

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 771 OF 2022**

IN THE MATTER OF:

Nishant Bhargav

... Applicant

Versus

State of Uttar Pradesh & Anr.

.... Respondent (s)

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NDoH: 01.08.2024

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Place: New Delhi

Date: 31.07.2024

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**COMPLIANCE AFFIDAVIT ON BEHALF OF JAYPEE INFRATECH
LTD. THROUGH ITS IMPLEMENTATION AND MONITORING
COMMITTEE IN O.A. NO. 771/2022**

MOST RESPECTFULLY SHOWETH:-

1. That this Hon'ble Tribunal is presently seized of the issue of compliances undertaken by the Jaypee Infratech Ltd., through its Implementation and Monitoring Committee (hereinafter referred as the 'answering Respondent'), for proper disposal of domestic sewage as well as compliance with the Construction and Demolition Waste Management Rules, 2016 along with the development of the Sewage Treatment Plants in the Jaypee Infratech Green Wish Town Project.
2. That the answering Respondent has filed its Response to the Status Report of the Joint Committee dated 10.02.2023 on 16.06.2023, Comprehensive Response to the Letter Petition and Reply Affidavit of Nishant Bhargav dated 11.03.2023 on 19.06.2023, Objections to the Joint Committee Report dated 17.11.2023 on 11.02.2024 and an Additional Affidavit dated 13.03.2024 clarifying that pending the insolvency proceedings and the creation of the new management, the answering Respondent was disposing the domestic waste through trucks to the STP located in Sector 128 of the Jaypee Green Wishtown Project.
3. That this Hon'ble Tribunal vide its Order dated 18.03.2024, directed the answering Respondent to file a Compliance Affidavit with regard to the observations made in the abovementioned Order i.e, *inter alia*, the operational status of STP, their capacity and the manner in which the excess sewage is being disposed of by the answering Respondent. Accordingly, the answering Respondent is filing this Compliance Affidavit in compliance with this Hon'ble Tribunal's Order dated 18.03.2024.
4. That prior to specific submissions on the queries raised in the order dated 18.03.2024 of this Hon'ble Tribunal vis a vis the construction of the STP, the answering Respondent seeks to submit certain preliminary submissions on the

queries pertaining to the liability of JIL, provisions of the Resolution Plan and its legal validity vis a vis compliances under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981, which in the humble submission of the answering Respondent are crucial for a holistic adjudication of the case as well as the queries of this Hon'ble Tribunal.

I. JAYPEE INFRATECH LTD./CORPORATE DEBTOR BOUND BY THE RESOLUTION PLAN FOR COMPLETION OF THE JAYPEE GREEN WISHTOWN PROJECT .

5. That the answering Respondent in pursuance of their EC dated 30.06.2020 is developing the Jaypee Green Wishtown at Noida. The plotted development and residential flats have to be developed in five sectors of NOIDA (now Gautam Budh Nagar) namely Sector 128, 129, 131,133 and 134. Out of the four sectors, Sector 129, NOIDA has been sold to a third party. The grievance in the present Application/Letter Petition pertains specifically to the alleged non-compliance with the construction of STP in Sector 133, NOIDA. The Table-1 below describes the projects being undertaken in Sector 133, the number of towers in the said Sector and as well the stage of construction of each project -

Table-1

Sector	Project	No. of Towers	Stage of Construction
Sector 133	Kensington Boulevard	21	Work is yet to be completed at 21 towers
	Kensington Park Apartments and Kensington Park Heights?	18	Out of 18 towers , Occupation Certificate available for 4 towers and Offer of Possession (OOP) issued for 4 towers. Work not yet completed at 14 towers.
	Klassic	32	out of 32 towers, Occupation Certificate available for 25 towers and Offer of Possession issued for 22 towers. Work not completed in 7 towers
	Garden Isles	24	Work is yet to be completed at 24 towers
	Total	95	

The stage of construction of each project in the rest of the Sectors are also available but since it is not a subject matter of the present lis, it has not been submitted here. The answering Respondent seeks liberty to present the same in case it is required by this Hon'ble Tribunal in order to understand the magnitude of the Project.

6. That the Applicant herein was given the Possession Memo as early as 2011 for their apartment in the abovementioned Sector. Copy of the Possession Memo granting to Nishant Bhargav is marked and annexed as **ANNEXURE R/1**. It is pertinent to note that Jaypee had applied for Completion Certificate in May 2012, however the same has not been granted till date. The Occupancy Certificate is applied and obtained by the residents themselves. Thus, the Applicant Nishant Bhargav, himself obtained the occupancy certificate although Jaypee had not been granted the completion certificate and started residing in the said premises in Sector 133. Moreover, despite knowing the same, he had the requisite opportunity since 2012 to raise the grievances raised herein which he chose to sit over till his letter petition dated 10.06.2022.
7. That subsequently in 2017, Corporate Insolvency Resolution Process (CIRP) was initiated against Corporate Debtor/JIL. Due to the pendency of the CIRP, there was a moratorium under Section 14 of the Insolvency and Bankruptcy Code of 2016 on all proceedings against the Corporate Debtor i.e. the Company of the undersigned. A time period was provided for the public to submit their claims prior to the finalisation of the Resolution Plan. However, the Applicant herein has not put on record or clarified in his submissions any claims pertaining to the present issue being raised before the Adjudicating Authority. Instead the Applicant has come before this Hon'ble Tribunal alleging violation during the moratorium period. In a catena of cases, the Hon'ble Apex Court has clarified that once the moratorium has commenced, all proceedings initiated against the Corporate Debtor are non-est (*Alchemist Asset Reconstruction Company Ltd v. Hotel Gaudavan Private Limited* (2018 16 SCC 94)).
8. That further, all construction pertaining to the project was halted pending the adjudication and finalisation of claims for preparation of the Resolution Plan. The Resolution Plan was finalised on 07.06.2021 and approved by the NCLT on 07.03.2023. In the specific case of Nishant Bhargav, the Applicant herein, the Occupancy for the flat in Sector No. 133 was granted prior to the declaration of insolvency in 2017. However, post 2017, all construction work pertaining to the

STP had to be halted due to the absence of investment or any inflow of money for the development of the Project.

9. That after obtaining the approval of NCLT for the Resolution Plan on 07.03.2023, all construction, management, and maintenance by the answering Respondent was required to be undertaken in pursuance of the Resolution Plan finalised by the NCLT and under the supervision of the Implementation and Monitoring Committee (IMC).
10. That it is submitted that post approval of Resolution Plan, the answering Respondent through its IMC has undertaken the compliance work pertaining to all the projects and is committed for timely completion of the projects as per the stipulated timelines in the Resolution Plan. However, it is noteworthy to mention that such steps and measures taken by answering Respondent is not to fulfil its own financial gains / personal motives, but this is in benefit of public at large/ stakeholders/homebuyers.
11. That it is pertinent to note that the Resolution Plan in para 17.4 clarifies that the completion of construction of the projects and the delivery of possession of the units/homes to the home buyers is to be undertaken by the Resolution Applicant as per timelines specified in the Annexure I of the Resolution Plan. The Annexure I of the Resolution Plan clarifies that specifically vis a vis Sector 133, the construction of the Kensington Boulevard project will take 22 months, Kensington Park Apartments and Heights construction will take 13 months, construction of the Klassic project will take 15 months and construction of Garden Isles will take 40 months. The relevant excerpts of the Resolution Plan are marked and annexed as **ANNEXURE R/2**.
12. That the Resolution Plan also clarifies that Homebuyers are deemed to have consented/assented to an extension of timelines in the construction of homes/units as per the timelines provided in this Resolution Plan Further, the Resolution Applicant or the Corporate Debtor (JIL) does not have any obligation or liability towards the homebuyers on account of monies paid for maintenance charges. In view of the above, it is the humble submission of the answering Respondent that there are clear timelines for the completion of the construction of projects and thus the answering Respondent cannot be held liable for the delay in the construction of the STP when dedicated timelines for the same are included in the Resolution Plan and consented by the Parties in accordance with law.
13. That the provisions of the Insolvency and Bankruptcy Code of 2016 in Section 238 clarify that the said Code overrides all other provisions of the law,

notwithstanding anything inconsistent contained in any other law for the time being in force. The relevant extracts of the IBC, 2016 is marked and annexed as **ANNEXURE R/3**.

II. The provisions of IBC, 2016 and Overriding Effect Of IBC

14. That Insolvency and Bankruptcy Code, 2016 (IBC) primarily aims to provide failing firms one last chance at survival. The IBC focuses on restructuring and rescuing the stressed firm, which leads to value maximization for all creditors. While restructuring occurs within a protected framework, the IBC honours the pre-insolvency contractual rights through a waterfall mechanism whereby secured creditors are prioritized over unsecured creditors. Such a prioritization is reflected in the treatment of tortious rights holders (present issue), who would be classified in the residuary basket of any remaining debts and dues and fall behind secured creditors in priority.
15. That it is submitted that in terms of Section 238 of the Insolvency and Bankruptcy Code, 2016 which is a non-obstante clause stating that the provisions of the Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law. The Hon'ble Apex Court in catena of judgments including "M/s. Innoventive Industries Ltd. versus ICICI Bank & Anr., 2017 SCC OnLine SC 1025" has held that Section 238 of the IBC overrides all other laws in the event of any inconsistency. In the said judgment, the Hon'ble Supreme Court held as under:

"34. On the facts of the present case, we find that in answer to the application made under Section 7 of the Code, the appellant only raised the plea of suspension of its debt under the Maharashtra Act, which, therefore, was that no debt was due in law. The adjudicating authority correctly referred to the non-obstante clause in Section 238 and arrived at a conclusion that a notification under the Maharashtra Act would not stand in the way of the corporate insolvency resolution process under the Code."

16. Similarly, in the case of "Anand Rao Karoda vs Varsha Fabrics (P) Ltd & Ors (2020) 14 SCC 198", the Hon'ble Supreme Court held as under:

"9. Section 238 gives an overriding effect to the IBC over all other laws. The provisions of the IBC vest exclusive jurisdiction on the NCLT and the NCLAT to deal with all issues pertaining to the insolvency process of a corporate debtor, and the mode and manner of disposal of its assets. Section 238 reads as follows:

“11. In view of the provisions of the IBC, the High Court ought not to have proceeded with the auction of the property of the Corporate Debtor – Respondent No. 4 herein, once the proceedings under the IBC had commenced, and an Order declaring moratorium was passed by the NCLT.”

Thus, the insolvency law supersedes environmental law/policy and treatment given under the Resolution Plan shall be binding on all the claims and liability arising due to default of ex-management or regime of IRP.

III. DOCTRINE OF CLEAN-SLATE AND EXTINGUISHMENT OF PRIOR LIABILITIES POST-APPROVAL OF RESOLUTION PLAN.

17. It is imperative to mention herein that post approval of its Resolution Plan, JIL cannot be held liable for past claims/liabilities post the finalisation of the Resolution Plan. Relevant to state here the whole intent and rationale for taking the company out of insolvency process is to safeguard the interest of thousands of homebuyers who are suffering since last more than a decade and are awaiting their homes therefore the resolution plan stipulates all infusion of funds/equities only to safeguard homebuyers’ interest and farmers interest who have been litigating against the company since long.
18. In addition to above, please do note and appreciate that in terms of Section 31 of IBC on the approval of the Resolution Plan by the Hon’ble NCLAT, the resolution plan shall be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the resolution plan. Also, the resolution applicant in terms of Clause 31(4) IBC has a period of a year to implement such approved resolution plan. The relevant section 31 of IBC is extracted below for your reference and perusal: -

“31. (1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve³ the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed,] guarantors and other stakeholders involved in the resolution plan.....

“31(4) the resolution applicant shall, pursuant to the resolution plan approved under sub-section (1), obtain the necessary approval required under any law for the time being in force within a period of one year from the date of approval of the resolution plan by the Adjudicating Authority under sub-section (1) or within such period as provided for in such law, whichever is later”. That in the case of *“Ms. Barkha Agarwal v. Kunal Structural Developers & Industries Pvt. Ltd.”* NCLT it was observed that:

" 16. As can be seen from Section 31(4) of IBC 2016, the Resolution Applicant shall pursuant to the Resolution Plan approved under sub-Section 1 of Section 31 of IBC 20...shall act in terms of the provisions of Section 31(4) of IBC 2016.

19. It is a well settled law that when a resolution plan for a corporate debtor is approved, all liabilities, claims, dues, and any waivers, reliefs, or exemptions for past periods are extinguished and on the date of approval of the resolution plan, all such past and prior liabilities/claims, shall stand extinguished.

20. It is further important to mention herein another judgment of the Hon'ble Supreme Court titled 'Ghanashyam Mishra and Sons Private Limited through the Authorized Signatory Vs. Edelweiss Asset Reconstruction Company Limited through the Director & Ors' (2021) SCC Online SC 313, wherein the Hon'ble Apex Court has reaffirmed the above-mentioned settled position of law that once the Resolution Plan is approved by the Ld. Adjudicating Authority under Section 31 of the Code, the claims as provided in the Resolution Plan stand frozen and will be binding on all the stakeholders. The relevant portion of the said judgment is reproduced herein below for ease of reference: -

86. The legislative intent of making the resolution plan binding on all the stakeholders is that after the approval of the resolution plan, no surprise claims should be flung on the successful resolution applicant. The dominant purpose is that it should start with fresh slate on the basis of the resolution plan approved. (c) The legislative intent behind this is to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable. (d) That once a resolution plan is duly approved by the AA under sub-section (1) of section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the CD and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders.

87. We have no hesitation to say, that the word “other stakeholders” would squarely cover the Central government, any State Government or any local authorities. The legislature, noticing that on account of obvious

omission, certain tax authorities were not abiding by the mandate of I&B Code and continuing with the proceedings, has brought out the 2019 amendment so as to cure the said mischief. We therefore hold that the 2019 amendment is declaratory and clarificatory in nature and therefore retrospective in operation.

95. (i) That once a resolution plan is duly approved by the Adjudicating Authority under subsection (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan.

(ii) 2019 amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which I&B Code has come into effect.

(iii) Consequently, all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under Section 31 could be continued.

130. In the foregoing paragraphs, we have held, that 2019 amendment to Section 31 of I&B Code is clarificatory and declaratory in nature and therefore will have retrospective operation. As such, when the resolution plan is approved by NCLT, the claims, which are not part of the resolution plan, shall stand extinguished and the proceedings related thereto shall stand terminated. Since the subject matter of the petition are the proceedings, which relate to the claims of the respondents prior to the approval of the plan, in the light of the view taken by us, the same cannot be continued. Equally the claims, which are not part of the resolution plan, shall stand extinguished.

21. Thus, the Supreme Court has clearly stated that after the approval of the resolution plan, no surprise claims should be flung on the successful resolution applicant. The dominant purpose is that successful Resolution Applicant should start with fresh slate on the basis of the resolution plan approved. Further if such claim and liabilities be imposed on the Resolution Applicant, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable. Therefore, as the plan is to complete the construction of the homes of 20,000 homebuyers, if any such liability is imposed which is due to default of ex-management, then it not only be

against the law but also against the interest of homebuyers who are waiting for so many years to get their homes. The principle of fresh start is to reassure the successful resolution applicant that no new liabilities will emerge after the resolution of the Corporate Debtor i.e. JIL

22. It is pertinent to mention herein the judgment passed by the Hon'ble Supreme Court in case titled 'Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta and others' (2020) 8 SCC 531 wherein the Hon'ble Apex Court has that Section 31 (1) of the Code makes it clear that once a Resolution Plan is approved by the CoC, it shall be binding on all stakeholders and laid down the principles of Fresh Plate and Clean Slate. The relevant paragraphs of the said judgment are reproduced herein below for ease of reference.:

*“105. ...Section 31(1) of the Code makes it clear that once a resolution plan is approved by the Committee of Creditors it shall be binding on all stakeholders, including guarantors. **This is for the reason that this provision ensures that the successful resolution applicant starts running the business of the corporate debtor on a fresh slate as it were...**”*

*“107... For the same reason, the impugned NCLAT judgment in holding that claims that may exist apart from those decided on merits by the resolution professional and by the Adjudicating Authority/Appellate Tribunal can now be decided by an appropriate forum in terms of Section 60(6) of the Code, also militates against the rationale of Section 31 of the Code. A successful resolution applicant cannot suddenly be faced with “undecided” claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who successfully take over the business of the corporate debtor. **All claims must be submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor. This the successful resolution applicant does on a fresh slate, as has been pointed out by us hereinabove. For these reasons, the NCLAT judgment must also be set aside on this count....**” *Emphasis Supplied**

23. That even otherwise, the law with regard to immunity to the Company post approval of its Resolution Plan has been well settled in terms of Section 32A of the Insolvency and Bankruptcy Code, 2016 which provides all liabilities of the Company i.e. Jaypee Infratech Limited for any offence committed prior to or during CIRP will stand extinguished from the date of approval of the Resolution. The relevant extract of the section 32 A is herein reproduced for your reference as follows:

“32A. (1) Notwithstanding anything to the contrary contained in this Code or any other law for the time being in force, the liability of a Corporate

Debtor for an offence committed prior to the commencement of the Corporate Insolvency Resolution Process shall cease, and the Corporate Debtor shall not be prosecuted for such an offence from the date the Resolution Plan approved by the Adjudicating Authority under section 31, if the Resolution Plan results in the change in the management or control of the Corporate Debtor to a person who was not—

(a) a promoter or in the management or control of the Corporate Debtor or a related party of such a person; or

(b) a person with regard to whom the relevant investigating authority has, on the basis of material in its possession, reason to believe that he had abetted or conspired for the commission of the offence, and has submitted or filed a report or a complaint to the relevant statutory authority or Court:

Provided that if a prosecution had been instituted during the corporate insolvency resolution process against such Corporate Debtor, it shall stand discharged from the date of approval of the resolution plan subject to requirements of this sub-section having been fulfilled:

Provided further that every person who was a "designated partner" as defined in clause (j) of section 2 of the Limited Liability Partnership Act, 2008, or an "officer who is in default", as defined in clause (60) of section 2 of the Companies Act, 2013, or was in any manner in charge of, or responsible to the Corporate Debtor for the conduct of its business or associated with the Corporate Debtor in any manner and who was directly or indirectly involved in the commission of such offence as per the report submitted or complaint filed by the investigating authority, shall continue to be liable to be prosecuted and punished for such an offence committed by the Corporate Debtor notwithstanding that the Corporate Debtor's liability has ceased under this sub-section.

(2) No action shall be taken against the property of the Corporate Debtor in relation to an offence committed prior to the commencement of the corporate insolvency resolution process of the Corporate Debtor, where such property is covered under a resolution plan approved by the Adjudicating Authority under section 31, which results in the change in control of the Corporate Debtor to a person, or sale of liquidation assets under the provisions of Chapter III of Part II of this Code to a person, who was not—

(i) a promoter or in the management or control of the Corporate Debtor or a related party of such a person; or

(ii) a person with regard to whom the relevant investigating authority has, on the basis of material in its possession reason to believe that he had abetted or conspired for the commission of the offence and has submitted or filed a report or a complaint to the relevant statutory authority or Court.

Explanation. —for the purposes of this sub-section, it is hereby clarified that,—

(i) an action against the property of the Corporate Debtor in relation to an offence shall include the attachment, seizure, retention or confiscation of such property under such law as may be applicable to the Corporate Debtor.

(ii) nothing in this sub-section shall be construed to bar an action against the property of any person, other than the Corporate Debtor or a person who has acquired such property through corporate insolvency resolution

process or liquidation process under this Code and fulfils the requirements specified in this

section, against whom such an action may be taken under such law as may be applicable.

(3) Subject to the provisions contained in sub-sections (1) and (2), and notwithstanding the immunity given in this section, the Corporate Debtor and any person who may be required to provide assistance under such law as may be applicable to such Corporate Debtor or person, shall extend all assistance and co-operation to any authority investigating an offence committed prior to the commencement of the corporate insolvency resolution process.”

22. The sole object of Section 32A of the Code is that once the Resolution Plan is approved by the Adjudicating Authority i.e. the Hon'ble NCLT, a Successful Resolution Applicant shall take over a Company on a clean slate else the basic object of the Code stands defeated.

23. It is crucial to mention that consequent to the approval of the Resolution Plan, there will be change in the management or control of the Company. Thus, to provide the Resolution Applicant a fair chance to revive the company and it is essential not to impose any additional liabilities on the Resolution Applicant, arising from mala-fide acts which occurred during the regime of the erstwhile Promoters or Management

24. That the approval of a Resolution Plan under the IBC results in cessation and extinguishment of all claims other than those which may find place in the plan which comes to be approved. Any contrary view that may be taken would clearly fall foul of the principles as laid down by the Supreme Court in Ghanashyam Mishra.
25. Section 30 and 31 of the IBC of ensuring that the successful Resolution Applicant is enabled to take over the corporate debtor on a clean slate and not be burdened by unforeseen liabilities and those which are neither factored in nor admitted in the Resolution Plan.
26. The legislative intent and command of Sections 30 and 31 of the IBC is an issue which is no longer res integra. In Ghanashyam Mishra as well as the host of judgments rendered in that context and which were duly noticed by the Supreme Court in that decision, the underlying theme has been the recognition of the right of the successful Resolution Applicant to take over the corporate debtor on a “clean” or “fresh” slate. Those decisions lay primordial importance of the successful Resolution Applicant being enabled to take over the corporate debtor without being burdened by any uncertainties or a spectre of irresolution. The approval of the Resolution Plan is statutorily recognised as conferring a closure upon all claims that persons or entities may have had against the corporate debtor. The claims or liabilities which could have been enforced against the corporate debtor are duly considered in the course of the CIRP with the

Adjudicating Authority undertaking a detailed exercise with respect to identification of the various creditors of the corporate debtor, including the classes thereof, the scrutiny of claims received, and the ultimate apportionment of the amounts deposited by the successful Resolution Applicant amongst the creditors inter se. However, once the aforesaid process has been completed and the Resolution Plan comes to be approved, no fresh claims can be laid or enforced against the successful Resolution Applicant. The successful Resolution Applicant is only bound to meet the claims as may have been accepted and ultimately form part of the approved Resolution Plan. This issue assumes seminal importance since the successful Resolution Applicant cannot be left open to defend or oppose claims which are either not factored in the Resolution Plan nor can it be left to fend off actions that may be brought with respect to alleged or asserted dues of the corporate debtor which were not admitted. Taking any other position would clearly violate the clean and fresh slate doctrines which inform and imbue the resolution process under the IBC. The Supreme Court while alluding to the intent of the resolution process underlying the IBC had described this aspect as the “hydra headed monster”. In fact, Ghanashyam Mishra significantly observes that all claims which are not part of the Resolution Plan shall stand extinguished and no person would be entitled to “initiate or continue” any proceedings in respect of the claim.

27. The IBC and the resolution process does not contemplate matters being left inchoate. In fact, and to the contrary it exhorts one to accept the seal of finality and quietude which stands attached to the approval of a Resolution Plan.
28. The Hon’ble Supreme Court and High Courts in a catena of judgments have upheld that after approval of resolution plan, all the liabilities including civil and criminal actions against the Company stands discharged. The Supporting judgments are as follows for your reference:

(i) *Manish Kumar Vs. UOI [(2021) 5 SCC 1]*

“326. We are of the clear view that no case whatsoever is made out to seek invalidation of Section 32-A. The boundaries of this Court's jurisdiction are clear. The wisdom of the legislation is not open to judicial review. Having regard to the object of the Code, the experience of the working of the Code, the interests of all stakeholders including most importantly the imperative need to attract resolution applicants who would not shy away from offering reasonable and fair value as part of the resolution plan if the legislature thought that immunity be granted to the Corporate Debtor as also its property, it hardly furnishes a ground for this Court to interfere. The provision is carefully thought out. It is not as if the wrongdoers are allowed to get away. They remain liable. The extinguishment of the

criminal liability of the Corporate Debtor is apparently important to the new management to make a clean break with the past and start on a clean slate. We must also not overlook the principle that the impugned provision is part of an economic measure. The reverence courts justifiably hold such laws in cannot but be applicable in the instant case as well. The provision deals with reference to offences committed prior to the commencement of the CIRP. With the admission of the application the management of the Corporate Debtor passes into the hands of the interim resolution professional and thereafter into the 22 hands of the resolution professional subject undoubtedly to the control by the Committee of Creditors. As far as protection afforded to the property is concerned there is clearly a rationale behind it. Having regard to the object of the statute we hardly see any manifest arbitrariness in the provision.” (Emphasis supplied)

(ii) *Tata Steel BSL Limited v. Union of India [W.P.(CRL) 3037/2019 and CRL.M.A. 39126, March 16, 2020]*

In the said petition, the summons issued by a Learned Sessions Judge in a case filed by the Serious Fraud Investigation Office (SFIO), prior to the promulgation of Section 32-A of the Code were in challenge, inter alia. The Hon’ble High Court proceeded to grant benefit of prosecution to the said entity as well and held as under:

“6. It is clear from the express language of the aforementioned provision that a Corporate Debtor would not be liable for any offence committed prior to commencement of the CIRP and the Corporate Debtor would not be prosecuted if a resolution plan has been approved by the Adjudicating Authority.

7. In the present case, there is no dispute that a resolution plan has been approved by the Adjudicating Authority (NCLT) and in the circumstances, there is much merit in the contention that the petitioner cannot be prosecuted and is liable to /be discharged.”

(iv) *Paramjit Gandhi Vs. Ashwini Mehra & Ors [Company Appeal (AT) (Insolvency) No.06 of 2023 With Company Appeal (AT) (Insolvency) No.30 of 2023 & I.A. No.79 of 2023]*

Section 32A being a statute regarding liability for prior offences, as and when such occasion arises, it is always open for the Appellant to seek protection under Section 32A in accordance with law.

(v) *M/s Vasan Healthcare Pvt. Ltd. Vs the Deputy Director of Income Tax (Crl.O.P. No. 134 of 2024), Madras High Court*

12. In the instant case, the AI company has now gone into the hands of the new management, pursuant to the order passed by the NCLT dated 03.02.2023. In view of the same, the new management takes over the AI company as a clean slate and the criminal liability can no longer be mulcted as against AI company. Therefore, the continuation of criminal proceedings as against AI company can no longer subsist.

13. The company has been taken over by a new management and the criminal liability cannot be passed on to the new management. The Apex Court had an occasion to directly deal with this issue in a recent

judgement reported in 2023 4 MLJ Criminal 497. Paragraph 30 in that judgement is extracted hereunder: -

In fact, as per Section 32 A of the Insolvency and Bankruptcy Code, any liability prior to the finalisation of the Corporate Insolvency Resolution Process would stand extinguished from the date the Resolution Plan is approved. The objective of revival of JIL will be defeated inasmuch as the same would deprive the Resolution Applicant from reviving and rehabilitating the company. This would not only endanger the interests of all stakeholders/homebuyers in JIL but also the public at large. Therefore, in terms of the said section 32A and the current position in law, all the liabilities including Civil/Criminal Proceedings initiated against the Company i.e. JIL stands extinguished, and it cannot be held liable for any alleged offence/liabilities committed prior to the approval date of the Resolution plan by the NCLT.

Therefore, in view of the above, no liability can be fastened on JIL post the approval of the Resolution Plan on approval of the resolution plan by the NCLT under section 31(1) of the Insolvency and Bankruptcy Code, 2016 claims beyond the Resolution Plan of any claimant stand extinguished.

IV. FINAL APPROVAL OF THE RESOLUTION PLAN

29. It is imperative to mention herein that JIL underwent Corporate Insolvency Resolution Process (CIRP) and till the date of approval of Resolution Plan, JIL cannot be held liable for any past claims post the finalisation of the Resolution Plan. It is noteworthy to mention herein that on the definition of “Approval Date” as provided for in the Resolution Plan is as follows:

“Approval Date” Shall mean date on which the order of the Adjudicating Authority under Section 31 (1) of the Code has been passed, or the order of the National Company Law Appellate Tribunal or the Supreme Court, if an appeal is made to such tribunal or court against the order of the Adjudicating Authority, having achieved finality.

30. It is pertinent to note, that the approved Resolution Plan was challenged before the Ld. National Company Law Appellate Tribunal (‘NCLAT’), and there were four appeals filed against the plan as mentioned herein below:

- i. Appeal No. 548 of 2023, titled as ‘Jaiprakash Associates Limited vs. Jaypee Infratech Limited and Ors.’.
- ii. Appeal No. 559 of 2023, titled as ‘Manoj Gaur vs. Jaypee Infratech Limited and Ors.’.
- iii. Appeal No. 549 of 2023, titled as ‘Deputy Commissioner of Income Tax vs. Anuj Jain & Ors.’.
- iv. Appeal No.493 of 2023, titled as “YEIDA vs. Monitoring Committee of JIL through Anuj Jain, Secretary & Ors.”

31. That the aforesaid Appeal No. 548 of 2023, titled as ‘Jaiprakash Associates Limited vs. Jaypee Infratech Limited and Ors.’ and Appeal No. 559 of 2023, titled as ‘Manoj Gaur vs. Jaypee Infratech Limited and Ors.’ were disposed of by Ld. NCLAT, vide judgment dated 21.02.2024 and was decided in favor of JIL. Similarly, the Appeal filed by the Income tax department before the NCLAT was finally decided on 26.09.2023 bearing Appeal No. 549 of 2023, titled as ‘Deputy Commissioner of Income Tax vs. Anuj Jain & Ors.’ Wherein it was held that:

23. *“The above Paras clearly indicate that reliefs from Income Tax liabilities have not been granted as prayed by the Successful Resolution Applicant. The claim which was submitted in the proceeding and the Successful Resolution Applicant has very well dealt with claim submitted by the Income Tax Department of Rs.3334.29 Crores. Even if the claim for the AY 2012-13 of Income Tax Department cannot be said to be extinguished, Appellant being an Operational Creditor, the liquidation value of the Income Tax Department is NIL. The payment of Rs.10 Lakhs cannot be said to be violative of provisions of Section 30(2)(e).”*
29. *“Suffice it to say that Appellants claim for the AY 2012-13 cannot be said to be non-existent, as is the stand taken by the IRP. However, after admitting the aforesaid claim for the AY 2012-13 for total amount of Rs.1157.07 Crores, as claimed by the Appellant, Income Tax Department who has filed claim as Operational Creditor was entitle for amount not less than the amount to be paid in the event of liquidation as per Section 53. It is specifically submitted on behalf of Respondent No. 2 and 3 that liquidation value of the Appellant being NIL, the Appellant was not entitled to receive any amount as per Section 30(2)(b). We, thus are of the view that no effective relief can be granted to the Appellant in the present Appeal. The treatment of the claim of the Appellant in the Resolution Plan cannot be said to be in violation of Section 30(2)(e).*
30. *We, thus are of the view that at the instance of the Appellant – Income Tax Department, impugned order passed by the Adjudicating Authority need no interference.”*

32. Finally, vide Order/ Judgement dated 24.05.2024 the NCLAT disposed of the Appeal No.493 of 2023, titled as “Yeida vs. Monitoring Committee of JIL

through Anuj Jain, Secretary & Ors.”, the NCLAT held that the approved resolution plan shall be implemented by the Successful Resolution Applicant in accordance with law. It is to be noted that the resolution plan finally came to be approved on 24.05.2024 and therefore, the JIL through IMC is bound to take the implementation of work from the date of the Order dated 24.05.2024.

V. OPERATIONAL STATUS AND CAPACITY OF STP AND QUANTITY OF WASTEWATER BEING TREATED BY EACH STP

33. That in view of the terms of the Resolution Plan, the answering Respondent has an exemption of 12 months for obtaining compliances including the establishment and operation of STP. The Resolution Plan obtained approval of the NCLAT on 07.03.2023. Thus, from 07.03.2023 till 07.03.2024, the answering Respondent had time to obtain all the requisite compliances. Further, as submitted in the previous Affidavits dated 19.06.2023 and 11.04.2024, the answering Respondent has established the Sewage Treatment Plant as well as the requisite air pollution control devices. However, in pursuance of the queries posed by this Hon'ble Tribunal on the last date of hearing on 29.05.2024, the answering Respondent is submitting the requisite details with respect to the existing number of STPs and the quantity of wastewater being treated in each STP.
34. That as per the NOC of 2010, the answering Respondent had obtained permission for establishment of 39 MLD STP. The said NOC also clarified that for construction stage, soak pits and septic tanks may be used for disposal of waste water. (Specific Condition No/ 5 at Page 109 of Reply of PP dated 15.03.2024).
35. That accordingly, STP 1 was established in 2016 in Sector 128. The Consent to Operate was obtained on 28.09.2016 and periodically renewed on 26.03.2018, 11.06.2020 and 31.03.2021. It is pertinent to note that the Consent to Operate dated 26.03.2018 notes treatment of industrial waste in the ETP and for disposal of domestic waste in soak pit and septic tank subject to general and specific conditions. (See Condition No 1) . The Consent to Operate dated 26.03.2018 is marked and annexed as **ANNEXURE R/4** .
36. That at present, the STP 1 has a total capacity of 4×3.25 MLD = 13 MLD out of which 3.25 MLD is operational. The total quantity of waste water generated in this Sector 128 is 1.79 MLD and the quantity of treated water is 1.59 MLD. The latest CTO issued by UPPCB for STP-1 was granted on 31.03.2021 and is valid till 31.12.2025 (For CTO dated 31.03.2021, refer Annexure R/4, Page 133 of the Reply of JIL dated 15.06.2023).

37. That further, on 30.12.2019, the answering Respondent obtained Consent to establish STP-3 at Sector 134. STP-3 which has a total capacity of 4×3.25 MLD = 13 MLD, out of which 6.5 MLD is operational. The total quantity of waste water generated in this Sector 134 is 2.05 MLD and the quantity of treated water is 1.87 MLD. The latest CTO was issued by UPPCB for STP-3 was granted on 31.03.2021 which is valid till 31.12.2025 (For CTO dated 31.03.2021, refer Annexure R/4, Page 133 of the Reply of JIL dated 15.06.2023).
38. That post the finalisation of the Resolution Plan on 17.06.2021 and NCLAT approval on 07.03.2023, the answering Respondent through the IMC took over the development of the STPs, among other projects. That it is submitted that there are 4 STP's to be constructed in the entire township in term of the approved layout plan and out of which 2 STP's are already functioning. Further for the remaining STP's JIL had already applied for Consent to Operate (the details of the stage of construction along with the capacity of the STP to process wastewater is detailed in Table 2 below)
39. That it is submitted that the answering Respondent through its IMC enquired about the status of the present STP 2, after enquiring with the employees and staff on taking the management, was informed that the STP-2 was not completed. Further, due to passage of time and change in bye laws, there will be a whole structural change in design with respect to the STP project. Moreover, the mechanical and electrical work were taken up parallelly and the civil and mechanical work was completed. It is pertinent to mention herein that to build STP -2 for such a township, it needs a lot of time and effort.
40. That as the structure and design required a completely new change for the new STP, therefore JIL had engaged various contractors/consultants for drawing specifications, technical structures and for civil and mechanical construction of STP in the initial months to ensure timely completion of work. It was in the month end of November civil work for the STP construction was completed which later were halted due to imposition of GRAP.
41. That it is imperative to mention here that after the revocation of GRAP, the answering Respondent through its IMC had again recommenced the construction work and work with respect to STP and by January end the STP-2 has already been commissioned except ultra filtration.
42. That without prejudice to the contentions raised by the answering Respondent on the IBC provisions and principles of fresh start / clean slate which is independent to the factual aspects of the case which is related to the period before the plan

approval date, it is important to mention here that out of 421 apartments and out of 700 plots for which have been handed over not more than 200 (approx.) were occupied which were generating less quantity of sewage than required for efficient running of one module of 3.25 MLD at STP-2. Presently CTO for 1 module of 3.25 MLD each for STP-1 and STP-3 was obtained and CTO for one module of 3.25 MLD each for STP-1A and STP-2 has been applied certain objections were raised and the same is being worked on thus the STP will be functional and operational in due course of time.

43. That although the responsibility for executing the construction work, specifically for the sewage treatment plant (STP), lays with the previous management, and the same couldn't be completed prior to approval of the Resolution plan. However, answering Respondent through its Implementation and Monitoring Committee (IMC), has completed the civil and mechanical work of STP within such a period in the interest of all homebuyers.

44. That thus, the answering Respondent has established STP-2 in Sector 133 on 15.01.2024, with a capacity of 6.5 MLD and STP 1A in Sector 131 on 10.06.2024 with capacity of 6.5 MLD. The Consent to Establish (NOC) was obtained in 2010. It is pertinent to note here that the said compliance has been undertaken within one year from the date of the finalisation of the Resolution Plan i.e well before the timeline of April 2024, as per the terms and conditions of the Resolution Plan.

45. That the answering Respondent had also made an online application for obtaining Consent to Operate (CTO) on 22.07.2023 which was rejected by UPPCB due to non-payment of compensation amounting to Rs. 5,00,000 and Rs. 5,47,80,000 levied by the UPPCB on 15.05.2023 and thereafter on 14.11.2023. Copy of the screenshot of the application for Consent to Operate is marked and annexed as **ANNEXURE R/5**.

A detailed Chart of the number of STP's , their capacity and the amount of waste being treated is mentioned below in Table No. 2-

S. No.	STP Location	Year of Establishment	Capacity (MLD)	Operational capacity	Quantity of Waste Water Generated	Quantity of Waste water treated	Consent to Operate
1.	STP -1 at	20.03.2016	4*3.25 =	3.25 MLD	1.79	1.59	From

	Sector 128		13				28.09.2016 to 31.12.2017 From 01.01.2018 to 31.12.2019 From 01.01.2020 to 31.12.2020 From 01.01.2021 to 31.12.2025.
2.	STP 3 at Sector 134	30.12.2019	4*3.25= 13	6.5 MLD	2.05	1.87	From 01.01.2020 to 31.12.2020 From 01.01.2021 to 31.12.2025
3.	STP-2 – Sector 133	15.01.2024	2*3.25= 6.5	3.25MLD			Application not processed due to to non- submission of compliance report of Show Case Notice dated 14.11.2023 and non- payment of compensation of Rs. 5,00,000 by

							the answering Respondent.
4.	STP-1A at Sector 131	10.06.2024	2*3.25= 6.5	3.25MLD			Application for obtaining CTO on 11.02.2024 which was rejected by UPPCB on 29.03.2024 due to non-submission of compliance report of Show Cause Notice dated 15.05.2023 and non-payment of compensation of Rs.5,47,80,000 levied by UPPCB. The CTO has been applied again in the month of May, 2024 and the same is pending for UPPCB action.

46. That in view of the abovementioned table, it is clear that the answering Respondent had two STPs established in Sector 128 and Sector 134, with a capacity of 26 MLD, however operating at capacity of 6.5 MLD. The answering Respondent has now

established two more STPs of 6.5 MLD capacity each, thus complying with condition of establishment of 39 MLD capacity STPs as per the NOC of 2010 and EC of 30.06.2020 within one year from the finalisation of the Resolution Plan. It is pertinent to note that Sector 129 has been given away to a third party.

47. That it is also pertinent to note that the waste water generated from each sector is duly being treated by the answering Respondent. That it is reiterated that the answering Respondent has taken all the requisite steps for compliance with the Water Act, 1974, the conditions of Environmental Clearance and Consent as well as the Construction and Demolition Waste Management Rules, 2016. However, the working of the STP at Sector 133 is being stalled by the UPPCB itself and the answering Respondent cannot be held liable for continuance non-compliance due to the delay by the UPPCB in processing the Application for Consent.

V. THE DETAILS REGARDING THE GENERATION OF WASTEWATER, THE OCCUPANCY IN EACH SECTOR IN THE JAYPEE WISHTOWN PROJECT AND THE CAPACITY OF THE STP.

48. That at the outset, it is pertinent to note that as and when the construction of flats is completed the home buyers are allotted possession as per the terms of the Resolution Plan as stated earlier.

The Table-3 below describes the number of plots, flats and their occupancy under each sector and their status as to being sanctioned, completed, handed or handed over.

Table-3

S. No.	Description of Sectors	Unit Detail	Sanctioned	Completion	Handed Over	Occupancy	Remarks
1.	Sector-128	Flats	6809	3536	3019	2080	
		Plots	579	55	182	55	Out of 182 Plots, Completion done in 55 Plots
2.	Sector-129	Master Plan Comme	C3-A Sold to Saya group, C3-B1, B2 & C3-C Sold to Max Group, C3-D-----, C3-E1 Sold to Gulshan, C3-E2 Sold to Aznara Group, C3-F-				Sold to Third Party

		rcial	-----,C3-G-----,C3H-1 Sold to ACE group,C3-H2 Sold to Paras Group,C3-J Sold to Gaur Sons				
3.	Sector-131	Flats	3176				
		Plots	2250	261	675	261	Out of 675 Plots, completion done in 261 Plots
4.	Sector-133	Flats	5527	452	404	250	
		Plots	2433	311	769	311	Out of 769 Plots, Completion done in 311 Plots.
5.	Sector-134	Flats	16002	7388	6475	5501	
		Plots	-	-	-	-	
	Total		36776	12003	11524	8458	

49. That specifically with respect to Sector 133, the occupancy is only 311 residents . Accordingly, till the completion of the STP 1A or STP 2, the answering Respondent was transporting the waste water to the STP 1 in Sector 128 , where the total wastewater (for Sector 128 alongwith Sector 133) that was sent for treatment was 1.79 KLD. It is also pertinent to highlight that the same is within the capacity of STP 1 , which is of 3.2 MLD. Moreover, the Consents to Operate dated 28.09.2016, 01.01.2018, 05.07.2019 and the latest 31.03.2021 granted for treatment of wastewater in STP were obtained for all the five sectors together and not for a particular sector. Thus, in the interregnum the treatment of wastewater generated in one sector was being treated in the STP of another Sector, especially as the amount of sewage was much less than the overall capacity of the operational STP. Arguendo, there was a requirement for amending the Consent vis a- vis treatment of wastewater generated in Sector 133 in the STP of Sector 128, the Resolution Plan had granted 12 months time period

to the answering Respondent for obtaining all the requisite compliances and clearances for the project. More importantly, no non compliance can be attributed to the IMC as the domestic waste was being treated within the same Mega Project and no substantial question of environment could have been raised by the Applicant.

50. That moreover, the STP 2 and STP 1A are now complete. However, the UPPCB has erroneously refused to process the application of Consent of the answering Respondent based on alleged non-compliances of the past. This conduct of the UPPCB is contrary to the directions of this Hon'ble Tribunal, which has been directing the answering Respondent to ensure timely compliance and operation of the STP 1A for the treatment of waste water in Sector No. 133. (Refer Order dated 18.03.2024)

51. That in view of the above, it is the humble submission of the answering Respondent that STPs of a total capacity of 39 MLD has been established as per the conditions of Consents (latest dated 31.03.2021) and EC dated 30.06.2020. Further, STP 1 and STP 3 are operational and are duly treating the wastewater being generated by the residents. STP 1A and STP 2 will be made operational as and when UPPCB grants the Consent to Operate. The answering Respondent humbly prays that in view of the above this Hon'ble Tribunal may direct the UPPCB to process the application for Consent to Operate in accordance with law in a particular time period so that the STP can be made fully operational at the earliest.

Place: New Delhi
Date: 31.07.2024

DRAWN & FILED BY:

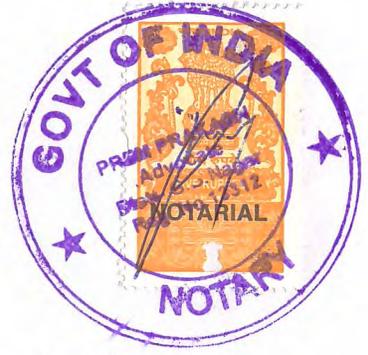
M Bachani

Mansi Bachani & Sonali Sengupta
Advocates for the Respondent No. 4,
29, LGF, Presidential Estate,
Nizamuddin East, New Delhi- 110013
Email: eldflegal@gmail.com +91- 8851323704

SETTLED BY:

Shri Sanjay Upadhyay
[Senior Advocate]

**IN THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 771 OF 2022**



IN THE MATTER OF:

Nishant Bhargav

...Applicant (s)

Versus

State of Uttar Pradesh

...Respondent (s)

AND IN THE MATTER OF:

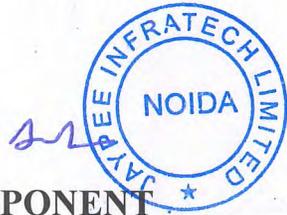
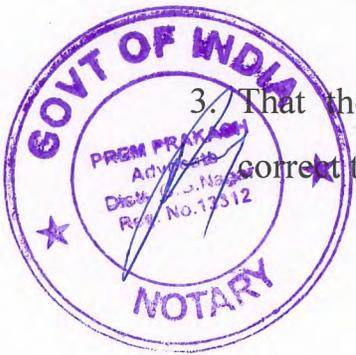
M/S Jaypee Infratech Limited

...Applicant

AFFIDAVIT

I, Apurva Pragya, S/o Sh. Dinesh Narayan Sinha, aged about 46 years, authorized Representative of Jaypee Infratech Ltd., Presently at Noida, do hereby solemnly affirms and declares as under:

1. That I am fully conversant of the facts and circumstances of the matter and am competent to swear this affidavit.
2. The contents of the accompanying Affidavit are true and correct to the best of my knowledge and have been drafted by the counsel on my instructions and nothing material has been concealed therefrom.
3. That the Annexures in the accompanying Original Affidavit are true and correct to the best of my knowledge.



DEPONENT

VERIFICATION:

Verified at Noida on this 31st day of July, 2024 that the contents of the above affidavit are true and correct to my knowledge and belief and nothing material has been concealed there from.



DEPONENT

Attested

PREM PRAKASH
Notary Public
(G.S. Nagar)

31 JUL 2024

JAYPEE GREENS
Another Place Another World
POSSESSION MEMO

Dated: _____

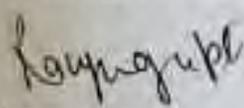
In pursuance of Provisional Allotment Letter No. JGNPKP10L132 dated 22.04.2010, Offer of Possession Letter No. 16132/314761/PKP001L132 dated 13.07.2012, the Possession of Plot No. PKP001L132 in KP Plots at Jaypee Greens, Noida- 201304, Dist. Gautam Budh Nagar, U.P is hereby handed over/ taken over by the undersigned.

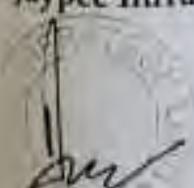
The location and area of the aforesaid Plot No. PKP001L132 at Jaypee Greens, Noida- 201304, Dist. Gautam Budh Nagar, U.P, as per following details:

Location of Plot	Area of Plot
Bounded by: → North - Road → South - Kensington Plot No. L-155 → East - Kensington Plot No. L-131 → West - Kensington Plot No. L-133	128 Sq. mtrs (153.08 Sq.yards)

Acknowledgement by the Allottee(s)

I/We confirm and acknowledge that I/We have received the vacant and peaceful physical possession of the above Plot. I/We agree to the size, area and location of the Plot and further confirm that the same is in accordance with the terms of provisional allotment and that there are no encroachments on the Plot.

Possession taken over by

 Allottee (s)
 (Ranju Gupta)

Possession handed over by
 For Jaypee Infratech Limited

 (Authorised Signatory)

*Original received
9/10/2015*

JAYPEE INFRA TECH LIMITED
 Plot No. 201304 (U.P.) India
 Phone: 0522-4660796

NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
SPECIAL BENCH

IA. NO. 2836/PB/2021, IA. NO. 3457/PB/2021
IA. NO. 3306/PB/2021, and IA. NO. 2521/PB/2022

IN
Company Petition No. (IB)-77(ALD)/2017

IN THE MATTER OF:

IDBI BANK LIMITED

... Applicant/Financial Creditor

Versus

JAYPEE INFRATECH LIMITED

... Respondent/Corporate Debtor

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NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
SPECIAL BENCH

IA. NO. 2836/PB/2021, IA. NO. 3457/PB/2021
IA. NO. 3306/PB/2021, and IA. NO. 2521/PB/2022

IN

Company Petition No. (IB)-77(ALD)/2017

IN THE MATTER OF:

IDBI BANK LIMITED

... Applicant/Financial Creditor

Versus

JAYPEE INFRATECH LIMITED

... Respondent/Corporate Debtor

AND IN THE MATTER OF IA. No. 2836/PB/2021

(SECTION: 30(6) of IBC, 2016)

Mr. Anuj Jain

Interim Resolution Professional
 Jaypee Infratech Limited
 Building No. 10, 8th Floor,
 Tower B, DLF Cyber City,
 Phase – II, Sector – 25,
 Gurugram, Haryana – 122002

... Applicant

Versus

1. Suraksha Realty Limited

3, Narayan Building,
 23, L.N. Road Dadar (East)
 Mumbai, Maharashtra – 400014

... Respondent No.1

2. Lakshdeep Investments and Finance Private Limited

3, Narayan Building,
 23, L.N. Road Dadar (East)
 Mumbai, Maharashtra – 400014

... Respondent No.2

AND IN THE MATTER OF IA. No. 2521/PB/2022

(SECTION: 60(5) of IBC, 2016)

Mrs. Nina Sahani & Ors.

E-322, Second Floor,
 Greater Kailash-2,
 South Delhi, Delhi -11 0048

... Applicants

Versus**Jaypee Infratech Limited**

Through Interim Resolution Professional,
Mr. Anuj Jain
Sector -128, Noida,
Uttar Pradesh - 201304

... Respondent**AND IN THE MATTER OF IA. No. 3457/PB/2021**

(SECTION: 60(5) of IBC, 2016)

ICICI Bank Limited

Corporate Office at:
NBCC Place,
Bhishma Pitamah Marg,
New Delhi – 110003

... Applicant**Versus****1. Mr. Anuj Jain**

Interim Resolution Professional
Jaypee Infratech Limited
Building No. 10, 8th Floor,
Tower B, DLF Cyber City,
Phase – II, Sector – 25,
Gurugram, Haryana – 122002

... Respondent No.1**2. Suraksha Realty Limited**

3, Narayan Building,
23, L.N. Road Dadar (East)
Mumbai, Maharashtra – 400014

... Respondent No.2**3. Lakshdeep Investments and Finance Private Limited**

3, Narayan Building,
23, L.N. Road Dadar (East)
Mumbai, Maharashtra – 400014

... Respondent No.3

AND IN THE MATTER OF IA. No. 3306/PB/2021

(SECTION: 60(5) of IBC, 2016)

Yamuna Expressway Industrial Development Authority

First Floor, Commercial Complex,
P-2, Sector Omega 1,
Greater Noida District,
Gautam Budh Nagar,
Uttar Pradesh – 201308

... Applicant**Versus****1. Mr. Anuj Jain**

Interim Resolution Professional
Jaypee Infratech Limited
Building No. 10, 8th Floor,
Tower B, DLF Cyber City,
Phase – II, Sector – 25,
Gurugram, Haryana – 122002

... Respondent No.1**2. Suraksha Realty Limited**

3, Narayan Building,
23, L.N. Road Dadar (East)
Mumbai, Maharashtra – 400014

... Respondent No.2**3. Lakshdeep Investments and Finance Private Limited**

3, Narayan Building,
23, L.N. Road Dadar (East)
Mumbai, Maharashtra – 400014

... Respondent No.3**Order Delivered on: 07.03.2023****CORAM:****JUSTICE RAMALINGAM SUDHAKAR, HON'BLE PRESIDENT****SHRI. L. N. GUPTA, HON'BLE MEMBER (TECHNICAL)****PRESENTS:****For the IRP**

: Adv. Sumant Batra, Adv. Ruchi Goyal,
Adv. Sanjay Bhatt

For the SRA

: Sr. Adv. U.K. Chaudhary, Sr. Adv. Sudhir
Makkar, Adv. Aditya Maheshwari, Adv. Eshna

Kumar, Adv. Sagar Bansal, Adv. Mansumyer Singh, Adv. Suamya Gupta, Adv. Veera Matha

- For the CoC** : Adv. Bishwajit Dubey, Adv. Namrata Sadhnani, Adv. Varisha Sharma
- For the Home Buyers** : Adv. Shoeb Alam, Adv. Nakul Gandhi, Adv. Gauri Goburdhan
- For the FD Holders** : Adv. Mohit Sharma
- For the ICICI Bank** : Sr. Adv. Arun Kathpalia, Adv. Mahima Sareen, Adv. Nikhil Mathur, Adv. Misha
- For the YEIDA** : Sr. Adv. Abhinav Vasisht, Adv. Amar Gopal, Adv. Aniket Aggarwal
- For the JAL** : Sr. Adv. Krishnan Venugopal, Adv. Pallavi Srivastava, Adv. Krishnan Agarwal, Adv. Vishal Gupta, Adv. Divyanshu Gupta, Adv. Anupam Choudhary

ORDER

1. The present application I.A No. 2836/PB/2021 is filed by the Interim Resolution Professional (**IRP**) Mr. Anuj Jain (Applicant/IRP) of M/s. Jaypee Infratech Limited (**JIL**), pursuant to the directions given by the Hon'ble Supreme Court of India in the Judgement of **Jaypee Kensington Boulevard Apartments Welfare Association & Ors Vs. NBCC (India) Ltd & Ors. (for brevity, hereinafter referred to as the "Jaypee Kensington")** in Civil Appeal No. 3395 of 2020.
2. The application has been preferred by the IRP under Section 30(6) read with Section 31(1) of the Insolvency and Bankruptcy Code, 2016 (**for brevity, the "IBC, 2016"**) and Regulation 39(4) of Insolvency and Bankruptcy Board

Sl. No.	Category of Stakeholder	Sub-Category of Stakeholder	Treatment / Amount Provided under the Plan (in Cr)
			(ii) Amount earmarked for claims filed subsequent to finalisation of IM till NCLT approval date : Rs. 9.16 Cr. [Refer clause 16 at pg 58 of Suraksha Resolution Plan dated 07.06.2021 read with addendum dated 09.06.2021]
		Total[(i)+(ii)]	Rs. 38.41 Cr
	Total (a+b)		Rs. 12600.82 Cr
3)	Operational Creditors	a. YEIDA	Rs. 0.20 Cr [Refer clause 20.2 at pg 72, clause 20.8 at pg 83 of Suraksha Resolution Plan dated 07.06.2021 read with addendum dated 09.06.2021 filed in IA 1603/2022]
		b. Workmen	NIL
		c. Employees	NIL
		d. Income Tax	Rs. 0.10 Cr [Refer clause 19.3 at pg 71 of Suraksha Resolution Plan dated 07.06.2021 read with addendum dated 09.06.2021 filed in IA 1603/2022]
		e. Other Operational Creditors	Rs. 0.10 Cr [Refer clause 21.2 at pg 85 of Suraksha Resolution Plan dated 07.06.2021 read with addendum dated 09.06.2021 filed in IA 1603/2022]
		Total (a+b+c+d+e)	Rs. 0.40 Cr [Refer (3) in point 7 at page 271 in Form H filed with IA 2836/2021]
4)	Public Shareholders		Rs. 0.14 Cr [Refer clause 24.8 at pg 90 of Suraksha Resolution Plan dated 07.06.2021 read with addendum dated 09.06.2021 filed in IA 1603/2022] [Refer point 8 of Form H at pg 273 filed with IA 2836/2021]
	Grand Total(1+2+3+4)		Rs. 20,363.36 Cr

In terms of the foregoing, the total financial outlay of Suraksha Resolution Plan dated 07.06.2022 read with its addendum dated 09.06.2022 is Rs. 20,363.36 Cr.

V. SALIENT FEATURES OF RESOLUTION PLAN

20. The salient features of the CoC-approved Resolution Plan as submitted by Suraksha Realty; Successful Resolution Applicant (SRA) are the following:

20.1 The SRA proposes to resolve the defaults of the Corporate Debtor in the following manner:

- a) Limiting and resolving the debt obligations of the Corporate Debtor;
- b) Infusing additional working capital;
- c) Taking control of all the business activities by terminating concerned related party agreements/ contracts;

177. In view of the Judgment of the Hon'ble Apex Court referred to Supra, it is a well-settled principle of law that the Adjudicating Authority is not required to interfere with the decision taken by the CoC in its commercial wisdom, save and except the circumstances referred to in Section 30(2) of the IBC, 2016.

178. In the sequel to the above, we have no other option but to approve the Resolution Plan submitted by M/s. Suraksha Realty Limited along with M/s Lakshdeep Investments and Finance Private Limited along with addendums as duly considered, approved, and recommended by the CoC and placed by the Applicant/IRP of JIL before this Adjudicating Authority. **We, therefore, allow the present Application and approve the COC-approved Resolution Plan placed before us by the Applicant/IRP with the following directions in respect of the Corporate Debtor:**

- (i) The approved Resolution Plan as annexed with COC approved addendums shall be binding on all the stakeholders of the Corporate Debtor and become effective from the date of passing of this Order, and shall be implemented strictly as per the term of the plan and implementation schedule given therein. The Resolution Plan will form part of the order;
- ii) The reliefs and concessions as sought by the SRA/Suraksha in Annexure-II of the Resolution Plan are granted subject to the directions passed under this order as well as their admissibility under relevant law, regulations and rules for the time being in force;
- iii) The Monitoring Committee(s) as provided in the Resolution Plan shall be set up by the Applicant within 07 days of passing of this Order,

which shall take all necessary steps for expeditious implementation of the Resolution Plan as per approval;

iv) The SRA shall deliver/provide possession of the units to the Home Buyers/Allottees strictly as per the time frame promised in the Resolution Plan and approved by this Authority. The Monitoring Committee will supervise and monitor the progress of construction of units and related infrastructure developments on a day-to-day basis and file the progress report before this Adjudicating Authority on monthly basis;

v) In case of non-compliance with any part of this order or withdrawal from implementing the Resolution Plan by the Successful Resolution Applicant, the Monitoring Committee shall forfeit the Performance Security furnished by the Resolution Applicant in the form of Performance Bank Guarantees and the Successful Resolution Applicant will be subject to such other action/actions as permissible under the law.

vi) Certified copy of this Order be issued on demand to the concerned parties, upon due compliance.

vii) A copy of this Order is to be submitted to the Office of the concerned ROC for compliance as per law.

viii) The order of the moratorium in respect to the corporate debtor passed by this Adjudicating Authority under Section 14 of the IBC, 2016 shall cease to have effect from the date of passing of this Order.

ix) The Interim Resolution Professional, Mr. Anuj Jain shall stand discharged from his duties immediately after constituting the Monitoring Committee(s) as provided in the Resolution Plan. He shall forthwith send a copy of this Order to the CoC, the SRA, and other parties for necessary compliance.

x) The Registry is also directed to send e-mail copies of this order forthwith to all the parties.

xi) A copy of this order shall also be sent by the Registry/IRP to the IBBI for their record.

179. Files to be consigned to the record room after following the due procedure prescribed.

180. **The IA No. 2836/PB/2021 is accordingly ALLOWED. The other Applications (IAs) have been DISMISSED earlier as part of this order i.e., IA. NO. 3457/PB/2021 on page no. 88, IA. NO. 3306/PB/2021 on page no. 141, and IA. NO. 2521/PB/2022 on page no. 200.**

Sd/-

**(RAMALINGAM SUDHAKAR)
PRESIDENT**

Sd/-

**(L. N. GUPTA)
MEMBER (TECHNICAL)**

ANNEXURE A-15A

7

*Private, Privileged & Confidential
Resolution Plan for Jaypee Infratech Limited*

Resolution Plan for Jaypee Infratech Limited ("JIL"), a company under Corporate Insolvency Resolution Process pursuant to the order dated August 9, 2017 of the Hon'ble National Company Law Tribunal, Allahabad bench and order dated November 06, 2019 passed by the Hon'ble Supreme Court of India in Civil Appeal (Diary) No. 27229/2019

Resolution Applicants

Suraksha Realty Limited

Lakshdeep Investments and Finance Private Limited

Dated: June 07, 2021



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PART I

OVERVIEW OF THE RESOLUTION APPLICANTS

1. Details of the Resolution Applicants

1.1. Suraksha Realty Limited

A company registered under the provisions of the Companies Act, 1956 and having Corporate Identity Number U45201MH2008PLC180675, having its registered office at 3, Narayan Building, 23, L. N. Road, Dadar (East), Mumbai, Maharashtra - 400014.

1.2. Lakshdeep Investments and Finance Private Limited

A company registered under the provisions of the Companies Act, 1956 and having Corporate Identity Number U67120MH1993PTC072685, having its registered office at 3, Narayan Building, 23, L. N. Road, Dadar (East), Mumbai, Maharashtra - 400014.

2. Details of Directors of the Resolution Applicant(s)

Table 1: Details of Directors

Sr. No.	Name of the Resolution Applicant	Name of the Directors
1	Suraksha Realty Limited	1. Mr. Paresh Mohanlal Parekh 2. Mr. Vijay Mohanlal Parekh 3. Ms. Khyati Chintan Valia 4. Mr. Harshal Pankaj Bhuta 5. Mr. Ramesh Madanlal Jain
2	Lakshdeep Investments and Finance Private Limited	1. Ms. Raksha Sudhir Valia 2. Ms. Shradha Jash Panchamia

3. Declaration (s) under Section 29A of the Code from each of the Resolution Applicant(s)

The declaration(s) under Section 29A of the Code from each of the Resolution Applicants is provided to the Interim Resolution Professional. Each Resolution Applicant shall ensure that this Resolution Plan complies with the Process Document (save and except as otherwise provided in this Resolution Plan), the Code and the Regulations.



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Sr. No.	Application of Funds	Rs. Crore
3.	Payment to the workmen & employees	-
4.	Redemption of 0.01% Assenting NCDs issued to Assenting Institutional Financial Creditors.	1,200
5.	Land for Institutional Financial Creditors, as per the terms of this Resolution Plan	6,536
6.	Payment to FD Holders	38.42
7.	Funds for construction of real estate projects for delivery of homes to Homebuyers and/or refund to homebuyers to be utilised in line with the business plan for construction*, in accordance with the Resolution Plan	4,300
8.	Payment to Public Shareholders	0.14
9.	Provision for expenses for managing and monetisation of land for Assenting Institutional Financial Creditors	25.00
10.	Provision for initial operating expenses of the Corporate Debtor and other contingencies including additional CIRP expenses	41.59
	Total	12,147

* The total amount of the Insolvency Resolution Process Costs, Funds for Home Buyers, workers dues, and further provisions for expenses are indicative in nature and may change

14. Treatment under the Resolution Plan for the Insolvency Resolution Process Costs

14.1. Amount as per IM:

The Insolvency Resolution Process Costs as per the data available in VDR is Rs. 5.45 crore. However, the final amount to be paid will be based on the actual Insolvency Resolution Process Costs (as defined in the Code) incurred in accordance with the provisions of the Code.

14.2. Treatment:

- a) The Resolution Applicants understand, as per the information available in the VDR that out of the total CIRP Cost a sum of Rs. 33.63 crore has been paid out of the internal accruals of the Corporate Debtor and a sum of Rs. 5.45 crore remains to be paid. In the event, the CIRP cost increases beyond Rs. 5.45 crore, the excess amount above Rs. 5.45 crore shall be paid by the Resolution Applicants and the Resolution Applicant shall bring additional fund to pay the excess amount, in the event the

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within 3 months from the Approval Date.

E. TREATMENT FOR HOMEBUYERS - WHO HAVE NOT FILED THEIR CLAIM TO IRP ON OR BEFORE NCLT APPROVAL DATE

17.30. With respect to the Home buyers who have not filed their Claim on or before NCLT Approval Date ("Unclaimed Unit Buyers"), the Resolution Applicants are not making any provision under this Resolution Plan for such Unclaimed Unit Buyers and accordingly all right, title and other entitlements (if any) of such Unclaimed Unit Buyers shall immediately upon approval of this Resolution Plan by the Adjudicating Authority shall stand abated, extinguished and settled in perpetuity without any claim whatsoever of such Unclaimed Unit Buyers against the Resolution Applicant and/or the Corporate Debtor in line with Jaypee Kensington Judgement, relevant paragraph reproduced herein below for ready reference:

"In the very scheme the corporate insolvency resolution process, a resolution applicant cannot be expected to make a provision in relation to any creditor or depositor who has failed to make a claim within the time stipulated and the extended time as permitted by Regulation 12."

F. CONTINUATION OF CONSTRUCTION FROM COC APPROVAL DATE UPTO APPROVAL DATE - INTERIM FINANCE OF RS. 300 CRORE PROPOSED BY RESOLUTION APPLICANTS

17.31. The Resolution Applicants are conscious of the sufferings of the homebuyers due to such extraordinary delay in completion of their homes. In view thereof, the Resolution Applicants have deliberately not made Resolution Plan which is dependent on hive off of the Yamuna Expressway, as hive off of the Yamuna Expressway is completely dependent on YEIDA approval as per directions of Hon'ble Supreme Court, which may or may not be granted by YEIDA and timelines for the same are also uncertain.

17.32. The Resolution Applicants also understand that there may be further delay, if time is taken for approval of the Resolution Plan by Adjudicating Authority, NCLAT and/or Supreme Court, then such time should not hamper the construction of the projects of the homebuyers. The Resolution Applicants, therefore, in the interest of home buyers, have proposed to bring funds of Rs. 300 crore by way of Interim Finance under IIC, immediately after approval of the Resolution Plan by CoC, which shall be utilised by the Interim Resolution Professional, in consultation with the Resolution Applicants if he desires, for the purpose of reviving and expediting the construction of the projects, subject to approval of such Interim Finance Proposal by the IRP, CoC and the Institutional Financial Creditors.

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used for construction. However, in the case of the Corporate Debtor, erstwhile management of the Corporate Debtor may have utilised Home Buyers' money for purposes other than construction such as development of Yamuna Expressway, payment of interest to financial creditors, other purposes, etc., thereby resulting in shortfall in funds required to complete the projects.

- 17.4. The Resolution Applicants plan to complete the construction of the projects and deliver possession of units/homes to Home Buyers within the time limit as projected for completion of projects under this Resolution Plan and more particularly contained in Annexure-I hereto utilising the funds to be made available from:
- a) the balance consideration to be received from the homebuyers as per the agreement(s) entered into with the Corporate Debtor within the due dates pertaining to the milestone based demand as mentioned in the agreements entered into with the home buyers;
 - b) the working capital facility as mentioned hereinabove in the Resolution Plan;
 - c) the cashflow received from new sales, if any, in line with the Business Plan;
 - d) monetisation of other value pockets in the Projects, to the extent possible; and
 - e) cashflows of Road Asset for initial three years including servicing of working capital facility.
- 17.5. The timelines mentioned in Annexure-I shall be subject to Home Buyers strictly fulfilling their obligations, including but not limited to payment of all the amounts payable as per the agreement with the Corporate Debtor within due date as per the stage wise completion (milestone based) demand contained in the respective agreement(s) entered into between the Home Buyers and the Corporate Debtor, without adjusting or deducting any amounts on account of penalties/rebate under such agreement(s) or any other law for the time being in force.
- 17.6. As the homebuyers' primary requirement is delivery of homes, it is proposed to complete the projects and deliver the homes to such Home Buyers who have filed their claim against full and final settlement of their claims and no amount or refunds under the existing agreements shall be paid other than the treatment proposed under this Resolution Plan.
- 17.7. The Corporate Debtor shall raise demands for payments in line with the construction schedule as mentioned in
- 17.8. 17.5 above. In the event, any Home Buyer fails to make payment within due date as

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17.33. The Resolution Applicants desires that the construction work shall be resumed immediately after approval of the Resolution Plan by the CoC and gather pace through the efforts to be put in by the Interim Resolution Professional, in consultation of the Resolution Applicants if he desires, that shall enable Interim Resolution Professional to expedite the revive the stalled construction, expedite deliveries of homes, in the interim period from CoC Approval till Approval Date, with availability of Interim Finance, cash balance already available with the Corporate Debtor, cash flows of the Yamuna Expressway and any other operational cash flows of the Corporate Debtor. The Resolution Applicant estimates that with the help of Interim Finance of Rs. 300 crore, the Interim Resolution Professional may be able to deliver around 4,000-5,000 units during litigation period.

17.34. The brief Interim Finance Proposal is attached with the Resolution Plan for consideration, no objection and approval of IRP, CoC and the Institutional Financial Creditors, after the approval of the Resolution Plan by the CoC.

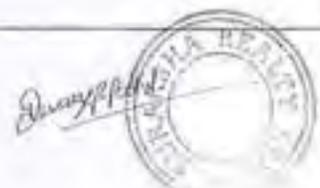
G. OTHER COVENANTS

17.35. The Contracts or agreements executed between the Homebuyers and the Corporate Debtor shall stand suitably amended, so as to reflect the time limit as projected for completion of projects under this Resolution Plan and more particularly contained in Annexure-I, as if the proposed delivery schedule was the original delivery schedule and other covenants of the agreements executed between the Homebuyers and the Corporate Debtor shall stand amended in accordance with the treatment provided for home buyers under this Resolution Plan, upon approval of this Resolution Plan by the Adjudicating Authority. Save and except as provided in the Resolution Plan, all other terms of agreements executed by the Homebuyers with the Corporate Debtors shall remain unchanged.

17.36. Homebuyers who have opted for possession, their PAL, agreement to sale and/or any other agreement executed with the Corporate Debtor shall stand amended as regards to the delay in possession penalty is concerned, and they shall be paid a penalty of Rs. 5 per sq. ft. per month/Rs. 50 per sq. yds in case of Group housing and plots respectively, from the revised date of completion, as contemplated under this Resolution Plan, post grace period of 12 months as mentioned in this Resolution Plan till actual possession of their home.

17.37. If the completion of said homes/units is delayed by reason of any civil commotion or any military action or by reason of war, or enemy action, or earthquake or any act of God or pandemic or non-delivery of possession is as a result of change in any law or

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order of a court or as a result of government authority/State authority/Statutory Authority/Local legislative body or encroachments or such reasons which are beyond the control of the Corporate Debtor/ Resolution Applicants, the Corporate Debtor/Resolution Applicants shall be entitled to such extension of time as is lost in such circumstances for delivery of possession of such homes/units.

- 17.38. Penalties/rebate, if any, payable to the Home Buyers as per their agreement with the Corporate Debtor or as per the RERA or any other law shall be deemed accrued as on the Approval Date and shall stand satisfied and extinguished in perpetuity in order to facilitate Resolution Applicant to commence the resolution of the Corporate Debtor on clean slate.
- 17.39. The Resolution Applicants shall develop the New Projects / Towers / utilised FAR, if available as per Applicable Laws, on the vacant land parcels in Wishtown & Aman, Noida in line the Applicable Laws.
- 17.40. It is clarified that, the project configurations and construction specifications, amenities, etc. shall be in line with the sanctioned layout plan and provisional allotment letter issued to the homebuyers by the Corporate Debtor.
- 17.41. It is pertinent to mention that in the interest of the Home Buyers, it is important that work at site progresses on daily basis and to achieve completion within the timelines mentioned in the Resolution Plan around 12,000 workers may be required to be deployed at site on daily basis, however, in order to implement and monitor the progress on site, the following is essential and therefore taken into consideration, that JAL, or its sub-contractors, or any other person shall not be allowed to create any disruptions in progress of work at the site of any of the projects where incomplete projects need to be completed and cooperate for smooth transition.
- 17.42. Upon approval of this Resolution Plan by the Adjudicating Authority, necessary police protection shall be provided to the officials of the Corporate Debtor/ Land Bank SPV/ Resolution Applicants as well as to the contractor(s) and workers deployed at the site by the Corporate Debtor.
18. Treatment for Workmen dues under the Resolution Plan for the Operational Creditors

Claim Admitted Amount as per IM

18.1. The admitted claims of Workmen as on 31.03.2021 were Nil.

Treatment

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the Home Buyers who shall in turn pay that amount to the Corporate Debtor/ SPV towards maintenance of the projects under the new maintenance agreement that shall be executed by the Home Buyers with the Corporate Debtor/ SPV and/or its nominees. Any such Claims against Corporate Debtor for the monies paid by Home Buyers to JAL, as mentioned above, shall be deemed to have arisen on or before Approval Date and shall stand satisfied and extinguished upon approval of this Resolution Plan against Corporate Debtor and / or Resolution Applicants, without affecting the amounts recoverable by the Corporate Debtor from JAL. Further, no such existing claim or due shall subsist against the Corporate Debtor and the Resolution Applicants. The Claims, if any, raised by JAL, upon and pursuant to the termination of the aforementioned contracts shall deemed to have been arisen prior to Approval Date and shall stand extinguished, being Claim of the Operational Creditors.

23. Treatment under the Resolution Plan with respect to the liability on Corporate Debtor with respect to the Jaypee Healthcare Ltd ("JHL")

All contingent liabilities as more particularly detailed in the information memorandum or appearing in the books of the Corporate Debtor or otherwise, inter-alia including any contingent liabilities relating to guarantee(s), shortfall undertaking or any other similar instrument provided by the Corporate Debtor to secure the financial indebtedness of Jaypee Healthcare Limited or any other person, along with any related legal proceedings (including criminal proceedings), if any, shall stand irrevocably and unconditionally abated, and extinguished in perpetuity on and in with effect from date of approval of Resolution Plan by the Adjudicating Authority.

The Corporate Debtor shall have right of subrogation against its subsidiary JHL, in the event the pledged shares owned by the Corporate Debtor are enforced and monies are recovered by the lenders of JHL.

It is clarified that, without prejudice to the above mentioned treatment, the Resolution Applicants is in discussion with Yes Bank to explore possibility of mutually acceptable amicable solution.

24. Treatment under the Resolution Plan for the Equity Shareholders

Equity Shareholders:

Balance Sheet as on 31.03.2021:

24.1. The outstanding equity share capital as on 31.03.2021 was Rs. 1389 crore.

Treatment:

Reduction of entire share capital of Corporate Debtor

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Sr. No	Key requirement of Process Document	Reference
6	Percentage Shareholding in Corporate Debtor offered to Institutional Financial Creditors by way of debt to equity conversion	Not Applicable
7	Evidence of funding monies available to fund the Resolution Plan i.e. evidence of available line of credit, term sheet, letter of intent etc.	Networth certificates of RAs
8	Financial ability of the Applicant including last 3 years annual report of relevant entities or the entities in which investments have been made in particular in infrastructure, real estate or related sectors	The balance sheet of last three financial years of each of the Resolution Applicants is attached at Appendix to the Resolution Plan
9	Financial assumptions, Projections & Business plan for the Corporate Debtor	As mentioned at Part III

34. Effects of Approval of the Resolution Plan

The Hon'ble Supreme Court has, in its recent judgments, emphasised on the need of a resolution applicant getting a clean slate to enable it to revive a corporate debtor. The following observations of the Hon'ble Supreme Court in the matter of Essar Steel are quite relevant to understand the same:

"67. For the same reason, the impugned NCLAT judgment in holding that claims that may exist apart from those decided on merits by the resolution professional and by the Adjudicating Authority/Appellate Tribunal can now be decided by an appropriate forum in terms of Section 60(6) of the Code, also militates against the rationale of Section 31 of the Code. A successful resolution applicant cannot suddenly be faced with "undecided" claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who successfully take over the business of the corporate debtor. All claims must be submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor. This the successful resolution applicant does on a fresh slate, as has been pointed out by us hereinabove. For these reasons, the NCLAT judgment must also be set aside on this count."

(Emphasis ours)

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Further, the Hon'ble Supreme Court has in the matter of Ghanshyam Mishra and Sons Private Limited versus Edelweiss Asset Reconstruction Company Limited (decided on 13.04.2021) held as under:

"86. It is at this stage, that the plan becomes binding on Corporate Debtor, its employees, members, creditors, guarantors and other stakeholders involved in the resolution Plan. The legislative intent behind this is, to freeze all the claims so that the resolution applicant starts on a clean slate and is not flung with any surprise claims. If that is permitted, the very calculations on the basis of which the resolution applicant submits its plans, would go haywire and the plan would be unworkable."

"95 (i).... On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan."

"111.In our view, the observations made in the aforesaid paragraphs, if permitted to remain, would totally frustrate the object of I&B Code of revival of a Corporate Debtor and to resurrect it as a going concern. As held by this Court, the successful resolution applicant cannot be flung with surprise claims which are not part of the resolution plan."

(Emphasis ours)

In view of the observations of the Hon'ble Supreme Court, the Resolution Applicants provide the Effects of the Resolution Plan as under;

Effects on the Corporate Debtor;

- 34.1. As from the NCLT Approval Date, all the suspended directors of the Corporate Debtor shall be deemed to have vacated office; new directors, as may be appointed by the Resolution Applicants and/or the Corporate Debtor shall be deemed to have assumed office and the order of the Adjudicating Authority, filed with the concerned Registrar of Companies shall be a conclusive proof thereof without requirements of any other document under the Applicable Laws.
- 34.2. It is clarified that the existing promoters, shareholders, managers, directors, officers, or such other person in charge of the affairs and management of the Corporate Debtor (including any person who was an 'officer in default' or 'occupier') prior to the Insolvency Commencement Date shall continue to be responsible and liable for all the liabilities, claims, demand, obligations, penalties etc. arising out of any proceedings, inquiries, investigations, orders, show causes, notices, suits, litigation etc. (including but not limited to those arising out of any orders passed by the NCLT pursuant to Sections 43, 45, 49, 50, 66, 68, 70, 71, 72, 73, 74 of the Code) or any acts or omissions in breach of Applicable Law which occurred prior to the Insolvency Commencement Date. Further,

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- 34.9. All movable and immovable fixed assets and tangible inventories such as stocks and spares of the Corporate Debtor shall be reconciled, identified and provided for in the custody of the Corporate Debtor or Resolution Applicants, free of any encumbrances (except as provided herein).
- 34.10. The Resolution Applicants reserve their right to transfer the rights and obligations available to the Corporate Debtor under the Concession Agreement pertaining to Yamuna Expressway [i.e. the 6-lane 165 km expressway (expandable from 6 lanes to 8 lanes) connecting Noida to Agra alongwith 4,798 acres of land parcels pertaining to Yamuna Expressway or any part(s) thereof, and such other land parcels as may released for such expressway by YEIDA and all the other assets attached thereto] by way of business undertaking or other suitable structure permitted under the Applicable Laws to any SPV created for the same, without affecting continuation of other rights and obligations under the Concession Agreement with the Corporate Debtor, upon execution of tripartite agreement with YEIDA, as per provisions of the Concession Agreement.
- 34.11. The reorganization of the Corporate Debtor including its assets and liabilities, as per the terms of this Resolution Plan, shall be operative from end of the day on 31st March, 2021 or such other date ("*Appointed Date*") as decided by the Resolution Applicants being prior to the NCLT Approval Date.
- 34.12. The Resolution Applicants / Corporate Debtor shall retain the right to revalue/impair/provide for the assets of the Corporate Debtor to the satisfaction of Resolution Applicants before Resolution Applicants make infusion in the Corporate Debtor, for any reason including to ensure that assets are not be carried in excess of amounts expected to be realised from their sale for use. Further, the financials statements of the Corporate Debtor shall be deemed to have been recasted/ reinstated with effect from 31st March, 2021 or such other Appointed Date as decided by the Resolution Application but being on or before the NCLT Approval Date. The liability or Claim with respect to taxes, dues to Government authority, stamp duty etc., if any, upon such revaluation/impair of the assets of the Corporate Debtor shall be deemed to have been arisen on the Appointed Date being the period prior to the NCLT Approval Date and therefore shall be the Claim of Operational Creditor. In view of the provisions of the Code and in terms of this Resolution Plan, no amount shall be payable to the aforesaid Operational Creditors in accordance with the section 30 read with section 53 of the Code and therefore stands extinguished.
- 34.13. After the NCLT Approval Date, the requirement of adding the term "and reduced" in the balance sheet of the Corporate Debtor under the provisions of the Companies Act, 1956/ Companies Act, 2013 and any rules made thereunder and/or any other

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payments shall be made towards liability and creditors' dues except those which are specifically addressed in this Resolution Plan.

- 34.27. Save and except as provided in this Resolution Plan, all Claims, debts and dues of the Creditors, including but not limited to disputed / contingent liabilities, whether appearing in the audited balance sheet of the Corporate Debtor or otherwise, Claim of Central government, the State governments, any regulatory or local authority or body or any agency or instrumentality thereof, for payment of any statutory dues or taxes or any other liabilities whatsoever including for pending assessment of income taxes or otherwise, any indirect tax laws, including but not limited to, the Central Excise Act, 1944, the Finance Act, 1994 (Service Tax), the Customs Act, 1962, Value Added Tax Act, 2005, the CENVAT Credit Rules, 2004, the Electricity Act, 2003, the Goods and Services Tax Act, 2017 (each as amended from time to time and including the rules made thereunder), pertaining or related to the period prior to the Approval Date as against the Corporate Debtor shall stand fully and finally satisfied and extinguished, and no Claim, debt or due shall subsist from the Creditors as against the Corporate Debtor and the Resolution Applicants. The Resolution Applicant or the Corporate Debtor shall not, in any manner whatsoever, at present or in future, be directly or indirectly responsible or liable for any such Claim.
- 34.28. Save and except the litigation pertaining to Additional FAR pending before District Court, Gautam Budh Nagar, any adverse inquiries, investigations, notices, causes of action, suits, claims, disputes, litigation, arbitration or other judicial, regulatory or administrative proceedings, pending before any courts/ quasi-judicial/ Governmental Authorities (including RBI) against, the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future, that have been initiated or are threatened ("Dispute") to be initiated against the Corporate Debtor by any Creditor in relation to any Claim pertaining to any period prior to the Insolvency Commencement Date and / or Approval Date and / or arising on account of acquisition of control over the Corporate Debtor by the Resolution Applicant, pursuant to this Resolution Plan, shall become infructuous.
- 34.29. Any new claim, interest, right, liability, including under any law including direct or indirect tax whether submitted to the Corporate debtor and / or the Interim Resolution Professional by any creditor on or before the Approval Date or not submitted at all, not covered in this Resolution Plan, shall not be eligible for consideration and/or payment under this Resolution Plan. All such claims, interest, rights, liability, shall stand waived, discharged, released, extinguished and settled without any consequences and/or liability to the Corporate Debtor or the Resolution Applicants. The Resolution Applicants or Corporate Debtor shall not, in any manner whatsoever, be directly or

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indirectly responsible or liable for any such claims, interest, rights or liability.

34.30. Further, any Claim against the Corporate Debtor, arising from any contractual arrangements, whether set out herein or not, whether admitted or not, due or contingent, asserted or un-asserted, present or future, whether or not set out in the Information Memorandum and/ or data room, or the books of accounts or financial statements of the Corporate Debtor, in relation to any period prior to the Insolvency Commencement Date and / or Approval Date, shall be deemed to be permanently extinguished upon approval of the Resolution Plan by the Adjudicating Authority and therefore the Resolution Applicants and / or the Corporate Debtor shall, at no point, be made directly or indirectly responsible or liable for the same.

34.31. Other than the claims and settlements pertaining to the Corporate Debtor that have been envisaged and set out under this Resolution Plan, no other payment or settlement, of any kind, shall be made to any other person or entity in respect of any other claims (whether or not admitted or filed or verified with the Interim Resolution Professional) and/or any sub-judice claims including but not limited to but pertaining to additional compensation, statutory dues, demands and all such claims against the operational and other creditors of the Corporate Debtor along with any related legal proceedings, in relation to any period prior to the Approval Date or arising on account of acquisition of control over the Corporate Debtor by the Resolution Applicants pursuant to this Resolution Plan, shall be deemed to have arisen prior to Approval Date and shall stand irrevocably and unconditionally abated, settled and extinguished. Such extinguishment of claims shall be deemed to form an integral part of the order by the Adjudicating Authority approving the Resolution Plan and shall accordingly be binding on all the stakeholders including the Corporate Debtor, its employees, workmen, financial and operational creditors, guarantors, security providers, and other stakeholders. The treatment accorded to the persons receiving settlement under this Resolution Plan shall constitute an absolute discharge and settlement of the dues to which they pertain and shall be the full and final performance, discharge and satisfaction of all obligations relating thereto.

34.32. In terms of Regulation 13 of Regulations, the Interim Resolution Professional is required to verify each claim and maintain a list of creditors together with the amount claimed and admitted. Accordingly, it is hereby clarified that any claim which has been rejected or has not been admitted by the Interim Resolution Professional shall stand extinguished in full, from the NCLT Approval Date.

34.33. Any and all other Claims or demands made by, or liabilities or obligations owed or

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payable to (including but not limited to any operational debt including any advances payable to any Operational Creditor under any contract, any demand for any losses or damages, indemnification, principal, interest, compound interest, penal interest, liquidated damages, and other charges already accrued/ accruing or in connection with any third party claims) any actual or potential Creditor, vendor, contracting counterparty, governmental authority, claimant or any other person whatsoever (including but not limited to the Operational Creditors and its promoters, directors and other related parties of the Corporate Debtor and/ or the existing promoters), 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, in relation to any period prior to the Approval Date or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan, will be written off in full and shall be deemed to be permanently extinguished on the Approval Date 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.

34.34. Any and all corporate guarantees/counter guarantees, or any other similar instrument issued by the Corporate Debtor in favour of any Operational Creditor including under any of the operation and maintenance contracts, whether invoked or not or whether claimed or not, shall stand automatically released and the liability, if any, in relation to or arising out of such corporate guarantees/counter guarantees or any other similar instrument shall stand extinguished from the Approval Date, subject to the payment of the amount proposed in the Resolution Plan to the Operational Creditors.

34.35. Upon approval of the Resolution Plan by the Adjudicating Authority, all or any liabilities of the Corporate Debtor arising with Companies Act 2013/ Companies Act 1956/Labour Laws and any other Applicable Law pertaining to the period prior to the Insolvency Commencement Date and / or Approval Date shall stand fully and permanently extinguished and the Corporate Debtor or the Resolution Applicants shall not be liable or responsible for the same.

34.36. All the penalties, charges, fees, etc. arising out of non-compliance of the requirements if any of the Applicable Laws and regulations, rules, circulars, notifications, etc. made/issued thereunder shall be deemed to have been arisen prior to the Insolvency Commencement Date and / or Approval Date and shall permanently extinguished upon Approval Date.

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- 34.37. Any tax, levies, fee, transfer charges, transfer premiums, and surcharges that arise on account of implementation of the Resolution Plan and consequent change in the ownership and control of the Corporate Debtor and/or implementation of the Resolution Plan shall be deemed to have been arisen prior to the Insolvency Commencement Date and / or Approval Date and shall permanently extinguished upon Approval Date.
- 34.38. Any and all claims or demands made by, or liabilities or obligations owed or payable to, (including any demand for any losses or damages, or interest, wages, compensation, gratuity, penal interest, liquidated damages already accrued/ accruing or in connection with any Claims) any present or past, direct or indirect, permanent or temporary employee and/or workman of the Corporate Debtor, whether admitted or not, whether subject to any claim filed with the Interim Resolution Professional or not, due or contingent, asserted or unasserted, crystallised or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, present or future, whether or not set out in the audited balance sheet, in relation to any period prior to the Resolution Applicant taking over control over the Corporate Debtor pursuant to this Resolution Plan or arising on account of the acquisition of control by the Resolution Applicant over the Corporate Debtor pursuant to this Resolution Plan, will be written off in full and shall stand permanently extinguished by virtue of the order of the Adjudicating Authority approving this Resolution Plan and the Corporate Debtor, the Resolution Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.
- 34.39. All claims that may be made or arisen against the Corporate Debtor in relation to any payments required to be made by the Corporate Debtor under Applicable Law (including direct/indirect taxes), or in relation to any breach, contravention or non-compliance of Applicable Law (whether or not such claim was notified to or claimed against the Corporate Debtor at such time, and whether or not such Governmental Authorities or person was aware of such claim at such time), in relation to the period prior to the approval of this Resolution Plan by the Adjudicating Authority or arising on account of acquisition of control over the Corporate Debtor by the Resolution Applicants pursuant to this Resolution Plan, including, without limitation in respect of the applicable laws, matters and proceedings is a "claim" and "debt" each is defined under the Code, and would consequently qualify as "operational debt" (as defined under the Code) and therefore the full amount of such claims shall be deemed to be owed and due as of the Insolvency Commencement Date or Approval Date, the liquidation value of which is NIL and therefore no amount is payable in relation thereto and shall stand extinguished. Further, the directors, key managerial personnel and officers of the company nominated and/ or appointed by the Resolution Applicants on

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the Approval Date shall not incur any liabilities (whether civil or criminal) for such breach contravention or non-compliance of Applicable Law by the Corporate Debtor in relation to the period prior to the Approval Date.

- 34.40. All claims or demands made by or liabilities payable to or assessed or unassessed by any regulatory or statutory or administrative authority or instrumentality thereof, in relation to any dues, direct or indirect taxes, duties (including stamp duties), penalties, fees, interest, levies, etc. or any other charges whatsoever (including but not limited to any tax liability and any other liability in relation to any approval or benefit granted to the Corporate Debtor or in relation to the Corporate Debtor), whether admitted or not due or contingent, present or future, in relation of any period prior to the Approval Date or arising on account of the Resolution Applicants being taking over the Corporate Debtor under the Resolution Plan, will be written off in full and will be deemed to be fully and permanently extinguished on the Approval Date and the Corporate Debtor or the Resolution Applicants shall neither be directly nor indirectly held liable for the same.
- 34.41. All claims, demands, levies etc. pertaining to interest and penalty under applicable laws including but not limited to, on delayed payment of income tax, tax deducted at source late filing of TDS returns, in respect of all the dues (including interest and penalty) of the Corporate Debtor arising for period up to the Approval Date (including such dues for period prior to the Approval Date that may crystallize subsequent to the Approval Date) or arising on account of acquisition of control over the Corporate Debtor by the Resolution Applicants pursuant to this Resolution Plan, will be deemed to be fully and permanently extinguished on the Approval Date and the Corporate Debtor or the Resolution Applicants shall neither be directly nor indirectly held liable for the same. Further, no transaction contemplated in this Resolution Plan shall be treated as void or non-compliant with any provisions of the Income-tax Act, 1961.
- 34.42. The Interim Resolution Professional has in the VDR mentioned about the claims of the Income Tax Department and other statutory authorities and as are more particularly mentioned herein above. It is specifically stated that save and except as provided hereinabove, all other claims, debts, demands and dues of the Income Tax Department, whether raised or contingent, likely to be made in future and other statutory authorities, pertaining or related to the period prior to the Approval Date or pertaining to or arising out of any transaction including allotment of land or arising on account of acquisition of control over the Corporate Debtor by the Resolution Applicants pursuant to this Resolution Plan shall be deemed to have arisen on the Insolvency Commencement Date and/or Approval Date and shall stand satisfied and extinguished, and no such existing claim, debt or due or demand shall subsist against the Corporate Debtor and the Resolution Applicants by the Income Tax Department and other statutory authorities. It

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is clarified that in the event any claim raised by the Income Tax Department and other statutory authorities subsequently however pertains or related to period prior to the Approval Date, the Income Tax Department and other statutory authorities shall not be entitled to receive payments, if any, with respect to such claims and/or demands. Any such Claim shall be deemed to have arisen on the Insolvency Commencement Date / Approval Date and upon approval of this Resolution Plan shall stand satisfied and extinguished. The Corporate Debtor and/or the Resolution Applicants shall have no adverse impact or financial burden due to any litigation which has arisen in relation to any transaction prior to the Approval Date.

- 34.43. On the Approval Date, all the penalties, charges, fees, etc. arising out of non-compliance of the requirements, if any, of the regulations, rules, circulars, notifications, etc. of SEBI, RBI, ROC and/or any other statutory, regulatory or administrative or Governmental Authority or any other liability under the Applicable Laws including but not limited to labour laws, tax laws etc. pertaining to a period prior to the Approval Date shall stand extinguished permanently and all proceedings pending against the Corporate Debtor for any such non-compliance shall stand infructuous on the Approval Date.
- 34.44. Upon Approval Date, all the penalties, charges, fees, etc. arising out of non-compliance of the requirements if any of labour laws like Employee State Insurance Act, 1948, Provident Fund Act, Payment of Bonus Act, Contract Labour Act, 1973, Minimum Wages Act, Equal Remuneration Act, 1976, Factories Act 1948, Gratuity Act 1972, etc. shall stand extinguished and any litigation/suit/proceeding in relation thereto shall stand infructuous.
- 34.45. The Resolution Applicants understand that the Uttar Pradesh Real Estate Regulatory Authority ("UP RERA") has issued letters dated 31.08.2019 ("RERA Letters") to the Corporate Debtor, in terms of which UP RERA has imposed a penalty to the tune of Rs. 2,00,000 per project on 16 projects of the Corporate Debtor aggregating to total penalty of Rs. 32,00,000. That, the RERA Letters along with the underlying claims of UP RERA and any related legal proceedings (including criminal proceedings excluding those against the Existing Promoters), if any, shall stand irrevocably and unconditionally abated, settled and extinguished in perpetuity on and with effect from the Approval Date inter alia on account of the fact that the same could not have been raised/claimed while the moratorium provisions as contained Section 14 of the IBC were applicable in respect of the Corporate Debtor.
- 34.46. The Resolution Applicants understand that a recovery certificate bearing no 743/14-1 dated August 09, 2019 has been issued by the Divisional Director, Social Forestry

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Division to the Collector of Agra for recovery of alleged compensation amount to the tune of Rs. 2.16 Crores from the Corporate Debtor. That the aforesaid demand certificate shall be deemed to be revoked and cancelled and deemed null and void and all liabilities and obligations against the Corporate Debtor or in respect of any asset of the Corporate Debtor shall be deemed to have been permanently extinguished upon the approval of this Resolution Plan by the Adjudicating Authority inter alia on account of the fact that such demand and the recovery certificate could not have been raised/issued while the moratorium provisions as contained in Section 14 of the Code were applicable in respect of the Corporate Debtor.

- 34.47. All Claims (whether pending, contingent or otherwise) made against the Corporate Debtor by the counter-parties to such agreements/ arrangements/ purchase orders/ work orders including but not limited to, in relation to any delays/ omissions on the part of the Corporate Debtor on or before the Approval Date, shall stand abated, settled and/or extinguished, and the Corporate Debtor shall have no liability towards such counterparties with respect to such Claims relating to the period prior to the Approval Date.
- 34.48. On and after the Approval Date, the Resolution Applicants and the Corporate Debtor shall not be held liable, responsible or convicted in respect of any assessed and non-assessed liabilities and disclosed or undisclosed litigation in relation to Claims pertaining to period prior to Approval Date.
- 34.49. Save and except as otherwise provided in the Resolution Plan, any and all Claims or demands made by or liabilities or obligations owed or payable to (including any demand for any losses or damages, principal, interest, compound interest, penal interest, liquidated damages, notional or crystallized mark to market losses on derivatives and other charges already accrued/ accruing or in connection with any Claim) any actual or potential Creditor of the Corporate Debtor or in connection with any debt or Claim of the Corporate Debtor (including any transactions in derivatives), whether admitted or not, due or contingent, asserted or unasserted, crystallized or uncrystallised, known or unknown, disputed or undisputed, present or future, whether or not set out in the balance sheet of the Corporate Debtor or the profit and loss account statements of the Corporate Debtor, in relation to any period prior to the Approval Date or arising on account of the acquisition of control by the Resolution Applicants over the Corporate Debtor pursuant to this Resolution Plan and/or implementation of this Resolution Plan, will be written off in full and shall be deemed to be permanently extinguished by virtue of the order of the NCLT 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.

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without any delay save and except such enforcement action permitted under the provisions of the Code over such assets of the Corporate Debtor earmarked for such enforcement action in terms of this Resolution Plan:

- 34.81. It is hereby understood that approval of this Resolution Plan by the Adjudicating Authority shall be deemed consent of the Institutional financial Creditors to sale of the land assets of the Land Bank SPV / earmarked assets of the Corporate Debtor, as the case may be, and no separate consent shall be required for any act of sale/transfer of the land assets as contemplated under this Resolution Plan.
- 34.82. The Resolution Applicants shall take/procure/apply for (as the case may be) all permissions, approvals, consents, licenses, permits, orders, decrees, authorization, registration, filing, notification, exemption, as may be required as per Applicable Law, in terms of the Resolution Plan.

35. Governing Law

This Resolution Plan and any agreements, documents and instruments executed in connection with the Resolution Plan shall be governed by the laws of India.

36. Removal of Difficulties

The Resolution Applicants retain the right to remove any defect or difficulties arising in the implementation of this Resolution Plan by moving an application before the Adjudicating Authority and the Adjudicating Authority may pass such order for removal of difficulty in implementation of this Resolution Plan without the involvement of the CoC or Interim Resolution Professional.

37. Binding Effect

This Resolution Plan once approved by NCLT shall be binding in accordance with section 31 of the Code.

38. Definitive Documents

As provided in the Process Document, the parties (including the Corporate Debtor and the necessary stakeholders) shall enter into definitive agreements as may be required for implementation of the Resolution Plan, including agreements between the Corporate Debtor, and relevant creditors as necessary.

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PART IV
ANNEXURES

ANNEXURE- I

Table 26: Project wise Estimated Completion Schedule

Project	Project Development	Projected Completion Period from 90 days Post Approva Date	No. of Towers
<u>Noida Projects</u>			
Kensington Park - Plots	Plotted Development	6 Months	-
Yamuna Enclave	Plotted Development	6 Months	-
Kingswood Oriental	Villa Development	12 Months	-
Aman	Residential	6 Months	26
Pebble Court	Residential	10 Months	4
Klassic	Residential	15 Months	32
Kensington Park Apartments & Heights	Residential	13 Months	18
Kosmos	Residential	14 Months	71
Kasa Isles	Residential	19 Months	15
Kensington - Boulevard	Residential	22 Months	21
Kube	Residential	29 Months	8
Wish Point	Commercial Shops	34 Months	-
Orchard	Residential	36 Months	8
Garden Isles	Residential	40 Months	24
Krescent Homes	Residential	40 Months	23
Total			250
<u>Mirzapur</u>			
Yamuna Vihaar	Plotted Development	24 Months	Plots
Sunnyvale Homes	Plotted Development	24 Months	Plots
Tanishq Square	Commercial	30 Months	2
Villa Expanza	Villa Deveopment	30 months*	
Budh Circuit Studios- Phase I	Residential	42 Months*	4
Naturevue Apartments- Phase I	Residential	42 Months*	1
Udaan & Boulevard Court- Phase I	Residential	42 Months*	23
Aman III- Phase I	Residential	42 Months*	4

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			34
Agra			
Kensington Park-Plots	Plotted Development	24 months	Plots

*subject to availability of unencumbered and unfettered possession of land, being developed under project, construction of phase I and shifting of buyers of phase II to phase I not only to give them possession faster but also it's unviable to complete phase II at this stage, as no much work done at sites of phase II.

1. It is to be noted that, in case the Cut off Date is extended then, Projected Completion Schedule as mentioned in the above tables shall also be revised and extended accordingly.
2. Flats are estimated to be handed over within 12 months from the Projected Completion Schedule considering various processes involved.
3. Project wise Estimated Completion Schedule is based on the timeline assumed by CBRE report dated July 18, 2019 as provided in the VDR and as assessed by the Resolution Applicants as per their best knowledge.
4. It is to be noted that Tower-wise completion of each project shall be in the phases and outer limit for project is assumed to be the above timelines.
5. There shall be grace period of 12 months from the respective above mentioned project completion timelines, thereafter penalty at the rate of Rs. 5/- sqft. shall be payable to Home Buyers.
6. In the event of the pandemic (Covid-19) getting extended by virtue of directions issued by the Government from time to time and/or any directions/ order issued affecting the construction of the projects mentioned hereinabove in any manner whatsoever including but not limited to orders passed by National Green Tribunal and/or any other statutory, administrative, or judicial or quasi-judicial authority, the timelines appearing in this Resolution Plan pertaining to construction milestones shall extended accordingly.
7. It is submitted that on the request of the Homebuyers tower-wise indicative completion schedule has been provided for Noida Projects as mentioned below:

Table 27: Tower-wise Indicative Completion Schedule (from 90 days Post Approva Date) for Noida Projects



ANNEXURE-II

The Resolution Applicants pray for the following reliefs and concessions from the Adjudicating Authority:

PART A –RELIEFS AND CONCESSIONS ALLOWED BY ADJUDICATING AUTHORITY AS APPEARING IN JAYPEE KENIGSTON JUDGEMENT

1. All the existing legal proceedings relating to Income Tax shall stand irrevocably and unconditionally abated, settled and all liability/obligations of the Corporate Debtor vis a vis the Income Tax authority in relation to such matters shall stand extinguished in perpetuity.
2. The approval of this Plan by the Adjudicating Authority shall be deemed to have waived all the procedural requirements in terms of Section 66, Section 42, Section 62, Section 71 of the CA, 2013 and relevant rules made thereunder, in relation to reduction of share capital of the Corporate Debtor, issuance of shares by Expressway SPV, Land Bank SPV, conversion of Admitted Financial Debt due to the Institutional Financial Creditors to equity, subscription of debentures by the Corporate Debtor or transfer of shares of the Land Bank SPV from the Corporate Debtor to Institutional Financial Creditors.
3. All relevant Governmental Authorities to grant relief/waiver from payment of stamp duty, to the extent permissible under the Applicable Law, for the successful implementation of the Plan inter alia including for the increase in authorized share capital, issuance/transfer of shares or debentures (optionally convertible debentures/non-convertible debentures), transfer of Expressway asset and land bank asset (including leasehold rights in underlying land) to Expressway SPV and Land Bank SPV respectively, pursuant to business transfer, etc.
4. All Governmental Authorities (including the Income Tax authority) to waive the non-compliances of the Corporate Debtor or further claims of the Governmental Authorities on the Corporate Debtor arising out of or in relation to the past claims or non-compliances, prior to the Approval Date.
5. All Governmental Authorities (including the Income Tax authority, Service Tax department and VAT department) to provide relief to the Corporate Debtor from all past litigations pending at different levels and provide waiver from tax dues including interest and penalty on such litigations as on the Approval Date.
6. The lenders (including Institutional Financial Creditors) to the Corporate Debtor shall regularize all the loan accounts of the Corporate Debtor and shall ensure that the asset classification of such loan accounts is "standard" in their books with effect from the Approval Date.
7. All creditors (including the Institutional Financial Creditors, FD Holders, Home Buyers,

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Refund Seekers and the Operational Creditors) of the Corporate Debtor to withdraw all legal proceedings commenced against the Corporate Debtor in relation to Claims including proceedings under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and Recovery of Debt and Bankruptcy Act, 1993 and seek quashing of criminal proceedings including proceedings under Section 138 of the Negotiable Instruments Act, 1881, within a period of 90 (ninety) days of the Approval Date.

8. Except those agreements/letter of allotments, where the sub-lease deeds had been executed between the Corporate Debtor and the third parties, in relation to all the agreements/letter of allotments, entered into between the Corporate Debtor and the third parties in relation to the transfer of the leasehold rights over the land situated in Agra and Tappal, the Resolution Applicant reserves the right to terminate/cancel the same with concurrence of such third parties and with simultaneous repayment of the actual amount already paid by such third parties without any interest or further liabilities on the Corporate Debtor or the Resolution Applicant, Pursuant to such termination/cancellation, such land parcels and rights attached thereto shall be fully vested in the Corporate Debtor.
9. The relevant Governmental Authorities shall not initiate any investigations, actions or proceedings against the Corporate Debtor or the Resolution Applicants or the new management (upon acquisition of the Corporate Debtor) including the board of directors, in relation to any non-compliance with Applicable Laws by the Corporate Debtor pertaining to any period up to Approval Date.

Neither shall the Resolution Applicants nor the Corporate Debtor nor their respective directors, officers, and employees to be appointed after the Approval Date be liable for any violations, liabilities, penalties or fines with respect to or pursuant to the Corporate Debtor not having in place the requisite licenses and approvals required to undertake its business as per Applicable Laws and the Resolution Applicant seeks a time period of 12 months from the Approval Date, to ensure renewal of such consents/licenses and approvals. Licenses and approvals held by the Corporate Debtor which expired prior to the Approval Date or which will expire within a period of 3 months thereafter shall be renewed/extended by the relevant Governmental Authorities and the Corporate Debtor shall be permitted to continue its business and assets in manner operated prior to submission of this Plan. Resolution Applicant seeks a time period of 12 months from the Approval Date, to ensure compliances.

10. In relation to any alleged transfer of any economic interest or other beneficial interest by the Corporate Debtor to JAL in the past pertaining to the land parcels for the real estate development, where the title and ownership is still lying with the Corporate Debtor, the Resolution Applicant shall have a right to proceed in accordance with Applicable Law including to terminate/cancel such arrangement without any liability (monetary or otherwise) on the Corporate Debtor or the Resolution Applicant.

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THE INSOLVENCY AND BANKRUPTCY CODE, 2016**No. 31 OF 2016**[28th May, 2016]**[AMENDED UPTO 12-08-2021]**

An Act to consolidate and amend the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximisation of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows: -

PART I**PRELIMINARY****1. Short title, extent and commencement. -**

(1) This Code may be called the Insolvency and Bankruptcy Code, 2016.

(2) It extends to the whole of India.

¹[***]

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Code and any reference in any such provision to the commencement of this Code shall be construed as a reference to the commencement of that provision.

2. Application. –

The provisions of this Code shall apply to—

(a) any company incorporated under the Companies Act, 2013 (18 of 2013) or under any previous company law;

(b) any other company governed by any special Act for the time being in force, except in so far as the said provisions are inconsistent with the provisions of such special Act;

(c) any Limited Liability Partnership incorporated under the Limited Liability

¹ Omitted by the Jammu and Kashmir Reorganisation (Adaptation of Central Laws) Order, 2020 No.SO1123(E) dated 18th March, 2020. Before omission, it stood as “*Provided that Part III of this Code shall not extend to the state of Jammu and Kashmir.*”

Partnership Act, 2008 (6 of 2009);

(d) such other body incorporated under any law for the time being in force, as the Central Government may, by notification, specify in this behalf; ¹[***]

² (e) personal guarantors to corporate debtors;

(f) partnership firms and proprietorship firms; and

(g) individuals, other than persons referred to in clause (e).]

in relation to their insolvency, liquidation, voluntary liquidation or bankruptcy, as the case may be.

3. Definitions. –

In this Code, unless the context otherwise requires, -

(1) “Board” means the Insolvency and Bankruptcy Board of India established under sub-section (1) of section 188;

(2) “bench” means a bench of the Adjudicating Authority;

(3) “bye-laws” mean the bye-laws made by the insolvency professional agency under section 205;

(4) “charge” means an interest or lien created on the property or assets of any person or any of its undertakings or both, as the case may be, as security and includes a mortgage;

(5) “Chairperson” means the Chairperson of the Board;

(6) “claim” means –

(a) a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured, or unsecured;

(b) right to remedy for breach of 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, matured, unmatured, disputed, undisputed, secured or unsecured;

(7) “corporate person” means a company as defined in clause (20) of section 2 of the Companies Act, 2013 (18 of 2013), a limited liability partnership, as defined in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009), or any other person incorporated with limited liability under any law for the time being in force but shall not include any financial service provider;

¹ The word “and” omitted by Act 8 of 2018, sec. 2(i) (w.r.e.f. 23-11-2017).

² Subs. by Act No. 8 of 2018, sec. 2 (ii), for clause (e) (w.r.e.f. 23-11-2017). Clause (e), before substitution, stood as under:

“(e) partnership firms and individuals,”.

(8) “corporate debtor” means a corporate person who owes a debt to any person;

(9) “core services” means services rendered by an information utility for –

(a) accepting electronic submission of financial information in such form and manner as may be specified;

(b) safe and accurate recording of financial information;

(c) authenticating and verifying the financial information submitted by a person; and

(d) providing access to information stored with the information utility to persons as may be specified;

(10) “creditor” means any person to whom a debt is owed and includes a financial creditor, an operational creditor, a secured creditor, an unsecured creditor and a decree-holder;

(11) “debt” means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt;

(12) “default” means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not ¹[paid] by the debtor or the corporate debtor, as the case may be;

(13) “financial information”, in relation to a person, means one or more of the following categories of information, namely: -

(a) records of the debt of the person;

(b) records of liabilities when the person is solvent;

(c) records of assets of person over which security interest has been created;

(d) records, if any, of instances of default by the person against any debt;

(e) records of the balance sheet and cash-flow statements of the person; and

(f) such other information as may be specified.

(14) “financial institution” means-

(a) a scheduled bank;

(b) financial institution as defined in section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(c) public financial institution as defined in clause (72) of section 2 of the Companies Act, 2013 (18 of 2013); and

(d) such other institution as the Central Government may by notification specify

¹ Subs. by Act No. 26 of 2018, sec. 2 for the word ‘repaid’ (w.e.f. 6-6-2018).

as a financial institution;

(15) “financial product” means securities, contracts of insurance, deposits, credit arrangements including loans and advances by banks and financial institutions, retirement benefit plans, small savings instruments, foreign currency contracts other than contracts to exchange one currency (whether Indian or not) for another which are to be settled immediately, or any other instrument as may be prescribed;

(16) “financial service” includes any of the following services, namely: –

- (a) accepting of deposits;
- (b) safeguarding and administering assets consisting of financial products, belonging to another person, or agreeing to do so;
- (c) effecting contracts of insurance;
- (d) offering, managing or agreeing to manage assets consisting of financial products belonging to another person;
- (e) rendering or agreeing, for consideration, to render advice on or soliciting for the purposes of—
 - (i) buying, selling, or subscribing to, a financial product;
 - (ii) availing a financial service; or
 - (iii) exercising any right associated with a financial product or financial service;
- (f) establishing or operating an investment scheme;
- (g) maintaining or transferring records of ownership of a financial product;
- (h) underwriting the issuance or subscription of a financial product; or
- (i) selling, providing, or issuing stored value or payment instruments or providing payment services;

(17) “financial service provider” means a person engaged in the business of providing financial services in terms of authorisation issued or registration granted by a financial sector regulator;

(18) “financial sector regulator” means an authority or body constituted under any law for the time being in force to regulate services or transactions of financial sector and includes the Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority of India, the Pension Fund Regulatory Authority and such other regulatory authorities as may be notified by the Central Government;

(19) “insolvency professional” means a person enrolled under section 206 with an insolvency professional agency as its member and registered with the Board as an insolvency

professional under section 207;

(20) “insolvency professional agency” means any person registered with the Board under section 201 as an insolvency professional agency;

(21) “information utility” means a person who is registered with the Board as an information utility under section 210;

(22) “notification” means a notification published in the Official Gazette, and the terms “notified” and “notify” shall be construed accordingly;

(23) “person” includes -

- (a) an individual;
- (b) a Hindu Undivided Family;
- (c) a company;
- (d) a trust;
- (e) a partnership;
- (f) a limited liability partnership; and
- (g) any other entity established under a statute,

and includes a person resident outside India;

(24) “person resident in India” shall have the meaning as assigned to such term in clause (v) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);

(25) “person resident outside India” means a person other than a person resident in India;

(26) “prescribed” means prescribed by rules made by the Central Government;

(27) “property” includes money, goods, actionable claims, land and every description of property situated in India or outside India and every description of interest including present or future or vested or contingent interest arising out of, or incidental to, property;

(28) “regulations” means the regulations made by the Board under this Code;

(29) “Schedule” means the Schedule annexed to this Code;

(30) “secured creditor” means a creditor in favour of whom security interest is created;

(31) “security interest” means right, title or interest or a claim to property, created in favour of, or provided for a secured creditor by a transaction which secures payment or performance of an obligation and includes mortgage, charge, hypothecation, assignment and encumbrance or any other agreement or arrangement securing payment or performance of any obligation of any person:

Provided that security interest shall not include a performance guarantee;

(32) “specified” means specified by regulations made by the Board under this Code and the term “specify” shall be construed accordingly;

(33) “transaction” includes a agreement or arrangement in writing for the transfer of assets, or funds, goods or services, from or to the corporate debtor;

(34) “transfer” includes sale, purchase, exchange, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien;

(35) “transfer of property” means transfer of any property and includes a transfer of any interest in the property and creation of any charge upon such property;

(36) “workman” shall have the same meaning as assigned to it in clause (s) of section 2 of the Industrial Disputes Act, 1947(14 of 1947);

(37) words and expressions used but not defined in this Code but defined in the Indian Contract Act, 1872(9 of 1872), the Indian Partnership Act, 1932 (9 of 1932), the Securities Contact (Regulation) Act, 1956 (42 of 1956), the Securities Exchange Board of India Act, 1992 (15 of 1992), the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993), the Limited Liability Partnership Act, 2008 (6 of 2009) and the Companies Act, 2013 (18 of 2013), shall have the meanings respectively assigned to them in those Acts.

PART II

INSOLVENCY RESOLUTION AND LIQUIDATION FOR CORPORATE PERSONS

CHAPTER I

PRELIMINARY

4. Application of this Part. –

(1) This Part shall apply to matters relating to the insolvency and liquidation of corporate debtors where the minimum amount of the default is one lakh rupees:

Provided that the Central Government may, by notification, specify the minimum amount of default of higher value which shall not be more than one crore rupees.

¹[Provided further that the Central Government may, by notification, specify such minimum amount of default of higher value, which shall not be more than one crore rupees, for matters relating to the pre-packaged insolvency resolution process of corporate debtors under Chapter III-A.]

¹ Ins. by Act No. 26 of 2021, sec.2 (w.e.f. 04-04-2021).

5. Definitions. –

In this Part, unless the context otherwise requires, –

(1) “Adjudicating Authority”, for the purposes of this Part, means National Company Law Tribunal constituted under section 408 of the Companies Act, 2013 (18 of 2013);

(2) “auditor” means a chartered accountant certified to practice as such by the Institute of Chartered Accountants of India under section 6 of the Chartered Accountants Act, 1949 (XXXVIII of 1939);

¹[(2A) “base resolution plan” means a resolution plan provided by the corporate debtor under clause (c) of sub-section (4) of section 54A;]

(3) “Chapter” means a Chapter under this Part;

(4) “constitutional document”, in relation to a corporate person, includes articles of association, memorandum of association of a company and incorporation document of a Limited Liability Partnership;

(5) “corporate applicant” means –

(a) corporate debtor; or

(b) a member or partner of the corporate debtor who is authorised to make an application for the corporate insolvency resolution process ²[or the pre-packaged insolvency resolution process, as the case may be,] 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;

³[(5A) “corporate guarantor” means a corporate person who is the surety in a contract of guarantee to a corporate debtor;]

(6) “dispute” includes a suit or arbitration proceedings relating to–

(a) the existence of the amount of debt;

(b) the quality of goods or service; or

(c) the breach of a representation or warranty;

(7) “financial creditor” means any person to whom a financial debt is owed and includes

¹ Ins. by Act No. 26 of 2021, sec.3(i) (w.e.f. 04-04-2021).

² Ins. by Act No. 26 of 2021, sec.3(ii) (w.e.f. 04-04-2021).

³ Ins. by Act No. 26 of 2018, sec. 3 (w.e.f. 6-6-2018).

a person to whom such debt has been legally assigned or transferred to;

(8) “financial debt” means a debt alongwith interest, if any, which is disbursed against the consideration for the time value of money and includes–

(a) money borrowed against the payment of interest;

(b) any amount raised by acceptance under any acceptance credit facility or its dematerialised equivalent;

(c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(d) the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed;

(e) receivables sold or discounted other than any receivables sold on non-recourse basis;

(f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;

¹[*Explanation.* -For the purposes of this sub-clause, -

(i) any amount raised from an allottee under a real estate project shall be deemed to be an amount having the commercial effect of a borrowing; and

(ii) the expressions, “allottee” and “real estate project” shall have the meanings respectively assigned to them in clauses (d) and (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);]

(g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account;

(h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution;

(i) the amount of any liability in respect of any of the guarantee or indemnity for any of the items referred to in sub-clauses (a) to (h) of this clause;

(9) “financial position”, in relation to any person, means the financial information of a person as on a certain date;

(10) “information memorandum” means a memorandum prepared by resolution

¹ Ins. by Act No. 26 of 2018, sec. 3 (w.e.f. 6-6-2018).

professional under sub-section (1) of section 29;

(11) “initiation date” means the date on which a financial creditor, corporate applicant or operational creditor, as the case may be, makes an application to the Adjudicating Authority for initiating corporate insolvency resolution process ¹[or pre-packaged insolvency resolution process, as the case may be];

(12) “insolvency commencement date” means the date of admission of an application for initiating corporate insolvency resolution process by the Adjudicating Authority under sections 7, 9 or section 10, as the case may be:

²[***];

(13) “insolvency resolution process costs” means –

- (a) the amount of any interim finance and the costs incurred in raising such finance;
- (b) the fees payable to any person acting as a resolution professional;
- (c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern;
- (d) any costs incurred at the expense of the Government to facilitate the insolvency resolution process; and
- (e) any other costs as may be specified by the Board;

(14) “insolvency resolution process period” means the period of one hundred and eighty days beginning from the insolvency commencement date and ending on one hundred and eightieth day;

(15) “interim finance” means any financial debt raised by the resolution professional during the insolvency resolution process period ³[or by the corporate debtor during the pre-packaged insolvency resolution process period, as the case may be] ⁴[and such other debt as may be notified];

(16) “liquidation cost” means any cost incurred by the liquidator during the period of liquidation subject to such regulations, as may be specified by the Board;

(17) “liquidation commencement date” means the date on which proceedings for liquidation commence in accordance with section 33 or section 59, as the case may be;

(18) “liquidator” means an insolvency professional appointed as a liquidator in

¹ Ins. by Act No. 26 of 2021, sec.3(iii) (w.e.f. 04-04-2021).

² Omitted by Act No. 1 of 2020, sec.2 (w.e.f. 28-12-2019). Before omission it stood as “Provided that where the interim resolution professional is not appointed in the order admitting application under section 7, 9 or 10, the insolvency commencement date shall be the date on which such interim resolution professional is appointed by the Adjudicating Authority”; which was Ins. by Act No. 26 of 2018, sec. 3 (w.e.f. 6-6-2018).

³ Ins. by Act No. 26 of 2021, sec.3(iv) (w.e.f. 04-04-2021).

⁴ Ins. by Act No. 1 of 2020, sec.2 (w.e.f. 28-12-2019).

accordance with the provisions of Chapter III or Chapter V of this Part, as the case may be;

(19) “officer” for the purposes of ¹[Chapter VI and] Chapter VII of this Part, means an officer who is in default, as defined in clause (60) of section 2 of the Companies Act, 2013 (18 of 2013), or a designated partner as defined in clause (j) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009), as the case may be;

(20) “operational creditor” means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred;

(21) “operational debt” means a claim in respect of the provision of goods or services including employment or a debt in respect of the ²[payment] of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority;

(22) “personal guarantor” means an individual who is the surety in a contract of guarantee to a corporate debtor;

(23) “personnel” includes the directors, managers, key managerial personnel, designated partners and employees, if any, of the corporate debtor;

³[(23A) “preliminary information memorandum” means a memorandum submitted by the corporate debtor under clause (b) of sub-section (1) of section 54G;

(23B) “pre-packaged insolvency commencement date” means the date of admission of an application for initiating the pre-packaged insolvency resolution process by the Adjudicating Authority under clause (a) of sub-section (4) of section 54C;

(23C) “pre-packaged insolvency resolution process costs” means—

- (a) the amount of any interim finance and the costs incurred in raising such finance;
- (b) the fees payable to any person acting as a resolution professional and any expenses incurred by him for conducting the pre-packaged insolvency resolution process during the pre-packaged insolvency resolution process period, subject to sub-section (6) of section 54F;
- (c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern pursuant to an order under sub-section (2) of section 54J;
- (d) any costs incurred at the expense of the Government to facilitate the pre-packaged insolvency resolution process; and
- (e) any other costs as may be specified;

¹ Ins. by Act No. 26 of 2021, sec.3(v) (w.e.f. 04-04-2021).

² Subs. by Act No. 26 of 2018, sec. 3 for the word ‘repayment’ (w.e.f. 6-6-2018).

³ Ins. by Act No. 26 of 2021, sec.3(vi) (w.e.f. 04-04-2021).

(23D) “pre-packaged insolvency resolution process period” means the period beginning from the pre-packaged insolvency commencement date and ending on the date on which an order under sub-section (1) of section 54L, or sub-section (1) of section 54N, or sub-section (2) of section 54-O, as the case may be, is passed by the Adjudicating Authority;]

(24) “related party”, in relation to a corporate debtor, means-

(a) a director or partner of the corporate debtor or a relative of a director or partner of the corporate debtor;

(b) a key managerial personnel of the corporate debtor or a relative of a key managerial personnel of the corporate debtor;

(c) a limited liability partnership or a partnership firm in which a director, partner, or manager of the corporate debtor or his relative is a partner;

(d) a private company in which a director, partner or manager of the corporate debtor is a director and holds along with his relatives, more than two per cent. of its share capital;

(e) a public company in which a director, partner or manager of the corporate debtor is a director and holds along with relatives, more than two per cent. of its paid-up share capital;

(f) anybody corporate whose board of directors, managing director or manager, in the ordinary course of business, acts on the advice, directions or instructions of a director, partner or manager of the corporate debtor;

(g) any limited liability partnership or a partnership firm whose partners or employees in the ordinary course of business, acts on the advice, directions or instructions of a director, partner or manager of the corporate debtor;

(h) any person on whose advice, directions or instructions, a director, partner or manager of the corporate debtor is accustomed to act;

(i) a body corporate which is a holding, subsidiary or an associate company of the corporate debtor, or a subsidiary of a holding company to which the corporate debtor is a subsidiary;

(j) any person who controls more than twenty per cent. of voting rights in the corporate debtor on account of ownership or a voting agreement;

(k) any person in whom the corporate debtor controls more than twenty per cent. of voting rights on account of ownership or a voting agreement;

(l) any person who can control the composition of the board of directors or corresponding governing body of the corporate debtor;

(m) any person who is associated with the corporate debtor on account of-

- (i) participation in policy making processes of the corporate debtor; or
- (ii) having more than two directors in common between the corporate debtor and such person; or
- (iii) interchange of managerial personnel between the corporate debtor and such person; or
- (iv) provision of essential technical information to, or from, the corporate debtor;

¹[(24A) “related party”, in relation to an individual, means-

- (a) a person who is a relative of the individual or a relative of the spouse of the individual;
- (b) a partner of a limited liability partnership, or a limited liability partnership or a partnership firm, in which the individual is a partner;
- (c) a person who is a trustee of a trust in which the beneficiary of the trust includes the individual, or the terms of the trust confers a power on the trustee which may be exercised for the benefit of the individual;
- (d) a private company in which the individual is a director and holds along with his relatives, more than two per cent. of its share capital;
- (e) a public company in which the individual is a director and holds along with relatives, more than two per cent. of its paid-up share capital;
- (f) a body corporate whose board of directors, managing director or manager, in the ordinary course of business, acts on the advice, directions or instructions of the individual;
- (g) a limited liability partnership or a partnership firm whose partners or employees in the ordinary course of business, act on the advice, directions or instructions of the individual;
- (h) a person on whose advice, directions or instructions, the individual is accustomed to act;
- (i) a company, where the individual or the individual along with its related party, own more than fifty per cent. of the share capital of the company or controls the appointment of the board of directors of the company.

Explanation. - For the purposes of this clause, -

- (a) “relative”, with reference to any person, means anyone who is related to another, in the following manner, namely:-
 - (i) members of a Hindu Undivided Family,

¹ Ins. by Act No. 26 of 2018, sec. 3 (w.e.f. 6-6-2018).

- (ii) husband,
- (iii) wife,
- (iv) father,
- (v) mother,
- (vi) son,
- (vii) daughter,
- (viii) son's daughter and son,
- (ix) daughter's daughter and son,
- (x) grandson's daughter and son,
- (xi) granddaughter's daughter and son,
- (xii) brother,
- (xiii) sister,
- (xiv) brother's son and daughter,
- (xv) sister's son and daughter,
- (xvi) father's father and mother,
- (xvii) mother's father and mother,
- (xviii) father's brother and sister,
- (xix) mother's brother and sister; and

(b) wherever the relation is that of a son, daughter, sister or brother, their spouses shall also be included;]

¹[(25) "resolution applicant" means a person, who individually or jointly with any other person, submits a resolution plan to the resolution professional pursuant to the invitation made under clause (h) of sub-section (2) of section 25 ²[or pursuant to section 54K, as the case may be];

(26) "resolution plan" means a plan proposed by ³[resolution applicant] for insolvency resolution of the corporate debtor as a going concern in accordance with Part II

⁴[*Explanation.* - For removal of doubts, it is hereby clarified that a resolution plan may include provisions for the restructuring of the corporate debtor, including by way of merger,

¹ Subs. by Act No. 8 of 2018, sec. 3(a), for clause (25) (w.r.e.f. 23-11-2017). Clause (25), before substitution, stood as under:

'(25) "resolution applicant" means any person who submits a resolution plan to the resolution professional;'

² Ins. by Act No. 26 of 2021, sec.3(vii) (w.e.f. 04-04-2021).

³ Subs. by Act 8 of 2018, sec. 3(b), for "any person" (w.r.e.f. 23-11-2017).

⁴Ins. by Act No. 26 of 2019, sec. 2 (w.e.f. 16-8-2019).

amalgamation and demerger;]

(27) “resolution professional”, for the purposes of this Part, means an insolvency professional appointed to conduct the corporate insolvency resolution process ¹[or the pre-packaged insolvency resolution process, as the case may be,] and includes an interim-resolution professional; and

(28) “voting share” means the share of the voting rights of a single financial creditor in the committee of creditors which is based on the proportion of the financial debt owed to such financial creditor in relation to the financial debt owed by the corporate debtor.

CHAPTER II

CORPORATE INSOLVENCY RESOLUTION PROCESS

6. Persons who may initiate corporate insolvency resolution process. –

Where any corporate debtor commits a default, a financial creditor, an operational creditor or the corporate debtor itself may initiate corporate insolvency resolution process in respect of such corporate debtor in the manner as provided under this Chapter.

7. Initiation of corporate insolvency resolution process by financial creditor.

(1) A financial creditor either by itself or jointly with ²[**other** financial creditors, or any other person on behalf of the financial creditor, as may be notified by the Central Government] may file an application for initiating corporate insolvency resolution process against a corporate debtor before the Adjudicating Authority when a default has occurred.

³[Provided that for the financial creditors, referred to in clauses (a) and (b) of sub-section (6A) of section 21, an application for initiation corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such creditors in the same class or not less than ten per cent. of the total number of such creditors in the same class, whichever is less:

Provided further that for financial creditors who are allottees under a real estate project, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such allottees under the same real estate project or not less than ten per cent. of the total number of such allottees under the same real estate project, whichever is less:

Provided also that where an application for initiating the corporate insolvency resolution process against a corporate debtor has been filed by a financial creditor referred to in the first and second provisos and has not been admitted by the Adjudicating Authority before the commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2020, such

¹ Ins. by Act No. 26 of 2021, sec.3(viii) (w.e.f. 04-04-2021).

² Subs. by Act No. 26 of 2018, sec. 4 for the words “other financial creditors” (w.e.f. 6-6-2018).

³ Ins. by Act No. 1 of 2020, sec.3 (w.e.f. 28-12-2019).

application shall be modified to comply with the requirements of the first or second proviso within thirty days of the commencement of the said Act, failing which the application shall be deemed to be withdrawn before its admission.]

Explanation. - For the purposes of this sub-section, a default includes a default in respect of a financial debt owed not only to the applicant financial creditor but to any other financial creditor of the corporate debtor.

(2) The financial creditor shall make an application under sub-section (1) in such form and manner and accompanied with such fee as may be prescribed.

(3) The financial creditor shall, along with the application furnish -

(a) record of the default recorded with the information utility or such other record or evidence of default as may be specified;

(b) the name of the resolution professional proposed to act as an interim resolution professional; and

(c) any other information as may be specified by the Board.

(4) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), ascertain the existence of a default from the records of an information utility or on the basis of other evidence furnished by the financial creditor under sub-section (3):

¹[Provided that if the Adjudicating Authority has not ascertained the existence of default and passed an order under sub-section (5) within such time, it shall record its reasons in writing for the same.]

(5) Where the Adjudicating Authority is satisfied that –

(a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application; or

(b) default has not occurred or the application under sub-section (2) is incomplete or any disciplinary proceeding is pending against the proposed resolution professional, it may, by order, reject such application:

Provided that the Adjudicating Authority shall, before rejecting the application under clause (b) of sub-section (5), give a notice to the applicant to rectify the defect in his application within seven days of receipt of such notice from the Adjudicating Authority.

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

¹ Ins. by Act No. 26 of 2019, sec. 3 (w.e.f. 16-8-2019).

(7) The Adjudicating Authority shall communicate-

(a) the order under clause (a) of sub-section (5) to the financial creditor and the corporate debtor;

(b) the order under clause (b) of sub-section (5) to the financial creditor, within seven days of admission or rejection of such application, as the case may be.

8. Insolvency resolution by operational creditor. -

(1) An operational creditor may, on the occurrence of a default, deliver a demand notice of unpaid operational debt copy of an invoice demanding payment of the amount involved in the default to the corporate debtor in such form and manner as may be prescribed.

(2) The corporate debtor shall, within a period of ten days of the receipt of the demand notice or copy of the invoice mentioned in sub-section (1) bring to the notice of the operational creditor -

(a) existence of a dispute, ¹[if any, or] record of the pendency of the suit or arbitration proceedings filed before the receipt of such notice or invoice in relation to such dispute;

(b) the ²[payment] of unpaid operational debt-

(i) by sending an attested copy of the record of electronic transfer of the unpaid amount from the bank account of the corporate debtor; or

(ii) by sending an attested copy of record that the operational creditor has encashed a cheque issued by the corporate debtor.

Explanation. – For the purposes of this section, a “demand notice” means a notice served by an operational creditor to the corporate debtor demanding ³[payment] of the operational debt in respect of which the default has occurred.

9. Application for initiation of corporate insolvency resolution process by operational creditor. –

(1) After the expiry of the period of ten days from the date of delivery of the notice or invoice demanding payment under sub-section (1) of section 8, if the operational creditor does not receive payment from the corporate debtor or notice of the dispute under sub-section (2) of section 8, the operational creditor may file an application before the Adjudicating Authority for initiating a corporate insolvency resolution process.

¹ Subs. by Act No. 26 of 2018, sec.5 (a) (i) for the words “if any, and” (w.e.f. 6-6-2018).

² Subs by Act No. 26 of 2018, sec.5 (a) (ii) for the word “repayment” (w.e.f. 6-6-2018).

³ Subs. by Act No. 26 of 2018, sec.5 (b) for the word “repayment” (w.e.f. 6-6-2018).

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

(3) The operational creditor shall, along with the application furnish-

(a) a copy of the invoice demanding payment or demand notice delivered by the operational creditor to the corporate debtor;

(b) an affidavit to the effect that there is no notice given by the corporate debtor relating to a dispute of the unpaid operational debt;

(c) a copy of the certificate from the financial institutions maintaining accounts of the operational creditor confirming that there is no payment of an unpaid operational debt ¹[by the corporate debtor, if available;]

²[(d) a copy of any record with information utility confirming that there is no payment of an unpaid operational debt by the corporate debtor, if available; and

(e) any other proof confirming that there is no payment of an unpaid operational debt by the corporate debtor or such other information, as may be prescribed.]

(4) An operational creditor initiating a corporate insolvency resolution process under this section, may propose a resolution professional to act as an interim resolution professional.

(5) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), by an order—

(i) admit the application and communicate such decision to the operational creditor and the corporate debtor if, -

(a) the application made under sub-section (2) is complete;

(b) there is no ³[payment] of the unpaid operational debt;

(c) the invoice or notice for payment to the corporate debtor has been delivered by the operational creditor;

(d) no notice of dispute has been received by the operational creditor or there is no record of dispute in the information utility; and

(e) there is no disciplinary proceeding pending against any resolution professional proposed under sub-section (4), if any.

(ii) reject the application and communicate such decision to the operational

¹ Subs. by Act No. 26 of 2018, sec. 6 (a) (i), for the words "by the corporate debtor; and" (w.e.f. 6-6-2018).

² Subs. by Act No. 26 of 2018, sec. 6 (a) (ii), for the words "such other information or as may be specified" (w.e.f. 6-6-2018).

³ Subs. by Act No. 26 of 2018, sec. 6 (b) (A) for the word "repayment" (w.e.f. 6-6-2018).

creditor and the corporate debtor, if -

- (a) the application made under sub-section (2) is incomplete;
- (b) there has been ¹[payment] of the unpaid operational debt;
- (c) the creditor has not delivered the invoice or notice for payment to the corporate debtor;
- (d) notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility; or
- (e) any disciplinary proceeding is pending against any proposed resolution professional:

Provided that Adjudicating Authority, shall before rejecting an application under sub-clause (a) of clause (ii) give a notice to the applicant to rectify the defect in his application within seven days of the date of receipt of such notice from the adjudicating Authority.

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

10. Initiation of corporate insolvency resolution process by corporate applicant. -

(1) Where a corporate debtor has committed a default, a corporate applicant thereof may file an application for 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 with such fee as may be prescribed.

²(3) The corporate applicant shall, along with the application, furnish-

- (a) the information relating to its books of account and such other documents for such period as may be specified;
- (b) the information relating to the resolution professional proposed to be appointed as an interim resolution professional; and
- (c) the special resolution passed by shareholders of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be, approving filing of the application.]

(4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of

¹ Subs. by Act No. 26 of 2018, sec. 6 (b) (B) for the word “repayment” (w.e.f. 6-6-2018).

² Ins. by Act No. 26 of 2018, sec. 7(a) (w.e.f. 6-6-2018), before substitution the sub clause 3, stood as under –
“(3). The corporate applicant shall, along with the application furnished 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.”

the application, by an order-

(a) admit the application, if it is complete ¹[and no disciplinary proceeding is pending against the proposed resolution professional]; or

(b) reject the application, if it is incomplete ²[or any disciplinary proceeding is pending against the proposed resolution professional]:

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.

³**10A. Suspension of initiation of corporate insolvency resolution process.**

Notwithstanding anything contained in sections 7, 9 and 10, no application for initiation of corporate insolvency resolution process of a corporate debtor shall be filed, for any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf:

Provided that no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period.

Explanation. - For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply to any default committed under the said sections before 25th March, 2020.]

11. 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: -

(a) a corporate debtor undergoing a corporate insolvency resolution process ⁴[or a pre-packaged insolvency resolution process]; or

⁵[(aa) a financial creditor or an operational creditor of a corporate debtor undergoing a pre-packaged 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

⁶[(ba) a corporate debtor in respect of whom a resolution plan has been approved

¹ Ins. by Act No. 26 of 2018, sec. 7(b) (i) (w.e.f. 6-6-2018).

² Ins. by Act No. 26 of 2018, sec. 7(b) (ii) (w.e.f. 6-6-2018).

³ Ins. by Act No. 17 of 2020, sec. 2 (w.e.f. 05-06-2020).

⁴ Ins. by Act No. 26 of 2021, sec.4(i) (w.e.f. 04-04-2021).

⁵ Ins. by Act No. 26 of 2021, sec.4(ii) (w.e.f. 04-04-2021).

⁶ Ins. by Act No. 26 of 2021, sec.4(iii) (w.e.f. 04-04-2021).

under Chapter III-A, 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 ¹[I]. - For the purposes of this section, a corporate debtor includes a corporate applicant in respect of such corporate debtor.

²[*Explanation* II.- For the purposes of this section, it is hereby clarified that nothing in this section shall prevent a corporate debtor referred to in clauses (a) to (d) from initiating corporate insolvency resolution process against another corporate debtor.]

³[11A. Disposal of applications under section 54C and under section 7 or section 9 or section 10.

(1) Where an application filed under section 54C is pending, the Adjudicating Authority shall pass an order to admit or reject such application, before considering any application filed under section 7 or section 9 or section 10 during the pendency of such application under section 54C, in respect of the same corporate debtor.

(2) Where an application under section 54C is filed within fourteen days of filing of any application under section 7 or section 9 or section 10, which is pending, in respect of the same corporate debtor, then, notwithstanding anything contained in sections 7, 9 and 10, the Adjudicating Authority shall first dispose of the application under section 54C.

(3) Where an application under section 54C is filed after fourteen days of the filing of any application under section 7 or section 9 or section 10, in respect of the same corporate debtor, the Adjudicating Authority shall first dispose of the application under section 7, section 9 or section 10.

(4) The provisions of this section shall not apply where an application under section 7 or section 9 or section 10 is filed and pending as on the date of the commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2021.]

12. Time-limit for completion of insolvency resolution process. -

(1) Subject to sub-section (2), the corporate insolvency resolution process shall be completed within a period of one hundred and eighty days from the date of admission of

¹ Ins. by Act No. 1 of 2020, sec.4 (w.e.f. 28-12-2019).

² Ins. by Act No. 1 of 2020, sec.4 (w.e.f. 28-12-2019).

³ Ins. by Act No. 26 of 2021, sec. 5 (w.e.f. 04-04-2021).

the application to initiate such process.

(2) The resolution professional shall file an application to the Adjudicating Authority to extend the period of the corporate insolvency resolution process beyond one hundred and eighty days, if instructed to do so by a resolution passed at a meeting of the committee of creditors by a vote of ¹[sixty-six] per cent. of the voting shares.

(3) On receipt of an application under sub-section (2), if the Adjudicating Authority is satisfied that the subject matter of the case is such that corporate insolvency resolution process cannot be completed within one hundred and eighty days, it may by order extend the duration of such process beyond one hundred and eighty days by such further period as it thinks fit, but not exceeding ninety days:

Provided that any extension of the period of corporate insolvency resolution process under this section shall not be granted more than once:

²[Provided further that the corporate insolvency resolution process shall mandatorily be completed within a period of three hundred and thirty days from the insolvency commencement date, including any extension of the period of corporate insolvency resolution process granted under this section and the time taken in legal proceedings in relation to such resolution process of the corporate debtor:

Provided also that where the insolvency resolution process of a corporate debtor is pending and has not been completed within the period referred to in the second proviso, such resolution process shall be completed within a period of ninety days from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019.]

³[12A. **Withdrawal of application admitted under section 7, 9 or 10. –**

The Adjudicating Authority may allow the withdrawal of application admitted under section 7 or section 9 or section 10, on an application made by the applicant with the approval of ninety per cent. voting share of the committee of creditors, in such manner as may be specified.]

13. Declaration of moratorium and public announcement. -

(1) The Adjudicating Authority, after admission of the application under section 7 or section 9 or section 10, shall, by an order –

- (a) declare a moratorium for the purposes referred to in section 14;
- (b) cause a public announcement of the initiation of corporate insolvency resolution process and call for the submission of claims under section 15; and
- (c) appoint an interim resolution professional in the manner as laid down in section

¹ Subs. by Act No. 26 of 2018, sec. 8 for the words, “seventy-five” (w.e.f. 6-6-2018).

² Ins. by Act No. 26 of 2019, sec. 4 (w.e.f. 16-8-2019).

³ Ins. by Act No. 26 of 2018, sec. 9 (w.e.f. 6-6-2018).

16.

(2) The public announcement referred to in clause (b) of sub-section (1) shall be made immediately after the appointment of the interim resolution professional.

14. Moratorium. -

(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely: -

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

(b) transferring, encumbering, alienating or disposing off 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 Securitisation 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 the possession of the corporate debtor.

¹[*Explanation.*-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;]

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

²[(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances

¹ Ins. by Act No. 1 of 2020, sec.5 (w.e.f. 28-12-2019).

² Ins. by Act No. 1 of 2020, sec.5 (w.e.f. 28-12-2019).

as may be specified.]

¹[(3) The provisions of sub-section (1) shall not apply to —

²[(a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;]

(b) a surety in a contract of guarantee to a corporate debtor.]

(4) The order of moratorium shall have effect from 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 section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

15. Public announcement of corporate insolvency resolution process. -

(1) The public announcement of the corporate insolvency resolution process under the order referred to in section 13 shall contain the following information, namely: –

(a) name and address of the corporate debtor under the corporate insolvency resolution process;

(b) name of the authority with which the corporate debtor is incorporated or registered;

(c) the last date for submission of ³[claims, as may be specified];

(d) details of the interim resolution professional who shall be vested with the management of the corporate debtor and be responsible for receiving claims;

(e) penalties for false or misleading claims; and

(f) the date on which the corporate insolvency resolution process shall close, which shall be the one hundred and eightieth day from the date of the admission of the application under sections 7, 9 or section 10, as the case may be.

(2) The public announcement under this section shall be made in such manner as may be specified.

¹ Subs. by Act No. 26 of 2018, sec. 10 (w.e.f. 6-6-2018). Before its substitution, it stood as under: -
“(3) The provisions of sub-section (1) shall not apply to such transaction as may be notified by the Central Government in consultation with any financial sector regulator.”

² Subs. by Act No. 1 of 2020, sec.5 (w.e.f. 28-12-2019). Before substitution, it stood as “such transaction as may be notified by the Central Government in consultation with any financial regulator;”.

³ Subs. by Act No. 26 of 2018, sec. 11 for the word “claims” (w.e.f. 6-6-2018).

16. Appointment and tenure of interim resolution professional. -

(1) The Adjudicating Authority shall appoint an interim resolution professional ¹[on the insolvency commencement date].

(2) Where the application for corporate insolvency resolution process is made by a financial creditor or the corporate debtor, as the case may be, the resolution professional, as proposed respectively in the application under section 7 or section 10, shall be appointed as the interim resolution professional, if no disciplinary proceedings are pending against him.

(3) Where the application for corporate insolvency resolution process is made by an operational creditor and-

(a) no proposal for an interim resolution professional is made, the Adjudicating Authority shall make a reference to the Board for the recommendation of an insolvency professional who may act as an interim resolution professional;

(b) a proposal for an interim resolution professional is made under sub-section (4) of section 9, the resolution professional as proposed, shall be appointed as the interim resolution professional, if no disciplinary proceedings are pending against him.

(4) The Board shall, within ten days of the receipt of a reference from the Adjudicating Authority under sub-section (3), recommend the name of an insolvency professional to the Adjudicating Authority against whom no disciplinary proceedings are pending.

(5) The term of the interim resolution professional ²[shall continue till the date of appointment of the resolution professional under section 22].

17. Management of affairs of corporate debtor by interim resolution professional. -

(1) From the date of appointment of the interim resolution professional, -

(a) the management of the affairs of the corporate debtor shall vest in the interim resolution professional;

(b) the powers of the board of directors or the partners of the corporate debtor, as the case may be, shall stand suspended and be exercised by the interim resolution professional;

(c) the officers and managers of the corporate debtor shall report to the interim resolution professional and provide access to such documents and records of the corporate debtor as may be required by the interim resolution professional;

¹ Subs. by Act No. 1 of 2020, sec.6 (w.e.f. 28-12-2019). Before substitution, it stood as “within fourteen days from the insolvency commencement date”.

² Subs. by Act No.26 of 2018, sec. 12, for the words “shall not exceed thirty days from date of his appointment” (w.e.f. 6-6-2018).

(d) the financial institutions maintaining accounts of the corporate debtor shall act on the instructions of the interim resolution professional in relation to such accounts and furnish all information relating to the corporate debtor available with them to the interim resolution professional.

(2) The interim resolution professional vested with the management of the corporate debtor, shall-

(a) act and execute in the name and on behalf of the corporate debtor all deeds, receipts, and other documents, if any;

(b) take such actions, in the manner and subject to such restrictions, as may be specified by the Board;

(c) have the authority to access the electronic records of corporate debtor from information utility having financial information of the corporate debtor;

(d) have the authority to access the books of account, records and other relevant documents of corporate debtor available with government authorities, statutory auditors, accountants and such other persons as ¹[may be specified; and]

(e) ²[be responsible for complying with the requirements under any law for the time being in force on behalf of the corporate debtor.]

18. Duties of interim resolution professional. -

The interim resolution professional shall perform the following duties, namely: -

(a) collect all information relating to the assets, finances and operations of the corporate debtor for determining the financial position of the corporate debtor, including information relating to -

(i) business operations for the previous two years;

(ii) financial and operational payments for the previous two years;

(iii) list of assets and liabilities as on the initiation date; and

(iv) such other matters as may be specified;

(b) receive and collate all the claims submitted by creditors to him, pursuant to the public announcement made under sections 13 and 15;

(c) constitute a committee of creditors;

(d) monitor the assets of the corporate debtor and manage its operations until a resolution professional is appointed by the committee of creditors;

¹ Subs. by Act No. 26 of 2018, sec. 13 (i), for the words “may be specified” (w.e.f. 6-6-2018).

² Ins. by Act No. 26 of 2018, sec. 13 (ii) (w.e.f. 6-6-2018).

(e) file information collected with the information utility, if necessary; and

(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) assets over which the corporate debtor has ownership rights which may be located in a foreign country;

(ii) assets that may or may not be in possession of the corporate debtor;

(iii) tangible assets, whether movable or immovable;

(iv) intangible assets including intellectual property;

(v) securities including shares held in any subsidiary of the corporate debtor, financial instruments, insurance policies;

(vi) assets subject to the determination of ownership by a court or authority;

(g) to perform such other duties as may be specified by the Board.

Explanation. – For the purposes of this ¹[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.

19. Personnel to extend co-operation to interim resolution professional. -

(1) The personnel of the corporate debtor, its promoters or any other person associated with the management of the corporate debtor shall extend all assistance and cooperation to the interim resolution professional as may be required by him in managing the affairs of the corporate debtor.

(2) Where any personnel of the corporate debtor, its promoter or any other person required to assist or cooperate with the interim resolution professional does not assist or cooperate, the interim resolution professional may make an application to the Adjudicating Authority for necessary directions.

(3) The Adjudicating Authority, on receiving an application under sub-section (2), shall by an order, direct such personnel or other person to comply with the instructions of the

¹ Subs. by Act No. 26 of 2018, sec. 14, for the words “sub-section” (w.e.f. 6-6-2018).

into equity shares or instruments convertible into equity shares ¹[or completion of such transactions as may be prescribed], prior to the insolvency commencement date;]

²[*Explanation II*—For the purposes of this section, "financial entity" shall mean the following entities which meet such criteria or conditions as the Central Government may, in consultation with the financial sector regulator, notify in this behalf, namely:—

(a) a scheduled bank;

(b) any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulator of a jurisdiction outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the International Organisation of Securities Commissions Multilateral Memorandum of Understanding;

(c) any investment vehicle, registered foreign institutional investor, registered foreign portfolio investor or a foreign venture capital investor, where the terms shall have the meaning assigned to them in regulation 2 of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 made under the Foreign Exchange Management Act, 1999 (42 of 1999);

(d) an asset reconstruction company register with the Reserve Bank of India under section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(e) an Alternate Investment Fund registered with Securities and Exchange Board of India;

(f) such categories of persons as may be notified by the Central Government.]

30. Submission of resolution plan. -

(1) A resolution applicant may submit a resolution plan ³[along with an affidavit stating that he is eligible under section 29A] to the resolution professional prepared on the basis of the information memorandum.

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

(a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the ⁴[payment] of other debts of the corporate debtor;

¹ Ins. by Act No. 1 of 2020, sec. 9 (w.e.f. 28-12-2019).

² Ins. by Act No. 26 of 2018, sec. 22 (viii) (w.e.f. 6-6-2018).

³ Ins. by Act No. 26 of 2018, sec 23(i) (w.e.f. 6-6-2018).

⁴ Subs. by Act No.26 of 2018, sec.23 (ii) (A) for the words "repayment" (w.e.f. 6-6-2018).

¹[(b) provides for the payment of debts of operational creditors in such manner as may be specified by the Board which shall not be less than-

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

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

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

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

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

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

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

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

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

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

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

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

²[*Explanation.* — For the purposes of clause (e), if any approval of shareholders is required under the Companies Act, 2013(18 of 2013) or any other law for the time being in force for the implementation of actions under the resolution plan, such approval shall be deemed to have been given

¹ Subs. by Act No. 26 of 2019, sec. 6 (w.e.f. 16-8-2019), before substitution it stood as “provides for the payment of the debts of operational creditors in such manner as may be specified by the Board which shall not be less than the amount to be paid to the operational creditors in the event of a liquidation of the corporate debtor under section 53;”

² Ins. By Act No.26 of 2018, sec.23 (ii) (B) (w.e.f. 6-6-2018).

and it shall not be a contravention of that Act or law.]

(3) The resolution professional shall present to the committee of creditors for its approval such resolution plans which confirm the conditions referred to in sub-section (2).

¹[(4) The committee of creditors may approve a resolution plan by a vote of not less than ²[sixty-six] per cent. of voting share of the financial creditors, after considering its feasibility and viability, ³[the manner of distribution proposed, which may take into account the order of priority amongst creditors as laid down in sub-section (1) of section 53, including the priority and value of the security interest of a secured creditor] and such other requirements as may be specified by the Board:

Provided that the committee of creditors shall not approve a resolution plan, submitted before the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017 (Ord. 7 of 2017), where the resolution applicant is ineligible under section 29A and may require the resolution professional to invite a fresh resolution plan where no other resolution plan is available with it:

Provided further that where the resolution applicant referred to in the first proviso is ineligible under clause (c) of section 29A, the resolution applicant shall be allowed by the committee of creditors such period, not exceeding thirty days, to make payment of overdue amounts in accordance with the proviso to clause (c) of section 29A:

Provided also that nothing in the second proviso shall be construed as extension of period for the purposes of the proviso to sub-section (3) of section 12, and the corporate insolvency resolution process shall be completed within the period specified in that sub-section]:

⁴[Provided also that the eligibility criteria in section 29A as amended by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 shall apply to the resolution applicant who has not submitted resolution plan as on the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018.]

(5) The resolution applicant may attend the meeting of the committee of creditors in which the resolution plan of the applicant is considered:

Provided that the resolution applicant shall not have a right to vote at the meeting of the committee of creditors unless such resolution applicant is also a financial creditor.

(6) The resolution professional shall submit the resolution plan as approved by the

¹ Subs. by Act 8 of 2018, sec. 6, for sub-section (4) (w.r.e.f. 23-11-2017). Sub-section (4), before substitution stood as under:

“(4) The committee of creditors may approve a resolution plan by a vote of not less than seventy five per cent. of voting share of the financial creditors.”.

² Subs. by Act. No 26 of 2018, sec. 23 (iii) (a) for the words “seventy-five” (w.e.f. 6-6-2018).

³ Ins. by Act No. 26 of 2019, sec. 6 (w.e.f. 16-8-2019).

⁴ Ins. by Act. No. 26 of 2018, sec. 23 (iii) (b) (w.e.f. 6-6-2018).

committee of creditors to the Adjudicating Authority.

31. Approval of resolution plan. -

(1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, ¹[including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed,] guarantors and other stakeholders involved in the resolution plan.

²[Provided that the Adjudicating Authority shall, before passing an order for approval of resolution plan under this sub-section, satisfy that the resolution plan has provisions for its effective implementation.]

(2) Where the Adjudicating Authority is satisfied that the resolution plan does not confirm to the requirements referred to in sub-section (1), it may, by an order, reject the resolution plan.

(3) After the order of approval under sub-section (1), -

(a) the moratorium order passed by the Adjudicating Authority under section 14 shall cease to have effect; and

(b) the resolution professional shall forward all records relating to the conduct of the corporate insolvency resolution process and the resolution plan to the Board to be recorded on its database.

³**(4)** The resolution applicant shall, pursuant to the resolution plan approved under sub-section (1), obtain the necessary approval required under any law for the time being in force within a period of one year from the date of approval of the resolution plan by the Adjudicating Authority under sub-section (1) or within such period as provided for in such law, whichever is later:

Provided that where the resolution plan contains a provision for combination, as referred to in section 5 of the Competition Act, 2002, the resolution applicant shall obtain the approval of the Competition Commission of India under that Act prior to the approval of such resolution plan by the committee of creditors.]

32. Appeal. -

Any appeal from an order approving the resolution plan shall be in the manner and on the grounds laid down in sub-section (3) of section 61.

¹ Ins. by Act No. 26 of 2019, sec. 7 (w.e.f. 16-8-2019).

² Ins. by Act. No. 26 of 2018, sec. 24 (w.e.f. 6-6-2018).

³ Ins. by Act. No. 26 of 2018, sec. 24 (w.e.f. 6-6-2018).

¹[32A. Liability for prior offences, etc.

(1) Notwithstanding anything to the contrary contained in this Code or any other law for the time being in force, the liability of a corporate debtor for an offence committed prior to the commencement of the corporate insolvency resolution process shall cease, and the corporate debtor shall not be prosecuted for such an offence from the date the resolution plan has been approved by the Adjudicating Authority under section 31, if the resolution plan results in the change in the management or control of the corporate debtor to a person who was not-

- (a) a promoter or in the management or control of the corporate debtor or a related party of such a person; or
- (b) a person with regard to whom the relevant investigating authority has, on the basis of material in its possession, reason to believe that he had abetted or conspired for the commission of the offence, and has submitted or filed a report or a complaint to the relevant statutory authority or Court:

Provided that if a prosecution had been instituted during the corporate insolvency resolution process against such corporate debtor, it shall stand discharged from the date of approval of the resolution plan subject to requirements of this sub-section having fulfilled:

Provided further that every person who was a “designated partner” as defined in clause (j) of section 2 of the Limited Liability Partnership Act, 2008 or an “officer who is in default”, as defined in clause (60) of section 2 of the Companies Act, 2013, or was in any manner in-charge of, or responsible to the corporate debtor for the conduct of its business or associated with the corporate debtor in any manner and who was directly or indirectly involved in the commission of such offence as per the report submitted or complaint filed by the investigating authority, shall continue to be liable to be prosecuted and punished for such an offence committed by the corporate debtor notwithstanding that the corporate debtor’s liability has ceased under this sub-section.

(2) No action shall be taken against the property of the corporate debtor in relation to an offence committed prior to the commencement of the corporate insolvency resolution process of the corporate debtor, where such property is covered under a resolution plan approved by the Adjudicating Authority under section 31, which results in the change in control of the corporate debtor to a person, or sale of liquidation assets under the provisions of Chapter III of Part II of this Code to a person, who was not –

- (i) a promoter or in the management or control of the corporate debtor or a related party of such a person; or
- (ii) a person with regard to whom the relevant investigating authority has, on the basis of

¹ Ins. by Act No. 1 of 2020, sec.10 (w.e.f. 28-12-2019).

material in its possession, reason to believe that he had abetted or conspired for the commission of the offence, and has submitted or filed a report or a complaint to the relevant statutory authority or Court.

Explanation.- For the purposes of this sub-section, it is hereby clarified that,-

(i) an action against the property of the corporate debtor in relation to an offence shall include the attachment, seizure, retention or confiscation of such property under such law as may be applicable to the corporate debtor;

(ii) nothing in this sub-section shall be construed to bar an action against the property of any person, other than the corporate debtor or a person who has acquired such property through corporate insolvency resolution process or liquidation process under this Code and fulfils the requirements specified in this section, against whom such an action may be taken under such law as may be applicable.

(3) Subject to the provisions contained in sub-sections (1) and (2), and notwithstanding the immunity given in this section, the corporate debtor and any person, who may be required to provide assistance under such law as may be applicable to such corporate debtor or person, shall extend all assistance and co-operation to any authority investigating an offence committed prior to the commencement of the corporate insolvency resolution process.]

CHAPTER III

LIQUIDATION PROCESS

33. Initiation of liquidation. -

(1) Where the Adjudicating Authority, -

(a) before the expiry of the insolvency resolution process period or the maximum period permitted for completion of the corporate insolvency resolution process under section 12 or the fast track corporate insolvency resolution process under section 56, as the case may be, does not receive a resolution plan under sub-section (6) of section 30; or

(b) rejects the resolution plan under section 31 for the non-compliance of the requirements specified therein,

it shall -

(i) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;

(ii) issue a public announcement stating that the corporate debtor is in liquidation; and

(iii) require such order to be sent to the authority with which the corporate debtor is registered.

sub-section (7), pass an order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.

(9) A copy of an order under sub-section (8) shall within fourteen days from the date of such order, be forwarded to the authority with which the corporate person is registered.

CHAPTER VI

ADJUDICATING AUTHORITY FOR CORPORATE PERSONS

60. Adjudicating Authority for corporate persons. -

(1) The Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons including corporate debtors and personal guarantors thereof shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate person is located.

(2) Without prejudice to sub-section (1) and notwithstanding anything to the contrary contained in this Code, where a corporate insolvency resolution process or liquidation proceeding of a corporate debtor is pending before a National Company Law Tribunal, an application relating to the insolvency resolution or ¹[liquidation or bankruptcy of a corporate guarantor or personal guarantor, as the case may be, of such corporate debtor] shall be filed before such National Company Law Tribunal.

(3) An insolvency resolution process or ²[liquidation or bankruptcy proceeding of a corporate guarantor or personal guarantor, as the case may be, of the corporate debtor] pending in any court or tribunal shall stand transferred to the Adjudicating Authority dealing with insolvency resolution process or liquidation proceeding of such corporate debtor.

(4) The National Company Law Tribunal shall be vested with all the powers of the Debt Recovery Tribunal as contemplated under Part III of this Code for the purpose of sub-section (2).

(5) Notwithstanding anything to the contrary contained in any other law for the time being in force, the National Company Law Tribunal shall have jurisdiction to entertain or dispose of -

(a) any application or proceeding by or against the corporate debtor or corporate

¹ Subs. by Act. No 26 of 2018, sec. 29 (a), for the words “bankruptcy of a personal guarantor of such corporate debtor” (w.e.f. 6-6-2018)

² Subs. by Act. No 26 of 2018, sec 29 (b), for the words “bankruptcy proceeding of a personal guarantor of the corporate debtor” (w.e.f. 6-6-2018).

person;

(b) any claim made by or against the corporate debtor or corporate person, including claims by or against any of its subsidiaries situated in India; and

(c) any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor or corporate person under this Code.

(6) Notwithstanding anything contained in the Limitation Act, 1963 or in any other law for the time being in force, in computing the period of limitation specified for any suit or application by or against a corporate debtor for which an order of moratorium has been made under this Part, the period during which such moratorium is in place shall be excluded.

61. Appeals and Appellate Authority. -

(1) Notwithstanding anything to the contrary contained under the Companies Act 2013 (18 of 2013), any person aggrieved by the order of the Adjudicating Authority under this part may prefer an appeal to the National Company Law Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be filed within thirty days before the National Company Law Appellate Tribunal:

Provided that the National Company Law Appellate Tribunal may allow an appeal to be filed after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing the appeal but such period shall not exceed fifteen days.

(3) An appeal against an order approving a resolution plan under section 31 may be filed on the following grounds, namely: –

(i) the approved resolution plan is in contravention of the provisions of any law for the time being in force;

(ii) there has been material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period;

(iii) the debts owed to operational creditors of the corporate debtor have not been provided for in the resolution plan in the manner specified by the Board;

(iv) the insolvency resolution process costs have not been provided for repayment in priority to all other debts; or

(v) the resolution plan does not comply with any other criteria specified by the Board.

¹[(4) An appeal against a liquidation order passed under section 33, or sub-section (4)

¹ Subs. by Act No. 26 of 2021, sec.9, for sub-section (4) (w.e.f. 04-04-2021). Sub-section (4) before substitution, stood as under:

“(4) An appeal against a liquidation order passed under section 33 may be filed on grounds of material irregularity

of section 54L, or sub-section (4) of section 54N, may be filed on grounds of material irregularity or fraud committed in relation to such a liquidation order.

(5) An appeal against an order for initiation of corporate insolvency resolution process passed under sub-section (2) of section 54-O, may be filed on grounds of material irregularity or fraud committed in relation to such an order.]

62. Appeal to Supreme Court. -

(1) Any person aggrieved by an order of the National Company Law Appellate Tribunal may file an appeal to the Supreme Court on a question of law arising out of such order under this Code within forty-five days from the date of receipt of such order.

(2) The Supreme Court may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within forty-five days, allow the appeal to be filed within a further period not exceeding fifteen days.

63. Civil court not to have jurisdiction. -

No civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any matter on which National Company Law Tribunal or the National Company Law Appellate Tribunal has jurisdiction under this Code. Civil court not to have jurisdiction.

64. Expeditious disposal of applications. -

(1) Where an application is not disposed of or an order is not passed within the period specified in this Code, the National Company Law Tribunal or the National Company Law Appellate Tribunal, as the case may be, shall record the reasons for not doing so within the period so specified; and the President of the National Company Law Tribunal or the Chairperson of the National Company Law Appellate Tribunal, as the case may be, may, after taking into account the reasons so recorded, extend the period specified in the Act but not exceeding ten days.

(2) No injunction shall be granted by any court, tribunal or authority in respect of any action taken, or to be taken, in pursuance of any power conferred on the National Company Law Tribunal or the National Company Law Appellate Tribunal under this Code.

65. Fraudulent or malicious initiation of proceedings. -

(1) If, any person initiates the insolvency resolution process or liquidation proceedings fraudulently or with malicious intent for any purpose other than for the resolution of insolvency, or liquidation, as the case may be, the Adjudicating Authority may

or fraud committed in relation to such a liquidation order.”

Court requires his personal attendance at the trial.

237. Appeal and revision. -

The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 (2 of 1974) on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

238. Provisions of this Code to override other laws. -

The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.

¹[238A. Limitation. -

The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to the proceedings or appeals before the Adjudicating Authority, the National Company Law Appellate Tribunal, the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal, as the case may be.]

239. Power to make rules. -

(1) The Central Government may, by notification, make rules for carrying out the provisions of this Code.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Central Government may make rules for any of the following matters, namely: —

(a) any other instrument which shall be a financial product under clause (15) of section 3;

(b) other accounting standards which shall be a financial debt under clause (d) of sub-section (8) of section 5;

(c) the form, the manner and the fee for making application before the Adjudicating Authority for initiating corporate insolvency resolution process by financial creditor under sub-section (2) of section 7;

(d) the form and manner in which demand notice may be made and the manner of delivery thereof to the corporate debtor under sub-section (1) of section 8;

(e) the form, the manner and the fee for making application before the Adjudicating Authority for initiating corporate insolvency resolution process by operational creditor under sub-section (2) of section 9;

¹ Ins. by Act No. 26 of 2018, sec. 34 (w.e.f. 6-6-2018).



U.P. Pollution Control Board

CONSENT ORDER

Ref No. -
2889/UPPCB/Noida(UPPCBRO)/CTO/water/NOI
DA/2017

Dated : 26/03/2018

To ,

M/S ASHOK KHERA
JAYPEE GREENS WISH TOWN (JAYPEE INFRATECH LIMITED)
SECTOR 128,129,131,133 & 134,NOIDA
NOIDA

Sub : **Consent under Section 25/26 of The Water (Prevention and control of Pollution) Act, 1974 (as amended) for discharge of effluent to M/s. JAYPEE GREENS WISH TOWN (JAYPEE INFRATECH LIMITED)**

Reference Application No :159798

Dated :26/03/2018

1. For disposal of effluent into water body or drain or land under The Water (Prevention and control of Pollution) Act, 1974 as amended (here in after referred as the act) M/s. JAYPEE GREENS WISH TOWN (JAYPEE INFRATECH LIMITED) is hereby authorized by the board for discharge of their industrial effluent generated through ETP for irrigation/river through drain and disposal of domestic effluent through septic tank/soak pit subject to general and special conditions mentioned in the annexure ,in refrence to their foresaid application .
2. This consent is valid for the period from 01/01/2018 to 31/12/2019 .
3. ~~In spite of the conditions and provisions mentioned in this consent order~~ UP Pollution Control Board reserves its right and powers to reconsider/amend any or all ~~condition~~ under section 27(2) of the Water (Prevention and Control of Pollution) Act, 1974 as amended .

This consent is being issued with the permission of competent authority . RAJEEV

Digitally signed by
RAJEEV UPADHYAY
Date: 2018.03.26
17:56:56 +05'30'

UPADHYAY

For and on behalf of U.P. Pollution Control Board

Chief Environment Officer, Circle-1

Enclosed : As above
(condition of consent):

Copy to: Regional Officer, UPPCB, Noida,

RAJEEV
UPADHYAY

Digitally signed by
RAJEEV UPADHYAY
Date: 2018.03.26
17:57:10 +05'30'

Chief Environment Officer, Circle-1

U.P. POLLUTION CONTROL BOARD, LUCKNOW

Annexure to Consent issued to M/s. JAYPEE GREENS WISH TOWN (JAYPEE INFRATECH LIMITED) vide

Consent Order No. 159798/ Water

Dated : 26/03/2018

CONDITIONS OF CONSENT

- This consent is valid only for the approved production capacity of group housing project.
- The quantity of maximum daily effluent discharge should not be more than the following :

Effluent Discharge Details			
S.No	Kind of Effluent	Maximum daily discharge, KL/day	Treatment facility and discharge point
1	Domestic	1.9 MLD	STP

- Arrangement should be made for collection of water used in process and domestic effluent separately in closed water supply system. The treated domestic and industrial effluent if discharged outside the premises, if meets at the end of final discharge point, arrangement should be made for measurement of effluent and for collecting its sample. Except the effluent informed in the application for consent no other effluent should enter in the said arrangements for collection of effluent. It should also be ensured that domestic effluent should not be discharged in storm water drain.
- a. The domestic effluent should be treated in treatment plant so that the should be in conformity with the following norms dated treated effluent.

Domestic Effluent		
S.No	Parameter	Standard
1	Oil & Grease	10 mg/ltr
2	BOD	30 mg/ltr
3	Total Suspended Solids	100 mg/ltr
4	COD	250 mg/ltr

- b. The industrial effluent should be treated in treatment plant so that the treated effluent should be in conformity with the following norms.

Industrial Effluent		
S.No	Parameter	Standard

- Effluent generated in all the processes, bleed water, cooling effluent and the effluent generated from washing of floor and equipments etc should be treated before its disposal with treated industrial effluent so that it should be according to the norms prescribed under The Environment (Protection) Act, 1986 or otherwise mandatory.
- The other pollutant for which norms have not been prescribed, the same should not be more than the norms prescribed for the water used in manufacturing process of the industry.
- The method for collecting industrial and domestic effluent and its analysis should be as per legal Indian standards and its subsequent amendments/standards prescribed under The Environment (Protection) Act, 1986.
- The treated domestic and industrial effluent be mixed (as per the provisions of Condition No. 2) and disposed of on one disposal point. This common effluent disposal point should have arrangement for flow meter/V Notch for measuring effluent and its log book be maintained.

Specific Conditions:

1. Project shall provide the NOC from Central Ground Water Authority for extracting ground water within 01 month.
2. Project shall comply the provisions of EP Act, 1986, Water (Prevention and Control of Pollution) Act, 1974 as amended, Air (Prevention and Control of Pollution) Act, 1981 as amended.
3. Project shall dispose the hazardous waste through authorized recyclers/TSDF and comply the provisions of Hazardous and Other Wastes (Management and Trans-boundary Movement) Amendment Rules, 2016
4. Treated sewage shall be used for irrigation/gardening purposes as much as possible.
5. Project shall comply the provisions of notification dt. 07-10-2016 of Ministry of Water Resources, River Development and Ganga Conservation, GOI.
6. Project shall comply the order passed by Hon'ble NGT time to time.
7. This consent is valid for the present constructed area 660854.974 sq mt of project separate consent shall be required for further construction.
8. Project shall comply the conditions imposed in the previous NOC/Consent.
9. Project shall send the records of energy meter reading installed on STP and Flow meter reading regularly on quarterly basis.
10. Project shall dispose the E-Waste as per E- Waste Management Rules, 2016.
11. Project shall dispose the MSW as per Solid Waste Management Rules, 2016.
12. At the project site a display board size 4x6 feet shall be installed to display the provisions of Construction and Demolition Rules 2016 and the conditions of CTO.
13. The project proponent shall comply all the provisions of Environment (Protection) Amendment, Rules 2018 notified by MoEF&CC by Notification no 49 Dt. 25-01-2018.
14. Project shall develop proper green belt and rain water harvesting system as per Authority guidelines. For green belt at least 8 feet height plants should be planted which shall be properly protected as proper irrigation and manuring arrangements shall be made. For the development of the green belt the guidelines issued vide Board office order no. H10405/220/2018/02 Dt. 16-02-2018 shall be complied.

Issued with the permission of competent authority .

RAJEEV
UPADHYAY

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RAJEEV UPADHYAY
Date: 2018.03.26
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For and on behalf of U.P. Pollution Control Board .

Chief Environment Officer, Circle-1

-TRUE COPY-

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ANNEXURE R/5

View Other Status

S. NO.	Department Name	Unit/Industry Details District Name	Application ID Service/Form Name Service Delivery In Days Proposed Service Delivery Date Days Left For The Delivery(Including Holidays)	Form Status: Status Change Date: Application Submission Date:	Current Remarks	View Application NOC Certificate Number View NOC/LOC/Objection
1.	Pollution Control Board	JAYPEE GREENS WISH TOWN SECTOR128 129 131 133 134 UPSWP18014037712 GAUTAM BUDDHA NAGAR	1. 18014037712030130001 Consolidated Form for Consent under Water Act 1974 Air Act 1981 and authorization under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules 2016 120 24/04/2024 74	FORWARDED 04/02/2024 23/12/2023	Application forward from Expert/OSD to EE(HQ) in Noida group on 04/02/2024.	

Update Your MoU Intent ID (in case you have signed an MoU)

-TRUE COPY-

Service in Nishant Bhargava vs State of Uttar Pradesh & Anr. (O.A. No. 771/2022/PB)

1 message

ELDF <eldflegal@gmail.com>

Wed, Jul 31, 2024 at 5:29 PM

To: pradeepmisra@yahoo.com, anandbhadola1979@yahoo.com, narendra_kasana@rediffmail.com, bhanwar jadon <bhanwar09jadon@gmail.com>, Service@ukca.in

Cc: Mansi Bachani <mansi@eldfindia.com>

Respected Sir,

Please find the attached copy of the Compliance Affidavit on behalf of Jaypee Infratech Ltd. through its Implementation and Monitoring Committee in the above mentioned case.

Thanks & Regards

--

Sameer Manher

Clerk

Enviro Legal Defence Firm

29, Presidential Estate LGF,

Nizamuddin East New Delhi – 110013

Ph. No. 011-40573181

**Compliance Affidavit.pdf**

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