to shall, notwithstanding any provision to the contrary in their terms, be deemed to continue without disruption for the benefit of the Corporate Debtor.***
	(b) For the avoidance of doubt, ***it is hereby clarified that all consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled to, which were in place on the date of shut down of the plant pursuant to lock-out ("Shut Down Date"), shall be deemed to continue without disruption for the benefit of the Corporate Debtor for a period of 12 months from the Completion Date or until renewed by the relevant authorities, whichever is later.*** *Without any liability for the non-compliance during the time specified above, the Resolution Applicant undertakes to cause the Corporate Debtor to expeditiously identify such expired consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contract, lease or license, granted in favour of the Corporate Debtor or to which the Corporate Debtor is entitled to, evaluate the steps required to address the same and take steps to remedy the same to the extent practically possible.*
	(c) ***The period of non-operation i.e., from the Shut Down Date to the Effective Date shall not be counted upon i.e., any approval, grant, license, etc. shall be treated to be in effect as the same was in effect on the Shut Down Date and***

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	shall remain valid for their residual tenor as on the Shut Down Date with effect from the Effective Date.

F. Regarding construction of Pellet Plant we would like to submit that the work that was going on is for construction of Guest house /Rest house for employees purposes as there is no such facility for Employees working in the plant. This fact was submitted in written to the joint inspecting authorities of MOEF and CC

G. We again reiterate that the initial civil construction work alleged as work for Pellet plant is

for Construction of Guest house/Rest House not for the Pellet plant (Copy of the civil drawing is enclosed for your Kind Perusal). We can give an undertaking in this regard if required Copy of the **(Civil Drawing of Guest House is Marked as Annexure F)**

H. Again, the concept of pellet plant has come from our TOR application for our proposed expansion in which EDS has been given by MOEF and CC to us. we are rectifying/withdrawing our TOR Application and will submit after proper rectification.

11. After getting The Show cause notice and direction U/s 5 Of Environment protection Act 1986 we have stopped all the construction and repairing work of which there is no EC, CTE and CTO.

12. It would not be out of place to Mention here that after obtaining this plant through NCLT we have not yet started the plant operation as the entire plant required massive repair and renovation, the Electricity and water line needs to be restored properly and all the statutory permissions are yet to be obtained from various authority. The Name change from Ramsarup Lohh Udyog Limited. to Ramsarup Industries Limited yet to be effected in the records of MOEF and CC. Our application made in this regard on 15.11.2022 vide proposal no. IA/WB/IND/294044/2022 is still under process at MOEF and CC.

13. Our Point wise compliance against non- compliance of EC observed by inspecting authority are as follows:

Sl. No.	Observation	Our Submission	Justification
i	Bore well has been observed at the site not complying to the stipulations made by the EC condition directing no ground water shall be drawn either for construction or operation	1. The Project was shutdown from year 2010 and we have taken it through NCLT on 12nd May 2022. 2. The Project is not in Operation 3. The permission of 2 MGD water drwal was obtained from Khargpur Minisple	The water from Bore well is being used for drinking purpose of employees.

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO. 10624/2018 GOVT. OF INDIA

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	(Specific condition no iv of EC dated 03.10.2006)	Corporation by the previous owner. 4. Permission for Bore well was obtained from DLA Pachim Mednipur.	
ii	Green-belt as per CPCB condition has not been observed and details of plantation carried out has not been furnished (Specific condition no vii of EC dated 03.10.2006 and Specific condition no. xvii of EC dated 03.06.2009)	The Greenbelt of 33 % is already at project site. Since the Plant was shutdown from long period and we have taken the plant from NCLT so the detail of the plantation not availabe.	A detail survay to be done and report will be submmited to Ministry with in a period of 3 month
iii	Details of health check-up of workers has not been furnished (Specific condition no viii of EC dated 03.10.2006 and General condition vi of EC dated 03.06.2009)	1. Temprory Health checkup system is there and it also beind done through Campaining Basis. 2. A proper occupational health suveillance system will be develoved before starting of the operation of the project.	1. The Project was shutdown from year 2010 and we have taken it through NCLT on May 2022. 2. The Project is not in Operation.
iv	Repairing activity in DRI and Blast furnace, new construction activity of proposed Sinter plant and proposed pellet plant at initial stage along with an oxygen plant whose CTE and CTO was not furnished has been observed against the stipulations made by EC condition (General condition no.ii of EC dated 03.10.2006 and General condition no. ii of EC dated 03.06.2009)	1. Repairing of DRI and Blast furnace is under process and for the same we have valid EC, CTE and CTO. 2.(a) Approval for Sinter Plant was there In EC 2009(Copy of EC 2009 Enclosed) (b) The previous Owner/Management has started some work to establish the Sinter Plant which can be evident from the Records enclosed herewith.(Copy of valuation report enclosed) (c) Previous Management had procured some plant and machinery related to sinter plant and that was lying unutilised at the plant site and they also started some civil work for the sinter plant. After taking up the plant when we found that plant machinery related to sinter plant is lying in a damaged/rusted condition and if proper care immediately not taken to them then it cannot be utilised in future also and the the Civil/structural work which was done	We have stopped all the construction work as per your good office direction stated 23.08.2023

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO 10024/2018 GOVT. OF INDIA

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		earlier required immediate repairing so that it could be saved from further damaged. in this scenario we have only started painting work and some repairing to the civil work to protect the structure and machinery so that it can be utilised in future after obtain valid CTE and CTO. 3. Regarding construction of Pellet Plant we would like to submit that the work that was going on is for construction of Guest house /Rest house for employees purposes as there is no such facility for Employees working in the plant. This fact was submitted in written to the joint inspecting authorities of MOEF and CC. We again reiterate that the initial civil construction work alleged as work for Pellet plant is for Construction of Guest house/Rest House not for the Pellet plant (Copy of the civil drawing is enclosed for your Kind Perusal). We can give an undertaking in this regard if required. Again, the concept of pellet plant has come from our TOR application in which EDS has been given by MOEF and CC to us. we are rectifying/Withdrawing our TOR Application and will submit after proper rectification. 4. The construction of Oxygen plant was done before acquisition by previous owner which is in defunct condition . We have even not touch the existing structure of Oxygen Plant.	
v	Establishment of ambient air quality station has not been furnished (General condition no. iii of EC dated 03.06.2009)	1.Establishment of ambient air quality station will be done before starting the operation of the Project. 2. Some of the Units like Blast furnace and DRI are under revamping condition.	1. The Project was shutdown from year 2010 and we have taken it through NCLT on May 2022. 2. The Project is not in Operation.

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO. 12024/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

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vi	Noise level monitoring data has not been furnished (General condition no. v of EC dated 03.10.2006, General condition iv and General condition v of EC dated 03.06.2009)	1. Since the project is not in operation therefore, Noise levels monitoring will be done before starting the operation of Units. 2. Some of the Units like Blast furnace and DRI are under revamping condition.	1. The Project was shutdown from year 2010 and we have taken it through NCLT on May 2022. 2. The Project is not in Operation.
vii	Details of expenditure have not been furnished (General condition no. vii of EC dated 03.10.2006 and General Condition xiii of EC dated 03.06.2009)	The Project is not in Operation therefore, expenditure details will be furnished after commencement of operations	1. The Project was shutdown from year 2010 and we have taken it through NCLT on May 2022. 2. The Project is not in Operation.
viii	Six monthly compliance reports have not been furnished regularly (General condition no. viii of EC dated 03.10.2006 and General Condition xiv of EC dated 03.06.2009)	It is to submit that the Project was shutdown from year 2010 and not in operation by the previous proponent and we have taken it through NCLT on May 2022. The reviving and development of project is in planning stage. However, the half yearly monitoring report has been submitted to the Authority and we hereby assuring that it will be submitted on regular basis.	1. The Project was shutdown from year 2010 and we have taken it through NCLT on May 2022. 2. The Project is not in Operation.
ix	Data has not been furnished and the display Board outside the premises for general public has not been obsewed (Specific Condition no iii of EC dated 03.06.2009 and General Condition iv of EC dated 03.06.2009)	It is to submit that the Project was shutdown from year 2010 and not in operation by the previous proponent and we have taken it through NCLT on 22nd May 2022. The reviving and development of project is in planning stage. We hereby assuring that the display board will be made available before commencement of operations.	1. The Project was shutdown from year 2010 and we have taken it through NCLT on May 2022. 2. The Project is not in Operation.
x	Details of time bound action plan to reduce solid waste, its utilization and disposal has not been furnished (Specific	It is to submit that the Project was shutdown from year 2010 and not in operation by the previous proponent and we have taken it through NCLT on May 2022. The reviving	1. The Project was shutdown from year 2010 and we have

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO 13824/2018 GOVT. OF INDIA

RAMSARUP INDUSTRIES LTD. KOLKATA

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	Condition no xv of EC dated 03.06.2009)	and development of project is in planning stage. We hereby assuring that time bound action plan to reduce solid waste, its utilization and disposal soon after finalization of operation plans.	taken it through NCLT on May 2022. 2. The Project is not in Operation
xi	First Aid room, fuel for cooking has not been observed (Specific Condition no. xix of EC dated 03.06.2009)	It is to submit that the Project was shutdown from year 2010 and not in operation by the previous proponent and we have taken it through NCLT on May 2022. The reviving and development of project is in planning stage. We hereby assuring that the condition will be complied before commencement of operations.	1. The Project was shutdown from year 2010 and we have taken it through NCLT on May 2022. 2. The Project is not in Operation
xii	Details regarding eco-development measures including community welfare measures in the project area have not been furnished (General Condition no. xi of EC dated 03.06.2009)	It is to submit that the Project was shutdown from year 2010 and not in operation by the previous proponent and we have taken it through NCLT on May 2022. The reviving and development of project is in planning stage. We hereby assuring that the condition will be complied before commencement of operations.	1. The Project was shutdown from year 2010 and we have taken it through NCLT on May 2022. 2. The Project is not in Operation
xiii	Details of Environment Cell have not been furnished (General Condition no xii of EC dated 03.06.2009)	It is to submit that the Project was shutdown from year 2010 and not in operation by the previous proponent and we have taken it through NCLT on May 2022. The reviving and development of project is in planning stage. We hereby assuring that the condition will be complied before commencement of operations.	We will ensure that the condition will be complied befor the plant opertaion statred
xiv	Details of financial closure and final approval of the project has not been furnished (General Condition no xv of EC dated 03.06.2009)	It is to submit that the Project was shutdown from year 2010 and not in operation by the previous proponent and we have taken it through NCLT on May 2022. The reviving and development of project is in planning stage. We hereby assuring that financial closure and final approval of the project soon after finalization of operation plans	1. The Project was shutdown from year 2010 and we have taken it through NCLT on May 2022. 2. The Project is not in Operation

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO-15024/2018 GOVT. OF INDIA

RAMSARUP INDUSTRIES LTD. KOLKATA

For RAMSARUP INDUSTRIES LTD.

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CONTACT: +91 33 4011 1000 E-MAIL:
CIN: L65993WB1979PLC032113

xv	Details of EC granted by the Ministry has not been furnished (General Condition no xvi of EC dated 03.06.2009)	It is to submit that the Project was shutdown from year 2010 and not in operation by the previous proponent and we have taken it through NCLT on May 2022. Detail of the same was not available with us.	1. The Project was shutdown from year 2010 and we have taken it through NCLT on May 2022. 2. The Project is not in Operation

From the circumstances explained above, you will kindly appreciate that none of the allegations made by the so called NGOS hold water and clearly have been made with an ulterior motive. More so when it is clearly known to the complainant that RIL has just emerged from insolvency resolution process, that there has been a change of management and that each and every immunity granted by IBC apply unconditionally to it. We, therefore, humbly request you to disregard the Complaint.

We hope to have clarified the situation to your satisfaction. We shall be happy to provide any further information should you so require.

The Matter could resolved only with your kind intervention and consideration. I expect to see the light at the end of tunnel because you are in the helm of the affair.

Thanking you

Yours faithfully
For **Ramsarup Industries Limited**
(formerly Ramsarup Lohh Udyog Limited)

RAMSARUP INDUSTRIES LTD. KOLKATA

Prashant Bhardwaj
DGM, Commercial and Business Development

NOTARY KOLKATA GOVT OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure "R-20"

WEST BENGAL POLLUTION CONTROL BOARD
(Department of Environment, Government of West Bengal)
Paribesh Bhawan, 10A, Block – LA, Sector III, Bidhannagar
Kolkata – 700 106, Ph.: (033) 2202-3000 Fax : 2202-3099
Website: www.wbpcb.gov.in, Email: net.wbpcb-wb@bangla.gov.in

Memo No: 663 **-2N-54/2022(E)** **Dated:** 29 **.09.2023**

To
M/s. Ramswarup Lohh Udyog Limited
7C, Kiran Shankar Roy Road,
Hastings Chambers, 1st Floor,
Kolkata – 700001.

Ref: **1) Show-Cause Notice and Directions under Section 5 of Environment (Protection) Act, 1986 for illegal construction for illegal construction by 'Integrated Steel Plant at Industrial Estate Kharagpur, Dist – Paschim Medinipur, West Bengal issued by MoEF&CC vide F No. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023 (Copy enclosed).**

2) Consent to Establish issued by WBPCB vide NOC Sl. No. NO28866 Memo No. 305-2N-111/2004 dated 06.06.2006.

Sirs,

Enclosed please find the above-mentioned show cause notice issued by MoEF&CC, which speaks for itself. You are hereby directed to :

1) Immediately stop all illegal ongoing construction which has been reported to be undertaken without existing EC for such constructions as mentioned in the aforesaid show-cause notice.
2) Submit your response as to why the MoEF&CC with respect to point no. 9 of the aforesaid show-cause notice with a copy to the West Bengal Pollution Control Board within the stipulated time.

29/09/2023

Chief Engineer (EIM Cell)

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13824/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure "R-21"

FORM 4

[See Rules 9(3) and 10(5)]

(EMBLEM OR HOLOGRAM OF THE CONCERNED AUTHORITY)

009552

PERMIT FOR SINKING OF NEW WELL

[U/S 7(3)(b) / 7(4)(b) / 7(5)(a) of the West Bengal Ground Water Resources (Management, Control and Regulation) Act 2005.]

PERMIT NO PL420130608810000001TSE

1. (a) Name of the applicant (user) : Shri/Smt. Ashish Jhunjhunwala, M/s Ramsarup Lohh Udyog.
   (b) Son / Daughter of :
   (c) Address of the applicant : Ambika Prasad Jhunjhunwala, 10/4 Alipur Park Place, Kol-27
   (d) Category of farmer (Please tick) (in case of irrigation well) : Small Farmer / Marginal Farmer / Others
   (e) Serial No. of application Form and date of submission : BF/A-268, 31-22 on - 20/04/09
   (f) Specimen signature of the user : Signature of the applicant (user) — Managing Director / Authorised Signatory, RAMSARUP LOHH UDYOG, UNIT OF RAMSARUP INDUSTRIES LTD.
2. Location particulars---
   (a) District : Paschim Medinipur.
   (b) Block, Mouza, J.L. No., Plot No. : KGP-I, Rajpura, 130, 81.
   (c) Municipality / Corporation Ward No. / Borough No., Holding No. : N.A
3. Particulars of the proposed well and pumping device---
   (a) Type of the well : Tube Well
   (b) Approx. depth of the well (m) : 90 M
   (c) Purpose of the well : Industrial
   (d) Assembly size (for tube well) : 152 mm. X 152 mm.
   (e) Approx. strainer length (for tube well) : 9 m.
   (f) Diameter (for dug well) : N.A m.
   (g) Type of pump to be used : Submersible
   (h) H.P. of the pump : 2 H.P
   (i) Operational device : Electronic
   (j) Rate of withdrawal (m3 / hr.) : 15 m3/hr
   (k) Maximum allowable running hours per day : 2 Hours.

This permit authorizes the owner applicant (user) to sink a well in the location specified at S1. (2) for extraction of ground water at a rate not exceeding that as shown at S1. (3) (j) and for running hours / day as shown at S1. (3) (K), and is valid subject to the observance of the conditions stated overleaf.

Place : Midnapur.
Date : 24/12/09

Office of the Geologist, Geological Sub-Divn. No.-I/A, S.W.I.D., SEAL, Member Secretary, D.L.A., Paschim Medinipur

Sailen Sikdar, Geologist, Signature of the Issuing Authority and Designation. 04.01.10

Member Secretary, D.L.A. Paschim Midnapur

Conditions :

(1) In case of any change of ownership of the proposed well, fresh registration has to be obtained.
(2) No change of location, design, rate of withdrawal and pumping device in respect of the proposed well as indicated at S1. (2) and (3) of this certificate shall be made without prior permission of the Competent Authority. Any deviation in this regard shall lead to cancellation of this permit.
(3) In case, any of the particulars / information furnished by the applicant in his application for issuance of this permit is found to be incorrect during verification at any subsequent stage, this permit is liable for cancellation.
(4) Any other condition imposed by the concerned Authority.

Office of the Geologist, Geological Sub-Divn. No.-I/A, S.W.I.D., OFFICE SEAL, Member Secretary, D.L.A., Paschim Medinipur

5.5 Days (24 hrs) 04/01/10

B.C.L./4/50,000/06

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13624/2018 GOVT. OF INDIA

Scanned with OKEN Scanner

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

FORM 4

[See Rules 9(3) and 10(5)]

09551

(EMBLEM OR HOLOGRAM OF THE CONCERNED AUTHORITY)

PERMIT FOR SINKING OF NEW WELL

[U/S 7(3)(b) / 7(4)(b) / 7(5)(a) of the West Bengal Ground Water Resources (Management, Control and Regulation) Act 2005.]

PERMIT NO. P14201380220556000001TSE

1. (a) Name of the applicant (user) : Shri/Smt. Ashish Jhunjhunwala, M.D, Ramjarup Lohh Udyog,
   (b) Son / Daughter of :
   (c) Address of the applicant : Ambika Prasad Jhunjhunwala, 10/4, Alipur Park place, 27,
   (d) Category of farmer (Please tick) (in case of irrigation well) : Small Farmer / Marginal Farmer / Others
   (e) Serial No. of application Form and date of submission : BP/A-268 51-33 on- 20/04/09
   (f) Specimen signature of the user : RAMSARUP LOHH UDYOG UNIT OF RAMSARUP INDUSTRIES LTD. Managing Director/ Authorised Signatory
2. Location particulars---
   (a) District : Paschim Medinipur,
   (b) Block, Mouza, J. L. No., Plot No. : KGP-I, Tarabanne, 138, 55.
   (c) Municipality / Corporation Ward No. / Borough No., Holding No. : N. A
3. Particulars of the proposed well and pumping device---
   (a) Type of the well : Tube Well
   (b) Approx. depth of the well (m) : 90 M
   (c) Purpose of the well : Industrial
   (d) Assembly size (for tube well) : 152 mm. X 152 mm.
   (e) Approx. strainer length (for tube well) : 9 m.
   (f) Diameter (for dug well) : N.A m.
   (g) Type of pump to be used : Submersible
   (h) H.P. of the pump : 2 H.P
   (i) Operational device : Electric
   (j) Rate of withdrawal (m3 / hr.) : 15 m³ / hr
   (k) Maximum allowable running hours per day : 2 Hours.

This permit authorizes the owner applicant (user) to sink a well in the location specified at S1. (2) for extraction of ground water at a rate not exceeding that as shown at S1. (3) (j) and for running hours / day as shown at S1. (3) (K), and is valid subject to the observance of the conditions stated overleaf.

Place : Medinapur.

Date : 24/6/09

Office of the Geologist
Geological Sub-Divn. No. - I/A, S.W.I.D.,
SEAL
Member Secretary, D.L.A.
Paschim Medinipur

Sankar Sikdar
Geologist
Signature of the Issuing Authority and Designation
Geological Sub-Divn. No. I/A, S.W.I.D.
& 09.01.10
Member Secretary, D.L.A.
Paschim Midnapur

Conditions :

(1) In case of any change of ownership of the proposed well, fresh registration has to be obtained.
(2) No change of location, design, rate of withdrawal and pumping device in respect of the proposed well as indicated at S1. (2) and (3) of this certificate shall be made without prior permission of the Competent Authority. Any deviation in this regard shall lead to cancellation of this permit.
(3) In case, any of the particulars / information furnished by the applicant in his application for issuance of this permit is found to be incorrect during verification at any subsequent stage, this permit is liable for cancellation.
(4) Any other condition imposed by the concerned Authority.

Office of the Geologist
Geological Sub-Divn. No. - I/A, S.W.I.D.,
OFFICE SEAL
Member Secretary, D.L.A.
Paschim Medinipur

B.C.L./4/50,000/06.

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13624/2018 GOVT. OF INDIA

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For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

FORM 4

[See Rules 9(3) and 10(5)]

009550

(EMBLEM OR HOLOGRAM OF THE CONCERNED AUTHORITY)

PERMIT FOR SINKING OF NEW WELL

[U/S 7(3)(b) / 7(4)(b) / 7(5)(a) of the West Bengal Ground Water Resources (Management, Control and Regulation) Act 2005.]

PERMIT NO P14 20131 60 151 0000001 TSE

1. (a) Name of the applicant (user)	:	Shri/Smt. Ashish Jhunjhunwala, M.D, Ramsarup Lohh Udyog.
(b) Son / Daughter of	:	
(c) Address of the applicant	:	Ambikaprasad Jhunjhunwala, 10/4 Alipur, Kol: - 700027.
(d) Category of farmer (Please tick) (in case of irrigation well)	:	Small Farmer / Marginal Farmer / Others
(e) Serial No. of application Form and date of submission	:	BP/A-268. 51-24 on-20/04/09
(f) Specimen signature of the user	:	RAMSARUP LOHH UDYOG UNIT OF RAMSARUP INDUSTRIES LTD. Managing Director/ Authorised Signatory
2. Location particulars---		
(a) District	:	Paschim Medinipur.
(b) Block, Mouza, J. L. No., Plot No.	:	KhP-I, Malancha, 131, 151
(c) Municipality / Corporation Ward No. / Borough No., Holding No.	:	KhP. Ward-20.
3. Particulars of the proposed well and pumping device---		
(a) Type of the well	:	Tube Well
(b) Approx. depth of the well (m)	:	90M
(c) Purpose of the well	:	Industrial
(d) Assembly size (for tube well)	:	152 mm. X 152 mm.
(e) Approx. strainer length (for tube well)	:	9 m.
(f) Diameter (for dug well)	:	N.A m.
(g) Type of pump to be used	:	Submersible
(h) H.P. of the pump	:	2 HP
(i) Operational device	:	electric
(j) Rate of withdrawal (m3 / hr.)	:	15 m3/hr
(k) Maximum allowable running hours per day	:	2 Hours.

This permit authorizes the owner applicant (user) to sink a well in the location specified at S1. (2) for extraction of ground water at a rate not exceeding that as shown at S1. (3) (j) and for running hours / day as shown at S1. (3) (K), and is valid subject to the observance of the conditions stated overleaf.

Place : Medinapur.

Date : 24/12/09

Office of the Geologist
Geological Sub-Div. No. I/A, S.W.I.D.,
SEAL
Member Secretary, D.L.A.
Paschim Medinipur

Saibal S. Das
Geologist, S.W.I.D.
Signature of the Issuing Authority and Designation. 04.01.10

Member Secretary, D.L.A.
Paschim Midnapur

Conditions :

(1) In case of any change of ownership of the proposed well, fresh registration has to be obtained.
(2) No change of location, design, rate of withdrawal and pumping device in respect of the proposed well as indicated at S1. (2) and (3) of this certificate shall be made without prior permission of the Competent Authority. Any deviation in this regard shall lead to cancellation of this permit.
(3) In case, any of the particulars / information furnished by the applicant in his application for issuance of this permit is found to be incorrect during verification at any subsequent stage, this permit is liable for cancellation.
(4) Any other condition imposed by the concerned Authority.

Office of the Geologist
Geological Sub-Div. No. I/A, S.W.I.D.,
OFFICE
Member Secretary, D.L.A.
Paschim Medinipur

S. S. Das
04/01/10

B.C.L. /A/50,000/06

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO 13624/2018 GOVT. OF INDIA

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For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Annexure "R-22"



पश्चिमबङ्ग पांश्चम बंगाल WEST BENGAL 84AB 616911

AGREEMENT OF WATER SUPPLY.

This Agreement is made on this the Ninth day of **FEBRUARY, TWO THOUSAND & TWENTY-FOUR A.D.**

BETWEEN

The Board of Councillors of Kharagpur Municipality represented by the Chairperson, Kharagpur Municipality& having It's Office at Jhapetapur, Kharagpur, P.O.-Kharagpur, P.S.-Kharagpur (Town), District-Paschim Medinipur.

.....Hereinafter called the Kharagpur Municipal Authority of the **FIRST PART** (which term unless repugnant to the context shall mean successor in office or legal representatives of the first party).

Kalyani Ghosh
Chairperson
Kharagpur Municipality

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 13824/2018
GOVT. OF INDIA

Contd. P/2.

For RAMSARUP INDUSTRIES LTD.

Authorised Signatory

Kalyani Ghosh Chairperson Kharagpur Municipality

Anand Kejriwal

RAMSARUP INDUSTRIES LTD. KHARAGPUR

(2)

AND

M/S RAMSARUP INDUSTRIES LIMITED,at Saha Chowk, Nimpura, P.O. -Sahachawk, P.S.-Kharagpur (Local), District -Paschim Medinipur; having its registered office at S.S chamber, 5 C.R Avenue,Kolkata-700072.

..... Hereinafter called the Consumer of the **SECOND PART** (which term unless repugnant to the context shall include it's assignees or legal representatives).

WHEREAS as per request & application of the Second Party / Consumer; the Board of Councillors of the Kharagpur Municipality in it's meeting dated **24th January,2024**, principally agreed to supply excess water to the second party.

AND

WHEREAS in It's meeting of Board of Councillors, dated **06th February,2024** vide resolution no (miscellaneous),it has been resolved that there is sufficient excess water and the first party may supply a maximum of **2MGD** of water to **M/s Ramsarup Industries Limited** i.e. the Second party, as a bulk consumer.

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO 13824/2015 GOVT. OF INDIA

Contd. P/3.

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

(3)

AND

Kalyani Ghosh
Chairperson
Kharagpur Municipality

Amar Kejriwalsy
Dir.

RAMSARUP INDUSTRIES LTD. KHARAGPUR

WHEREAS the Kharagpur Municipal authority has decided to supply make up water to the consumer, for the purpose of Industrial / Commercial / domestic use at the site of the company at **Saha Chowk,**Nimpura, P.O. -Saha Chowk, P.S.-Kharagpur (Local), District -Paschim Medinipur.

AND

WHEREAS the consumer company has agreed to purchase water from the Kharagpur Municipal Authority on the terms and conditions hereinafter appearing.

NOW THEREFORE, the parties hereto, hereby covenant with each other to observe and perform the following terms and conditions.

TERMS AND CONDITIONS OF WATER SUPPLY :

1. That Municipal authority will supply **2 MGDwater per day**, to the consumer at the factory site of the second party at Saha Chowk, Nimpura, P.O. - Sahachawk, P.S.-Kharagpur (Local), District Paschim Medinipur for commercial & / or domestic use @ **Rs. 25.35 (Rupees Twenty-five point three-five paise only)** per Kilo Litre; for an initial period of one year from the date of starting of supply.

Contd. P/4.

NOTARY
SHRI NARAYAN PANDEY
REGN. NO 1252412018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Kalyani Ghosh
Chairperson
Kharagpur Municipality

Anant Kejriwalwy

RAMSARUP INDUSTRIES LTD. • KHARAGPUR •

(4)

2. That **Make up water** will be supplied to underground water reservoir, to be constructed/ repaired by the consumer, within its premises.

   In no circumstance, water will be drawn directly by pumping from the service connection.

3. That the supply of water would exclusively depend upon the availability of source of water, in case of unavailability of water from its source due to lean period/ summer/ natural calamities etc, the 1st party should not be liable for supply.

4. That in case of interruption & / or shortage of water due to above reasons &/or for any other act of god, the 2nd party would not make 1st party liable for that & / or take any actionagainst 1st party. First priority and obligation of the first party is towards the inhabitants of Kharagpur Municipality and excess water only would be supplied.

5. That supply will be metered and meter rent @ **Rs. 5000/-(Rupees Five thousand only)** per month will be payable by the consumer.

6. That suitable water meter will be supplied and installed by the Kharagpur Municipal authority at the sending end (Jharia Head Works). The meter will

Contd. P/5.

NOTARY KOLKATA GHYANENDRAPAYAN PANDEY REGN. NO. 10824/2012 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Kalyani Ghosh
Chairperson
Kharagpur Municipality

Anand Kanjiwani Ltd.

RAMSARUP INDUSTRIES LTD. KHARAGPUR

(5) be sealed by the Kharagpur Municipal Authority to avoid tampering. The water meter will be maintained by the Kharagpur Municipal Authority or it's agency. The second party will be at liberty to inspect the meter from time to time as and when required.

7. That monthly bills will be raised against consumption of water at the rate mentioned hereinabove for payment within the due date, and a penalty charge @ **Rs. 1.00 per 1000 litres** or at any other rate, as may be revised by the authority from time to time, will be charged, if the bill is not paid within the due date.

8. That the Kharagpur Municipal authority shall have the right to revise from time to time, the rate of water charges and connection charges as mentioned above in every year & as and when considered necessary. The penal rate may also be revised as and when considered necessary.

   Presently, water is being supplied @ **Rs.25.35 (Rupees Twenty-five and paise thirty-five only) per Kilo Litre for one year,** as because it is a new venture of the company at Kharagpur from which the local people would be benefited. After asserting the rate of water supply from different establishments,

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13624/2018 GOVT. OF INDIA

Contd. P/6.

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

(6) Kalyani Ghosh
Chairperson
Kharagpur Municipality

Anant Kejriwal

RAMSARUP INDUSTRIES LTD. • KHARAGPUR •

such as Haldia Development Authority, Asansol – Durgapur Development Authority & others, it was found that the rate of Haldia Development Authority was/is highest i. e. Rs.25.30 per kilo litre and accordingly Rs. 25.35 per kilo litre of water, is fixed as supply rate for the first year of supply.

9. That if the bill is not paid within **30 days** from the due date, the water connection will liable to be cut off with a prior notice and re-connectioncharges to the tune of Rs. 1,00,000/-(One Lakhs only) will have to be borne by the consumer. The reconnection charges are also subject to revision from time to time.

10. That if no water is consumed or water consumption is less than **50%** of the sanctioned quantity, consumer will have to pay the minimum charge at the rate of **65%** of the water charge for the quantity of water sanctioned to the company / consumer, at the rate fixed by the Authority, from time to time. However, the First party will consider any difficulty in taking water by the Second party due to natural calamity.

11. That no water in excess of the sanctioned quantity of **2 MGD** per day may be drawn.

Contd. P/7.

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN NO. 13024/2018
GOVT. OF INDIA

Adv.

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

(7) Kalyani Ghosh
Chairperson
Kharagpur Municipality

Amant Kanjilal

If more excess water is produced by the first party and if the first party is interested to supply the same to the second party; first party would communicate and thereafter the second party may apply to the First Party which application may be considered by the first party, at the rate to be fixed by the first party, at that time.

12. That the K.G.P. Municipal authority assumes no responsibility in case of failure of water supply due to power failures, major breakdown of supply system or any other reason which is beyond control of the Authority &/or due to natural calamity.

13. That if the water meter is out of order or do not function, due to any reason whatsoever; during any period, the bill for the said period will be prepared on the basis of average consumption for three previous bills or on other agreed reasonable basis, as may be determined by the Authority and will be binding on consumer.

14. That security deposit of Rs. **35,00,000/- (Thirty - five Lacs only)** is to be deposited by the Second Party unto the First Party, within a month from the date of this agreement.

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN. NO. 13024/2018 GOVT. OF INDIA

Adv.

Contd. P/8.

For BALASORE ... INDUSTRIES LTD.

Director / Authorised Signatory

(8) Kalyani Ghosh
Chairperson
Kharagpur Municipality

Anant Kejriwal

RAMSARUP INDUSTRIES LTD. * KHARAGPUR *

15. That the consumer is to bear all the principal & allied expenses (such as cost of materials, cost of water meter, laying labour / other charges etc.) for laying/repairing of 500 M.M. Dia D.I. rising main from Jharia Head Works to the premises of Ramsarup Industries Limited at Saha Chowk, Kharagpur with other relevant expenses; as may be fixed & called for by the first party. The water pipe line will be the property of the second party / consumer & dedicated to the second party's project. consumer would never claim any adjustment for this expenditure incurred by it, on any argument, whatsoever & at any point of time.

16. That the Kharagpur Municipality may, at it's discretion, revise the terms and conditions, regarding supply of water to the consumer, with prior intimation to the consumer/ company.

17. That the consumer / company will not make any structural changes, additions, alterations and / or interfere the water supply line, without prior permission in writing, from 1st Party / Kharagpur Municipal authority.

18. The consumer / company, shall be held responsible for any material and /or any other

Contd. P/9.

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN NO. 13924/2018
GOVT. OF INDIA

Adv.

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Kalyani Ghosh
Chairperson
Kharagpur Municipality

Anand Kejriwal
RAMSARUP INDUSTRIES LTD.
KHARAGPUR

(9) damage of the water pipe line, etc. from the point after the water meter at Jharia, to the undergroundreservoir within the premises of the second party and it shall repair and / or make replacement of the water pipe line at it's own costs. Exemption for payment would not be allowed on the ground of damage in water supply pipe line.

19. That the consumer / company, hereby declare that it shall not raise any objection, if authorised persons of the Chairperson, deputed for the inspection or repair and / or maintenance work of water supply pipe line enters in it's premises and it further declares that it shall not allow any other person to take water supply without prior written permission from the Chairperson.

20. That the Second Party, further declares that it will inform the first party about any fault and / or damage in the water pipe line under it's control and the second party itself will repair the fault and / or damage of the pipe line & the second party/consumer will bear the cost of such repair.

21. That the second party, further promises that, it would not claim any compensation from the First party, if the water supply is stopped and / or affected

Contd. P/10.

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 13824/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

Kalyani Ghosh
Chairperson
Kharagpur Municipality

Anant Kejriwal
RAMSARUP INDUSTRIES LTD.
KHARAGPUR

(10)

due to electrical and / or mechanical fault and / or damages in the water supply system or by any electricity failure or by any natural calamity. However, the first party will put it's utmost effort to restore the water supply at the earliest.

22. That to prevent any damage or tampering of the water supply meter, joint visit in every three months would be held by the parties though the control of the meter would absolutely be with the first party.

23. That it is categorically stated and clearly understood that the First priority would always renderwater supply to the inhabitants of the Kharagpur Municipal area as first priority, in all relevant times to come. There-after second priority will be to supply 2 M.G.D. of water to the second party.

24. That the second party will arrange relevant permissions from the national high ways authority and railways for the laying of the pipeline, if required.

25. That if there arises any difficulty beyond the control of second party, in taking water supply for labour dispute etc., then the second party will request the 1" party to stop supply of water for a

Adv.

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 13824/2018
GOVT. OF INDIA

Contd. P/11.

For RAMSARUP INDUSTRIES LTD.

Director/Authorised Signatory

Kalyani Ghosh
Chairperson
Kharagpur Municipality

Anant Rajwanshy

RAMSARUP INDUSTRIES LTD. KHARAGPUR

(11)

specified period and the application will be considered by the 1 party and no water charge will be applicable for that period.

26. That the relevant terms of this agreement will come into force from the respective/relevant dates.

IN WITNESS WHEREOF the Chairperson, Kharagpur Municipality on behalf of the Board of Councillors of Kharagpur Municipality & the resident head of M/s RAMSARUP INDUSTRIES LIMITED do hereby sign these presence on the day, month & year as noted hereinabove.

Kalyani Ghosh

Chairperson
Kharagpur Municipality

(Signed by, the Chairman)
Kharagpur Municipality)

Anant Rajwanshy

RAMSARUP INDUSTRIES LTD. KHARAGPUR

(Signed by, for and on behalf of the Consumer)

Address : Address :

1. **Witness :**
Asas Rakshit
S.A.E, KG&PMUN

2. **Witness:**
Pinaki Chakraborty
Comp. Kharagpur Municipality

1. **Witness :**
Deepak Kumar Agarwal.
-DGM. Commercial
FE-516, FE Block,
Bidhannagar, Kolkata-700106.

2: **Witness :**
Sumit Chakraborty.
Director RIL
9064695575

Contd. P/12.

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 1382/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director/Authorised Signatory

(12)

Drafted by me & prepared in my office.Typed by me.

Partha Kumar Basu, Advocate.

District Judge's Court, Midnapore.

Enrolment No.-F/659/418/81.

This deed of agreement contains Twelve sheets, including one stamp paper and here are four witnesses only.

Kalyani Ghosh

Chairperson

Kharagpur Municipality

Anant Rajasanky

RAMSARUP INDUSTRIES LTD. KHARAGPUR

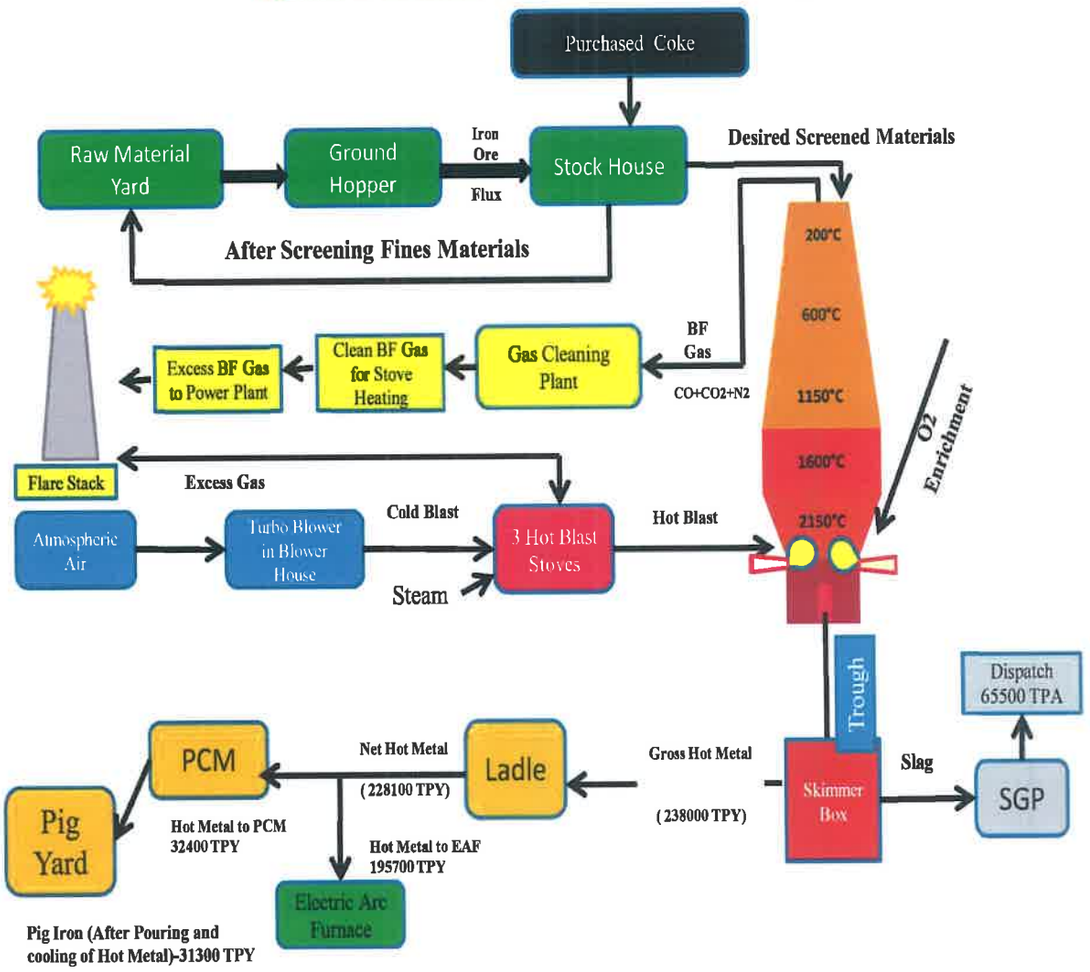
NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO. 13824/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director/Authorised Signatory

Annexure "R-23"

Blast Furnace Process Flow Sheet- 1

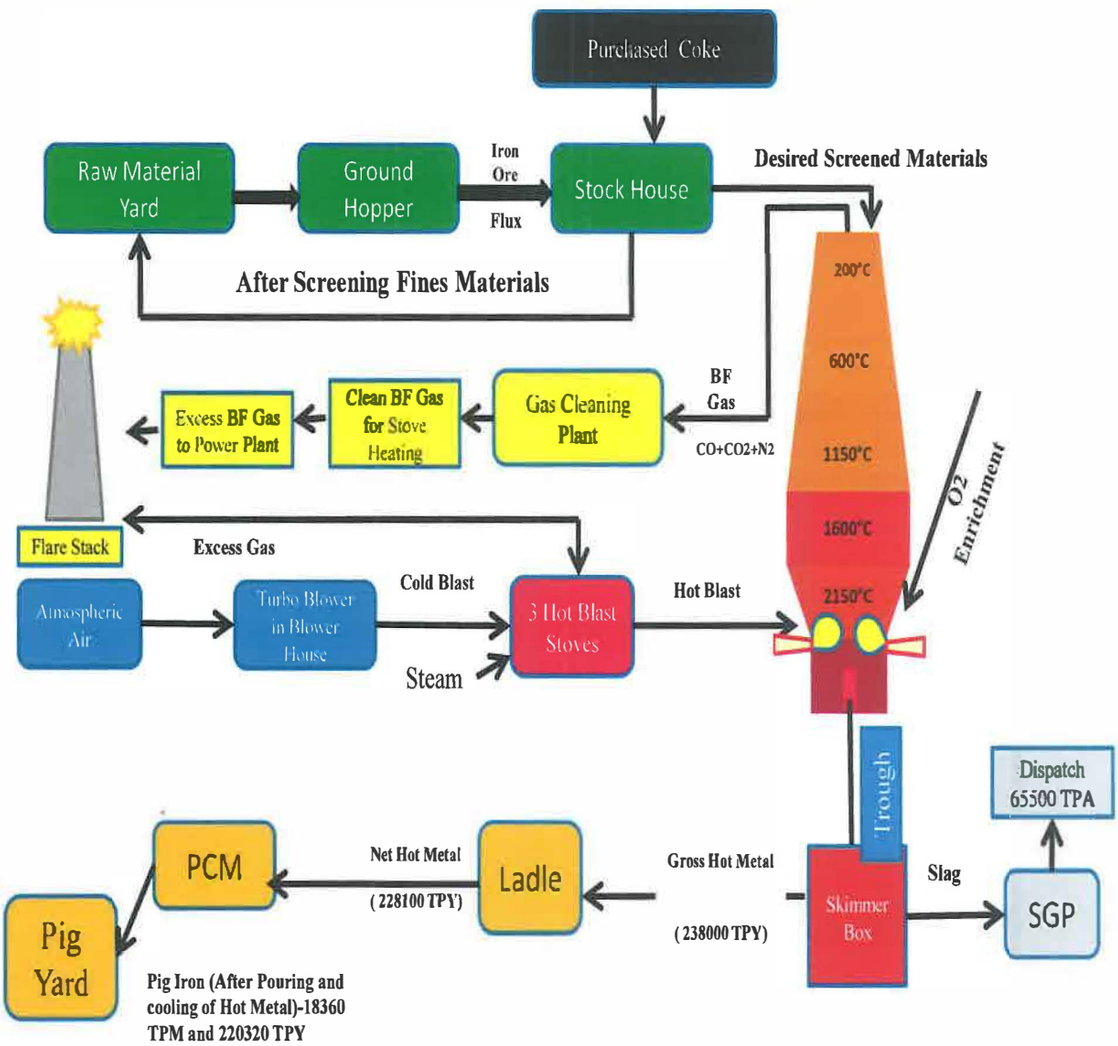


For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 16824/2018
GOVT. OF INDIA

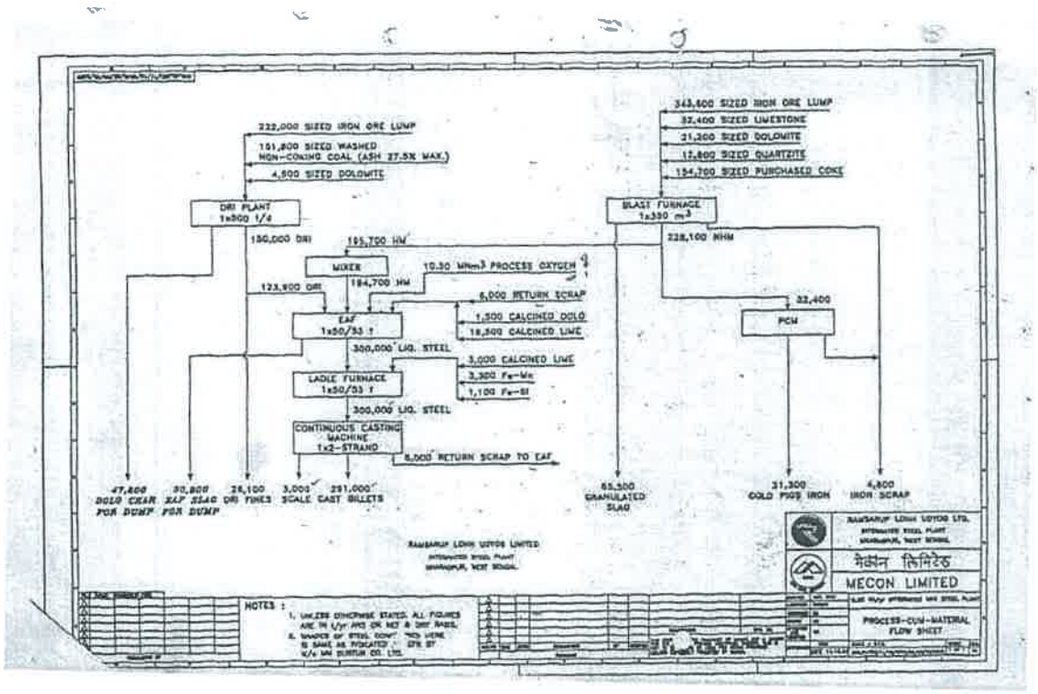
Blast Furnace Process Flow Sheet- 2



NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 13624/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory



NOTARY
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GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director/Authorised Signatory

Detail Metallurgical Process Description of Existing Plant of Ramswarup Industries Limited (RIL) (erstwhile Ramswarup Loh Udyog Ltd.)

Metallurgical Process of a Integrated Steel Plant consists of Iron Making through Blast Furnace (BF) for the liquid iron and Solid Iron through Direct Reduced Iron (DRI). The liquid and solid iron then converted into steel through Electric Arc Furnace (EAF) and the liquid steel produced through EAF converted into Billet through Continuous Billet Casting Machine. The hot metal of BF available after utilising in EAF is converted into solid pigs in the Pig Casting Machine (PCM). The waste heat available through DRI and the excess BF gas available after internal consumption are utilised to produce Power.

For RIL Steel Plant there is a Blast Furnace complex comprises of one blast furnace of 350 m^3 useful volume along with its auxiliaries to produce the liquid iron in the tune of 228100 Tonnes Per Year (TPY) net hot metal. The Blast Furnace is envisaged to operate with sized iron ore, coke , fluxes and additives. The hot metal produced will be charged in Electric Arc Furnace and Pig Casting Machine. The liquid slag will be granulated at cast house slag granulation unit. The BF top gas will be cleaned in dust catcher & gas cleaning system, and distributed to the stoves, runner drying and excess BF gas to be used for power generation or can be flared through flare stack.

Production of Direct Reduced Iron (DRI) in a 500 Tons Per Day (TPD) Rotary Kiln using sized iron ore and washed non-coking coal

Production of Steel of 0.3 Million Tonnes Per Annum (MTPA) in Electric Arc Furnace (EAF) using hot metal from Blast furnace, DRI and return scraps. Casting of liquid steel into billets in a continuous billet caster

Generation of Electric Power utilising the heat available in waste heat from DRI and excess gas from Blast Furnace in 2X10 MW Power Plant

Refer Environmental Clearance (EC) dtd.03.10.2006, the clearance was provided for 0.3 MTPA Steel Plant consisting 0.291 MTPA Cast Billets and 31300 TPA Pigs. The Hot Metal 228100 TPY was considered from which 195700 TPY was going to Electric Arc Furnace for Steel Making and 31300 TPY Pigs were produced.

Refer CTE dtd. 06.06.2006, the production of Steel per month 24250 tonnes which is 0.291 MTPA and Pigs 2608 per month which becomes 31296 TPY ~ 31300 TPY

Refer CTO dtd. 08.02.2007 where the consent letter was issued only to Operate Blast Furnace from 22.11.2006 to 30.11..2007. The operation of Blast Furnace only means production of hot metal 228100 TPY which to be converted Pigs only.

Refer CTO dtd.22.12.2008 for the operation of BF from 01.12.2008 to 30.11.2010 wherein the clearance is provided for the production of 18360 Tonnes Per Month (TPM) which becomes 220320 TPY Pigs from the hot metal of 228100 TPY from 350 m3 BF
The Steel Making Facilities were not ready but the Blast Furnace was ready. The Pig Casting Machine is also designed to convert the total hot metal of BF into solid pigs during maintenance

NOTARY KOLKATA SHYAM NARAYAN PANDEY REGN NO. 13324/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

of EAF. Therefore total hot metal to be converted into Pigs and 18360 T/month and 220320 TPY to be produced.

Therefore, the Total Hot Metal from Blast Furnace remains unchanged and as the Steel Making facilities were not ready, the total hot metal to be converted into Pigs only. The Net Hot Metal 228100 TPY was considered to be converted into 220320 TPY considering PCM losses of around 3.4% . There is no enhancement of capacity of Plant on the contrary as EAF was not there, the addition of DRI for Steel Making was not there and total output of Steel which was considered 0.3 MT became 0.22 MT Pig Iron Plant

Further the Environmental Clearance (EC) dtd. 03/06/2009 also provided clearance to produce hot metal from 0.228 to 0.456 MTPA and steel 0.3 MTPA to 0.7 MTPA.

(Binoy Bhusan Majumder)

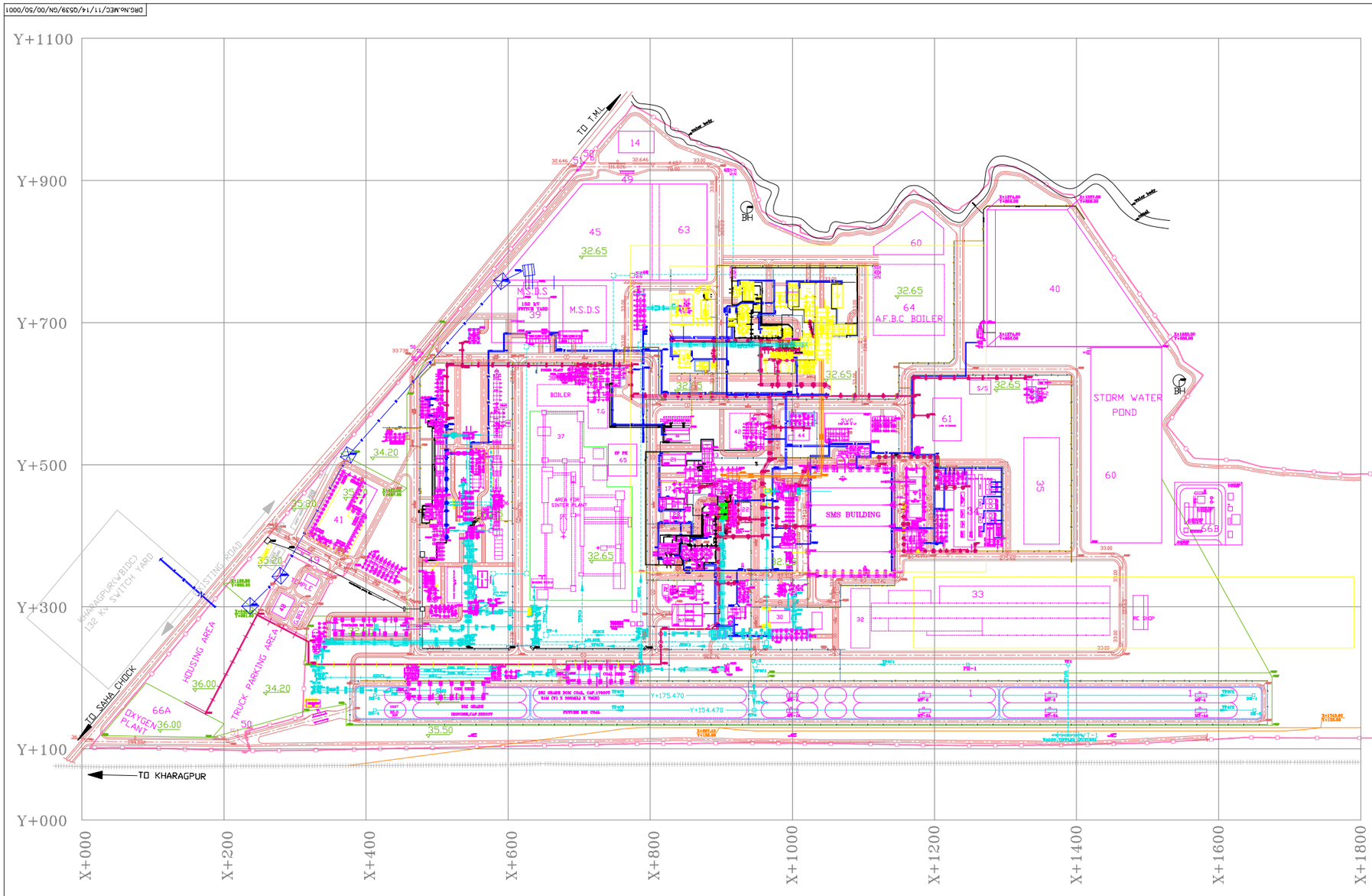
Ex. General Manager
MECON Limited
B. Tech (Metallugy), IIT KGP
Indian Institute of Metals (IIM) LM No.770
Indian Institute of Engineers (IEI) LM No.M-1157005

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 13824/2018
GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

DRG.No.MEC/11/14/0539/GN/00/50/0001



LIST OF UNITS

1. RAW MATERIAL STORAGE
2. GROUND HOPPER
3. STOCK HOUSE
4. FINES BUNKER
5. BLAST FURNACE
6. STOVES
7. DUST CATCHER
8. GAS CLEANING PLANT
9. CHIMNEY
10. FLARE STACK
11. BF CONTROL ROOM
12. CAST HOUSE
13. PIG CASTING MACHINE
14. COLD PIG YARD
15. LADLE REPAIR SHOP
16. SLAG GRANULATION PLANT
17. GRANULATED SLAG FOR DISPOSAL
18. FAN HOUSE
19. BF COLD WATER PUMPING STATION
20. OVERHEAD WATER TANK(B.F)
21. WATER SUPPLY FACILITIES–(PCM)
22. COAL DUST INJECTION PLANT
23. SGP PUMP HOUSE & SETTLING TANK
24. BF HOT WATER PUMPING STATION
25. GCP PUMPING STN
26. EFFLUENT TREATMENT PLANT
27. ELECTRICAL SUBSTATION
28. LOAD CENTRE SUBSTATION
29. LABORATORY
30. BLAST FURNACE STORES
31. S.M.S.
32. BILLET STORAGE
33. ROLLING MILLS
34. WATER SUPPLY FACILITIES FOR S.M.S
35. WATER SUPPLY FACILITIES FOR R.M.
36. D.R.I PLANT
37. SINTER PLANT
38. POWER PLANT
39. M.S.D.S.
40. RAW WATER RESERVOIR
41. CENTRAL STORES
42. TURBO BLOWER
43. COMPRESSED AIR STATION
44. PACKAGE BOILER
45. CHAR STORAGE
46. D.G. STATION
47. CONTROL ROOM FOR WHRB
48 ADMINISTRATIVE BUILDING
49. ROAD WEIGH BRIDGE
50. SECURITY POST
51. GATE
52. DM WATER PLANT
53. POWER & BLOWING PUMPING STATION
54. BLT PUMPING STATION
55. FIRE FIGHTING PUMP HOUSE
56. DRINKING WATER PUMPING STATION & OVER HEAD TANK
57. SLUDGE POND
58. RECLAIMED WATER PUMPING STATION
59. HOT RETURN WATER TANK
60. STORM WATER POND
61. L.P.G STORAGE
62. L.D.O STORAGE/TANKS FARM AREA
63. COAL STORAGE (AFBC)
64. AFBC BOILER
65. SP PUMP HOUSE
66A. OXYGEN PLANT AS FINALISHED EARLIER
66B. OGYGEN PLANT AS FINALISED BY RLUL ON 05.06.07

SYMBOL LEGEND

PROPOSED UNIT
FUTURE UNIT
PROPOSED ROAD
FUTURE ROAD
PROPOSED DRAIN
PROPOSED CONVEYOR
FUTURE CONVEYOR
PROPOSED RAILWAY TRACK
PROPOSED PIPES OVER TRUSTLE
BOUNDARY WALL
INTER PLANT CABLE ROUTE
MAKE–UP WATER PIPELINE
FIRE WATER PIPELINE & HYDRANT
OTHERS WATER PIPELINES
TL AREA
GRID
MISCLANEOUS
FENCING
UNKNOWN FACILITIES
HOLD

100 0 100 200 300
SCALE IN METRES

RAMSARUP LOHH UDYOG LIMITED
KHARAGPUR, WEST BENGAL
मैकॉन लिमिटेड
MECON LIMITED

REV.NO.	DATE	ZONE	DESCRIPTION	BY	VERIFIED
			REVISIONS		

REFERENCES DRG.NO.

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SECTION	G L & T
LOCATION	RANCHI
DESIGNED	Sanjay Kumar
DRAWN	Sanjay Kumar
CHECKED AND VERIFIED	M. L. A
APPROVED	SIG.
	DATE: 01.09.07

INTEGRATED STEEL PLANT

GENERAL LAYOUT

SCALE – AS SHOWN | SHEET 1 OF 1 | REV 0

DRG.No.MEC/11/14/0539/GN/00/50/0001

NOTARY
KOLKATA
SHYAM NARAYAN PANDEY
REGN. NO. 13624/2018
GOVT. OF INDIA

Annexure "R-25"

सत्यमेव जयते

भारत सरकार/Government of India
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest & Climate Change
क्षेत्रीय कार्यालय, भुवनेश्वर/ Regional Office, Bhubaneswar
उप-कार्यालय, कोलकाता/ Sub-Office, Kolkata
IB-198, Sector - III, Salt Lake City, Kolkata-700106
Phone: 033-2335-0902, E-mail: iro.kolkata-mefcc@gov.in

LiFE Lifestyle for Environment

File. No. 102-260/08/EPE/227 Date: 11.12.2023

To,

Dr. Bhardwaj Adiraju,
Joint Director/ Scientist- D,
Ministry of Environment, Forest & Climate Change,
Indira Paryavaran Bhawan, Jorbagh Road, Aliganj,
New Delhi –110003. (e-mail: bhardwaj.adiraju@gov.in)

Sub: Review of Show-Cause Notice reply and Directions under Section 5 of Environment (Protection) Act, 1986 for illegal construction by "Integrated Steel Plant at Industrial Estate Kharagpur, District Paschim Medinipur, West Bengal of M/s. Ramsarup Lohh Udyog Limited- reg.

Ref:
i. Ministry's EC letter no. J-11011/229/2006-IA-II (I) dated 03.10.2006,
ii. Ministry's EC letter no. J-11011/14/2008-IA-II (I) dated 03.06.2009,
iii. Ministry's letter no. Z-12011/16/2023-IA-I dated 19.07.2023,
iv. This office letter no. 102-494/14/EPE/37 dated 16.08.2023,
v. Show-Cause Notice by Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023,
vi. Response to Show-Cause Notice submitted by PAs vide email dated 13.09.2023,
vii. Ministry's letter no. IA-Z-12011/16/2023-IA-I(M) dated 21.09.2023.

Sir,

I am directed to draw your kind attention to the subject and reference letter cited above and to state that the site inspection of the project by M/s. Ramsarup Industries Limited was jointly conducted by Dr. Shahida P. Quazi, Scientist 'E', Sub-office Kolkata and Dr. T. H. Mahato, Scientist 'D', Regional Office Bhubaneswar on 04.08.2023. During monitoring non-compliances were observed. Subsequently, vide this office letter no. 102-494/14/EPE/37 dated 16.08.2023, the PAs were asked to comply with the non-compliances. Accordingly, a Show-Cause Notice was issued by Ministry of Environment, Forest & Climate Change vide letter no. IA-Z-12011/16/2023-IA-I (M) dated 23.08.2023.

Response to Show-Cause Notice was submitted by PAs vide email dated 13.09.2023. Subsequently, Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 21.09.2023 has directed this office to verify the facts of the response given by the PAs. The project has been again monitored by Dr. Shahida P. Quazi, Scientist 'E', Sub-office Kolkata and Dr. T. H. Mahato, Scientist 'D', Regional Office Bhubaneswar on 02.11.2023. During visit on 02.11.2023 construction activity on proposed area of sinter plant and pellet plant found to be suspended. Repairing activity in DRI and blast furnace was also found to be suspended. Based on the response to Show-Cause Notice submitted by the PAs on 21.09.2023, 13.11.2023, 17.11.2023, 21.11.2023 & 23.11.2023 as well as observations made on 02.11.2023, review of Action Taken Report is furnished below:

1	**Non-compliances as per the Show-cause notice issued by Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023:** Bore well has been observed at the site not complying to the stipulations made by the EC condition directing no ground water shall be drawn either for construction or operation. **(Specific Condition no iv of EC dated 03.10.2006)**

SHYAM NARAYAN PANDEY REGN. NO. [illegible] KOLKATA GOVT. OF INDIA

For RAM[illegible]

Director / Authorised Signatory

	Action taken report submitted by the project proponent on 21.09.2023: 1. The Project was shutdown from year 2010 and we have taken it through NCLT on May 2022. 2. The Project is not in operation. 3. The permission of 2 MGD water drawl was obtained from Kharagpur Municipal Corporation by the previous owner. 4. Permission for Bore well was obtained from DLA Pachim Medinipur. **Justification:** The water from Bore well is being used for drinking purpose of employees. **Review of Action Taken Report and observations made on 02.11.2023: Partially Complied** During visit on 02.11.2023 bore well was observed at the site. PAs informed that they are not withdrawing any water from it.
2	**Non-compliances as per the Show-cause notice issued by Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023:** Green-belt as per CPCB condition has not been observed and details of plantation carried out have not been furnished. **(Specific Condition vii of EC dated 03.10.2006 and Specific Condition xvii of EC dated 03.06.2009)** **Action taken report submitted by the project proponent on 21.09.2023:** The Greenbelt of 33% is already at project site. Since the Plant was shutdown from long period and we have taken the plant from NCLT so the detail of the plantation not available. **Justification:** A detail survey to be done and report will be submitted to Ministry with in a period of 3 month. **Action taken report submitted by the project proponent on 21.11.2023:** Reports on Survey of Green Area Showing all Trees in In-Situ Location Inside Plant Area of Ramsarup Industries Limited at Kharagpur, Dist- Paschim Medinipur, West Bengal 1. Date of Survey-08.11.2023-11.11.2023 2. Instrument used- Dual frequency DGPS and Total Station 3. Total Area of Plant-315 acres (approx) 4. Total Green Area Inside plant- 107 acres (approx) 5. Total Numbers of Big Trees (Girth: 800mm-1000mm)-3730 Nos 6. Total Numbers of Medium Trees (Girth: 400mm-700mm)-26658 Nos. 7. Total Numbers of Small Trees (Girth: 200mm-400mm)-34592 Nos **Remarks**- Big Trees are Mainly Sonajhuri and Medium Trees are Mainly Sonajhuri, Debdaru & Khair and Small Trees are Mainly Debdaru, Eucalyptus & Khair etc. **Review of Action Taken Report and observations made on 02.11.2023: Partially complied.**

KOLKATA SHIVAJI HARIBAL JI PANDEY REGN NO. 1302420 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

	PAs have submitted a greenbelt survey report conducted by a third party agency (M/s. Global Surveyors) from 08.11.2023 to 11.11.2023, using Dual frequency DGPS and Total station instruments. As per the report the total plant area encompasses 315 acres approximately, with a green area of 107 acres (approx). The survey identified a total of 3730 big trees with a girth between 800-1000 mm, 26658 medium-sized trees with a girth between 400-700 mm and 34592 small trees with a girth between 200-400 mm. The prominent species of large trees include Sonajhuri, while medium-sized trees consist mainly of Sonajhuri, Debdaru, and Khair. Small trees predominantly include Debdaru, Eucalyptus, Khair and other species as per the CPCB norms. ***As per the EC dated 2009, the total plant area is 325 acres and 33% green belt has to be developed i.e. PAs need to develop green belt in 107.25 acres. As per the report submitted by PAs, total current green belt is in 107 acres. Hence, PAs need to develop green belt in another 0.25 acres to achieve 33% green belt as per CPCB guidelines.***
3	**Non-compliances as per the Show-cause notice issued by Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023:** Details of health check-up of workers have not been furnished. **(Specific Condition viii of EC dated 03.10.2006 and General Condition vi of EC dated 03.06.2009)** **Action taken report submitted by the project proponent on 21.09.2023:** 1. Temporary health checkup system is there and it also being done through Campaigning Basis. 2. A proper occupational health surveillance system will be developed before starting of the operation of the project. **Justification:** 1. The project was shutdown from year 2010 and we have taken it through NCLT on May 2022. 2. The project is not in operation. **Action taken report submitted by the project proponent on 13.11.2023:** PAs have submitted the health check-up reports of workers and that includes general blood test for 25 workers, ECG for 5 workers and Radiograph for 5 workers through mail. **Review of Action Taken Report and observations made on 02.11.2023: Complied.** PAs have informed that the project has been shutdown form 2010 and have been taken through NCLT on May 2022. During monitoring on 02.11.2023 construction activities was found to be suspended. PAs have submitted the details of the health check-up of workers and that includes general blood test for 25 workers, ECG for 5 workers and Radiograph for 5 workers.
4	**Non-compliances as per the Show-cause notice issued by Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023:** Repairing activity in DRI and Blast furnace, new construction activity of proposed Sinter plant and proposed pellet plant at initial stage along with an oxygen plant whose CTE and CTO was not furnished has been observed against the stipulations made by EC condition. **(General Condition ii of EC dated 03.10.2006 and General Condition**

For RAMSARUP

Director/Authorised Signatory

	ii of EC dated 03.06.2009) **Action taken report submitted by the project proponent on 21.09.2023:** 1. Repairing of DRI and Blast furnace is under process and for the same we have valid EC, CTE and CTO. 2. (a) Approval for sinter Plant was there in EC 2009. (Copy of EC 2009 Enclosed) (b) The previous owner/ management has started some work to establish the sinter Plant which can be evident from the records enclosed herewith. (Copy of validation report enclosed) (c) Previous management had procured some plant and machinery related to sinter plant and that was lying unutilized at the plant site and they also started some civil work for the sinter plant. After taking up the plant, we found that plant machinery related to sinter plant is lying in a damaged/ rusted condition and if proper care immediately not taken to it then it cannot be utilized in future also and the Civil/ structural work which was done earlier required immediate repairing so that it could be saved from further damaged, in this scenario we have only started painting work and some repairing to the civil work to protect the structure and machinery so that it can be utilized in future after obtain valid CTE and CTO. 2. Regarding construction of Pellet Plant, we would like to submit that the work that was going on is for construction of guest house/ rest house for employees' purposes as there is no such facility for employees working in the plant. We again reiterate that the initial civil construction work alleged as work for pellet plant is for construction of Guest house/ rest house not for the pellet plant (copy of the civil drawing is enclosed for your kind perusal). We can give an undertaking in this regard if required. Again, the concept of pellet plant has come front our TOR application in which EDS has been given by MoEF&CC to us. We are rectifying/ withdrawing our TOR Application and will submit after proper rectification. 3. The construction of oxygen plant was done before acquisition by previous owner which is in defunct condition. We have even not touched the existing structure of oxygen plant. **Justification:** We have stopped all the construction work as per your good office direction stated 23.08.2023. **Review of Action Taken Report and observations made on 02.11.2023: Not Complied** During visit in 02.11.2023 construction activity on proposed area of sinter plant and Pellet plant found to be suspended. Repairing activity in DRI and blast furnace was also found to be suspended.
5	**Non-compliances as per the Show-cause notice issued by Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023:** Establishment of ambient air quality station has not been furnished. **(General Condition iii of EC dated 03.10.2006)**

For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

	Action taken report submitted by the project proponent on 21.09.2023: Establishment of ambient air quality station will be done before starting the operation of the Project. **Justification:** 1. The project was shut down from year 2010 and we have taken it through NCLT on May 2022. 2. The Project is not in Operation. **Action taken report submitted by the project proponent on 13.11.2023:** PAs have submitted the ambient air quality monitoring reports via email. **Review of Action Taken Report and observations made on 02.11.2023: Being complied.** PAs have furnished the ambient air quality monitoring data of four locations near main gate, near gate no. 3, near batching plant and near labour colony on 04.11.2023 to 05.11.2023. Monitoring reports indicated that PM_{10}, $PM_{2.5}$, SO_2, NO_2 and CO were within the stipulated limit.
6	**Non-compliances as per the Show-cause notice issued by Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023:** Noise level monitoring data has not been furnished. **(General Condition v of EC dated 03.10.2006, General Condition iv and General Condition v of EC dated 03.06.2009)** **Action taken report submitted by the project proponent on 21.09.2023:** Since the project is not in operation therefore, Noise levels monitoring will be done before starting the operation of Units. **Justification:** 1. The Project was shut down from year 2010 and we have taken it through NCLT on May 2022. 2. The Project is not in Operation. **Action taken report submitted by the project proponent on 13.11.2023:** PAs have submitted the noise level monitoring reports via email. **Review of Action Taken Reports and observations made on 02.11.2023: Being complied.** PAs have furnished ambient noise monitoring data of four locations in both day and night time inside the project site i.e., near main gate, near gate no. 3, near batching plant and near labour colony on 04.11.2023. Monitoring reports indicated that noise levels were within the stipulated limit.
7	**Non-compliances as per the Show-cause notice issued by Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023:** Details of expenditure have not been furnished. **(General Condition vii of EC dated**

For RAMIDUR INDUSTRIES

Director/Authorised Signatory

	03.10.2006, General Condition xiii of EC dated 03.06.2009) **Action taken report submitted by the project proponent on 21.09.2023:** The Project is not in operation therefore, expenditure details will be furnished after commencement of operations. **Justification:** 1. The project was shut down from year 2010 and we have taken it through NCLT on May 2022. 2. The project is not in Operation. **Action taken report submitted by the project proponent on 18.11.2023:**

RAMSARUP INDUSTRIES LTD (KHARAGPUR)	
Detail of Expenditure	
Project Name	**Expenditure (Crore)**
DRI	49.78
MBF	18.02
CPP	47.34
RAILWAY SIDING	2.79
Misc.	18.30
TOTAL	**136.23**

	Review of Action Taken Report and observations made on 02.11.2023: Partially complied. As per information submitted by PAs, it is found that PAs have taken this project from NCLT on May, 2022 and major repairing work has been started. PAs have submitted the expenditure details vide email dated 17.11.2023 & 18.11.2023. It is observed that they have spent a total of 136.23 (crore) in the project (DRI– 49.78 crore, MBF- 18.02 crore, CPP- 47.34 crore, Railway Siding- 2.79 crore, Misc.- 18.30 crore). However, separate expenditure for environmental protection measure has not been furnished.
8	**Non-compliances as per the Show-cause notice issued by Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023:** Six monthly compliance reports have not been furnished regularly. **(General Condition viii of EC dated 03.10.2006, General Condition xiv of EC dated 03.06.2009)** **Action taken report submitted by the project proponent on 21.09.2023:** It is to submit that the project was shut down from year 2010 and not in operation by the previous proponent and we have taken it through NCLT on May 2022. The reviving and development of project is in planning stage. However, the half yearly monitoring report has been submitted to the Authority and we hereby assuring that it will be submitted on regular basis. **Justification:** 1. The project was shut down from year 2010 and we have taken it through NCLT on May 2022. 2. The project is not in Operation. **Review of Action Taken Report and observations made on 02.11.2023: Partially**

KOLKATA SHYAM NARAYAN PANDEY REGN NO. 1352/2018 GOVT. OF INDIA

For RAMSARUP INDUSTRIES LTD.

Director/Authorised Signatory

	complied. PAs have submitted the six-monthly compliance report related to the EC dated 2009 via mail dated 05.08.2023. ***PAs have not submitted the six-monthly compliance report related to the EC dated 03.10.2006.***
9	**Non-compliances as per the Show-cause notice issued by Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023:** Data has not been furnished and the display Board outside the premises for general public has not been observed. **(Specific Condition iii of EC dated 03.06.2009 and General Condition iv of EC dated 03.06.2009)** **Action taken report submitted by the project proponent on 21.09.2023 & 13.11.2023:** It is to submit that the Project was shut down from year 2010 and not in operation by the previous proponent and we have taken it through NCLT on May 2022. The reviving and development of project is in planning stage. We hereby assuring that the display board will be made available before commencement of operations. **Justification:** 1. The Project was shut down from year 2010 and we have taken it through NCLT on May 2022. 2. The project is not in operation. **Action taken report submitted by the project proponent on 13.11.2023:** PAs have sent a photograph of the display board vide email dated 13.11.2023. **Review of Action Taken Report and observations made on 02.11.2023: Partially complied.** During visit on 02.11.2023 display board has not been observed. Vide e-mail dated 13.11.2023, PA has furnished a photograph of display board. However, data has not been displayed.
10	**Non-compliances as per the Show-cause notice issued by Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023:** Details of time bound action plan to reduce solid waste, its utilization and disposal has not been furnished. **(Specific Condition no xv of EC dated 03.06.2009)** **Action taken report submitted by the project proponent on 21.09.2023:** It is to submit that the Project was shut down from year 2010 and not in operation by the previous proponent and we have taken it through NCLT on May 2022. The reviving and development of project is in planning stage. We hereby assuring that time bound action plan to reduce solid waste, its utilization and disposal will be submitted soon before commencement of operation. **Justification:** 1. The Project was shut down from year 2010 and we have taken it through NCLT on May 2022. 2. The project is not in operation.

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	Review of Action Taken Report and observations made on 02.11.2023: Not complied. During visit the project was not in operation. However, PA should prepare and furnish an action plan to reduce solid waste its utilization and disposal.
11	**Non-compliances as per the Show-cause notice issued by Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023:** First Aid Room, fuel for cooking has not been observed. **(Specific Condition xix of EC dated 03.06.2009)** **Action taken report submitted by the project proponent on 21.09.2023:** It is to submit that the Project was shut down from year 2010 and not in operation by the previous proponent and we have taken it through NCLT on May 2022. The reviving and development of project is in planning stage. We hereby assuring that the condition will be complied before commencement of operations. **Justification:** 1. The project was shut down from year 2010 and we have taken it through NCLT on May 2022. 2. The project is not in operation.
	Review of Action Taken Report and observations made on 02.11.2023: Not complied. During visit in 02.11.2023 construction and repairing work was found to be suspended. However, first aid room was also not observed at the time of monitoring. Ministry may like to take a view in the matter.
12	**Non-compliances as per the Show-cause notice issued by Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023:** Details regarding eco-development measures including community welfare measures in the project area have not been furnished. **(General Conditions xi of EC dated 03.06.2009)** **Action taken report submitted by the project proponent on 21.09.2023:** It is to submit that the Project was shut down from year 2010 and not in operation by the previous proponent and we have taken it through NCLT on May 2022. The reviving and development of project is in planning stage. We hereby assuring that the condition will be complied before commencement of operations. **Justification:** 1. The project was shut down from year 2010 and we have taken it through NCLT on May 2022. 2. The project is not in operation. **Action taken report submitted by the project proponent on 22.11.2023:** We, Ramsarup Industries Limited, Kharagpur often extend our help and support to different social organizations including local orphanage. We also provide support to

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	enhance sports & cultural activities in nearby villages. Some of the pictures are attached herewith for your reference. We are committed towards development of community and society. Since we have yet to start the plant, so a minimum expenditure done till date which is around 2.5 lakhs to 3 Lakhs. **Review of Action Taken Report and observations made on 02.11.2023:** PAs have informed that the project was shut down from the year 2010 and they have taken it through NCLT on May 2022. As per the information furnished. Expenditure incurred till date is around 2.5 lakhs to 3 lakhs.
13	**Non-compliances as per the Show-cause notice issued by Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023:** Details of Environmental management cell have not been furnished. **(General Condition xii of EC dated 03.06.2009)** **Action taken report submitted by the project proponent on 21.09.2023:** It is to submit that the Project was shut down from year 2010 and not in operation by the previous proponent and we have taken it through NCLT on May 2022. The reviving and development of project is in planning stage. We hereby assuring that the condition will be complied before commencement of operations. However, current environmental affairs are being taken care by Head Office. **Justification:** 1. The project was shut down from year 2010 and we have taken it through NCLT on May 2022. 2. The project is not in operation. **Action taken report submitted by the project proponent on 23.11.2023:** **ENVIRONMENT CELL** Executive Director (Mr. Sumit Chakraborty) ↓ HOD-Environment (Mr. Anindya Pal) ↓ Dpt./ Asst Manager-Environment (Mr. Nawnit Sharma) ↓ ↓ Chemist Field Assistant **Review of Action Taken Report and observations made on 02.11.2023: Being complied.** PAs have provided the detailed structure of their newly formed environmental management cell to carry out various management and monitoring functions under the control of Senior Executive.
14	**Non-compliances as per the Show-cause notice issued by Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023:** Details of financial closure and final approval of the project has not been furnished. **(General Conditions xv of EC dated 03.06.2009)**

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	Action taken report submitted by the project proponent on 21.09.2023: It is to submit that the Project was shut down front year 2010 and not in operation by the previous proponent and we have taken it through NCLT on May 2022. The reviving and development of project is in planning stage. We hereby assuring that financial closure and final approval of the project will be furnished soon after finalization of operation plans. **Justification:** 1. The project was shut down from year 2010 and we have taken it through NCLT on May 2022. 2. The project is not in operation. **Review of Action Taken Report and observations made on 02.11.2023:** PP informed that the project was taken through NCLT. However, details of financial closure and final approval of the project has not been furnished. Ministry may like to take a view in the matter.
15	**Non-compliances as per the Show-cause notice issued by Ministry vide letter no. IA-Z-12011/16/2023-IA-I(M) dated 23.08.2023:** Details of the EC granted by the Ministry has not been furnished. **(General Conditions xvi of EC dated 03.06.2009)** Action taken report submitted by the project proponent on 21.09.2023: It is to submit that the Project was shut down from year 2010 and not in operation by the previous proponent and we have taken it through NCLT on May 2022. The reviving and development of project is in planning stage. This condition may be complied by the previous owner, however we have applied for transfer of EC from RLUL to RIL, once we get the new EC, we will comply the condition if required. **Justification:** 1. The project was shut down from year 2010 and we have taken it through NCLT on May 2022. 2. The project is not in operation. **Review of Action Taken Report and observations made on 02.11.2023:** PP informed that the project have taken through NCLT on May, 2022. EC was accorded on 03.06.2009. Presently, PAs have not furnished copy of newspaper advertisement. Ministry may like to take a view in the matter.

This is for the kind information and necessary action.

भवदीया,

(Dr. Shahida P. Quazi)
Scientist 'E'

(Dr. T. H. Mahato)
Scientist 'D'

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Copy to:

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2. Compliance and Monitoring Division (CMD), Ministry of Environment, Forest and Climate Change, Paryavaran Bhawan, Jorbagh Road, Aliganj, New Delhi–110003, (Email: moefcc-monitoring@gov.in)
3. Shri Sanjay Kumar Singh, M/s Ramsarup Industries Limited, Industrial Estate, Kharagpur, Dist. Paschim Medinipur, West Bengal.
4. Shri Prasant Bhardwaj, DGM, Commercial and Business Development, M/s Ramsarup Industries Ltd., Industrial Estate, Kharagpur, Dist. Paschim Medinipur, West Bengal. (e-mail: prashantbhardwaj@shyamgroup.com)

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For RAMSARUP INDUSTRIES LTD.

Director / Authorised Signatory

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONAL BENCH, KOLKATA, WEST BENGAL
FINANCE CENTRE, 3RD FLOOR, NEW TOWN
[Under Section 18 (1) read with Section 14 of the National Green Tribunal Act, 2010]

ORIGINAL APPLICATION NO. 188/2023/EZ

RAJKUMAR DAS

... Applicant

-And-

In the matter of:
MOEF & ORS.

... Respondents



AFFIDAVIT-IN-OPOSITION FILED ON BEHALF OF THE RESPONDENT NO.4 ABOVENAMED TO THE APPLICATION FILED BY THE APPLICANT UNDER SECTION 18 (1) READ WITH SECTION 14 OF THE NATIONAL GREEN TRIBUNAL ACT, 2010

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