

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. I  
KOLKATA**

**I.A. (IB) (PLAN) No. 1/KB/2026**

**In**

**Company Petition (IB) No. 165/KB/2022**

***An application under Section 30(6) and 31 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of the IBBI (Insolvency Regulations Process of Corporate Persons) Regulations, 2016 for approval of Resolution Plan.***

**IN THE MATTER OF:**

**State Bank of India**

**... Financial Creditor.**

***Versus***

**Shree Padmawati Metaliks Private Limited**

**... Corporate Debtor.**

**And**

**IN THE MATTER OF:**

**Mr. Vijender Sharma, Resolution Professional of M/s. Shree Padmawati Metaliks Private limited (undergoing CIRP);**

**... Applicant/ RP**

**Date of Pronouncement: 12<sup>th</sup> June, 2026**

**CORAM:**

**SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)**

**CMDE. SIDDHARTH MISHRA, HON'BLE MEMBER (TECHNICAL)**

**APPEARANCE:**

Mr. Shaunak Mitra, Adv. ] For City Alloys

Mr. Ankit Chaurasia, Adv.

Mr. Gautam Basu, Adv. ] For State (O.C – Bowbazar PS)

Mr. Sk. A. Haque, Adv.

Mr. Patita Paban Bishwal, Adv. ] For Suspended Board

Ms. Arundhati Barman Roy, Adv.

Mr. Jishnu Chowdhary, Sr. Adv. ] For Resolution Professional

Ms. Shruti Singhanian, FCS

Mr. Vijender Sharma, RP in virtually

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Mr. Swapnil Mukherjee, Adv. ] For HARK INDUSTRIES PRIVATE  
LIMITED in IA(IBC)(PLAN)/1(KB)2026

Mr. Anirban Pramanick, Adv. ] For Financial Creditor in  
Ms. Subhasree Dey, Adv. IA(I.B.C)/1522(KB)2025  
Mr. Punarbasu Nath, Adv.

Mr. Sourajit Dasgupta, Adv. ] For Respondent in  
Mr. Sarangam Chakraborty, Adv. IA(I.B.C)/1522(KB)2025

**ORDER**

**Per Bidisha Banerjee, Member (Judicial)**

1. The instant application has been preferred by **Vijendar Sharma, Resolution Professional of M/s. Shree Padmawati Metaliks Private Limited**, the Corporate Debtor, under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “Code”), seeking approval of the Resolution Plan submitted by **M/s. Hark Industries Private Limited**, who has been declared as the Successful Resolution Applicant (“SRA”) by the Committee of Creditors (“CoC”).
  
2. The Resolution Plan was approved by the sole CoC member, **State Bank of India**, with 100% voting share in the 16<sup>th</sup> CoC Meeting held on 27.08.2025, and the final approval was recorded on 08.01.2026. The present application has been filed on 30.01.2026 for approval of the said Resolution Plan in terms of Section 31(1) of the Code.

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**3. Prologue:**

- a. The present Interlocutory Application has been preferred under Sections 30(6) and 31 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of the CIRP Regulations, seeking approval of the Resolution Plan in respect of *Shree Padmawati Metaliks Private Limited*, the Corporate Debtor.
  
- b. The Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated on 23.09.2024 pursuant to admission of the petition filed by the Financial Creditor. Consequent upon the initiation of CIRP, the Interim Resolution Professional was appointed and subsequently confirmed/replaced as Resolution Professional in accordance with law.
  
- c. During the course of CIRP, Expressions of Interest were invited through publication of Form G on two occasions. The Resolution Professional issued the Information Memorandum along with addendums reflecting revised asset details, including clarification regarding land area available for resolution. It is pertinent to note that certain transactions relating to alienation of land parcels came to light during CIRP, leading to filing of applications under Section 66 and other relevant provisions of the Code.

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- d. The Resolution Plan submitted by **M/s. Hark Industries Private Limited**, the Successful Resolution Applicant, was placed before the Committee of Creditors. After due deliberations and evaluation in accordance with the approved Evaluation Matrix, the Committee of Creditors approved the Resolution Plan with 100% voting share (sole CoC member State Bank of India) in its meeting held on 08.01.2026.
- e. The Resolution Professional has certified that the Plan complies with the requirements of Sections 30(2) and 30(4) of the Code and Regulations 38 and 39 of the CIRP Regulations. Performance security in terms of the Request for Resolution Plan has also been furnished by the Successful Resolution Applicant.
- f. The present application, therefore, seeks approval of the Resolution Plan so approved by the Committee of Creditors, placing the same before this Adjudicating Authority for judicial scrutiny within the limited parameters prescribed under Section 31 of the Code.

**4. Initiation of CIRP and Appointment of RP:**

- a. The Corporate Insolvency Resolution Process (CIRP) of **Shree Padmawati Metaliks Private Limited**, the Corporate Debtor, was initiated by this Adjudicating Authority vide order dated 23.09.2024 passed in C.P.

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(IB) No. 165/KB/2022 under Section 7 of the Insolvency and Bankruptcy Code, 2016. Upon admission of the petition, moratorium under Section 14 of the Code was declared and public announcement was directed to be made in terms of Section 15 of the Code read with Regulation 6 of the CIRP Regulations.

- b. Consequent thereto, **Mr. Vijender Sharma** was appointed as the Interim Resolution Professional (IRP). The IRP made public announcement, invited claims from creditors, constituted the Committee of Creditors (CoC) after collation and verification of claims, and thereafter convened the first meeting of the CoC in accordance with Section 22 of the Code.
  
- c. In the first meeting of the Committee of Creditors, the CoC resolved to appoint **Mr. Vijender Sharma** as the Resolution Professional (RP) to conduct the CIRP of the Corporate Debtor. The appointment was duly confirmed by this Adjudicating Authority. Thereafter, the Resolution Professional took over the management of the affairs of the Corporate Debtor in terms of Sections 17 and 23 of the Code and proceeded with the CIRP in accordance with the statutory framework.

**5. Collations and Verification of Claims:**

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- a. Pursuant to initiation of CIRP and in compliance with Section 15 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 6 of the CIRP Regulations, the Interim Resolution Professional made a public announcement inviting claims from all creditors of the Corporate Debtor in the prescribed forms.
- b. In response thereto, claims were received from Financial Creditors, Operational Creditors, and other stakeholders. The Interim Resolution Professional/Resolution Professional verified the claims in terms of Section 18(1)(b) and Regulation 13 of the CIRP Regulations on the basis of supporting documents, records available with the Corporate Debtor, information utility data, and other relevant materials.
- c. Upon verification and collation of claims, the Committee of Creditors was constituted in accordance with Section 21 of the Code. It is recorded that State Bank of India is the sole Financial Creditor forming part of the Committee of Creditors and holds 100% voting share in the CoC.
- d. The details of claims received, admitted, and rejected were duly placed before the CoC from time to time. The updated list of creditors, reflecting the amounts claimed

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and admitted, forms part of the record placed before this Adjudicating Authority.

- e. The Resolution Professional has certified that the claims were collated and verified in accordance with the provisions of the Code and the CIRP Regulations and that the constitution of the CoC was carried out strictly in compliance with law.
- f. The RP submits the amounts claimed and admitted are summarized below:

<b>Name of the Creditor</b>	<b>Amount claimed</b>	<b>Amount of Claim admitted</b>	<b>Settlement Amount</b>
State Bank of India (Secured)	225,56,42,259.80	225,56,42,259.80	78,84,720
State Bank of India (Un Secured)	734,61,97,463.45	440,93,53,411.47	154,15,280
Damodar Valley Corporation	126,82,95,986.00	124,84,39,902.00	100,000.00
Commissioner, Commercial Taxes Government of West Bengal	371,14,50,234.00	371,14,50,234.00	100000.00
EPFO*	0.00	80,35,576.00	80,35,576.00

**6. Evaluation of the Resolution Plan:**

- a. Pursuant to the constitution of the Committee of Creditors and in compliance with Regulation 36A of the CIRP Regulations, the Resolution Professional published Form G inviting Expressions of Interest (EOI)

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from prospective resolution applicants. The eligibility criteria and Evaluation Matrix were approved by the Committee of Creditors in accordance with Section 25(2)(h) of the Code and Regulation 36B.

- b. Upon receipt of EOIs and subsequent issuance of the Request for Resolution Plan (RFRP), eligible prospective resolution applicants were provided access to the Information Memorandum and relevant data room documents. The Resolution Professional conducted due diligence under Section 29A of the Code to ascertain the eligibility of the prospective applicants.
- c. The Resolution Plan submitted by **M/s. Hark Industries Private Limited** was received within the stipulated timeline and was examined by the Resolution Professional for compliance with Section 30(2) of the Code and Regulation 38 of the CIRP Regulations. The Resolution Professional placed the compliant plan before the Committee of Creditors along with his compliance certificate in Form H.

- 7.** The Committee of Creditors evaluated the Resolution Plan in terms of the approved Evaluation Matrix, taking into consideration inter alia:
- a. The feasibility and viability of the plan;
  - b. The financial proposal and upfront infusion;
  - c. The proposed distribution mechanism to stakeholders;

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- d. Compliance with statutory requirements;
  - e. Implementation schedule and monitoring mechanism;
  - f. The capability and financial strength of the Resolution Applicant.
- 8.** After detailed deliberations in the CoC meetings, negotiations were undertaken, and modifications were sought to maximise value of the assets of the Corporate Debtor in line with the objectives of the Code.
- 9.** Upon final evaluation and satisfaction regarding feasibility and viability, the Resolution Plan submitted by **M/s. Hark Industries Private Limited** was approved by the sole member of the Committee of Creditors, namely State Bank of India, with 100% voting share in its meeting held on 08.01.2026.
- 10.** The Resolution Professional has certified that the Resolution Plan complies with the provisions of Section 30(2) of the Code, Regulation 38 of the CIRP Regulations, and does not contravene any provisions of law for the time being in force. The approved plan has therefore been placed before this Adjudicating Authority under Section 30(6) of the Code for approval under Section 31.
- 11.** The Resolution Professional has examined the Resolution Plan submitted by **Hark Industries Private Limited**, the Successful Resolution Applicant (SRA), in light

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of the requirements stipulated under Section 30(2) of the Insolvency and Bankruptcy Code, 2016 and the relevant provisions of the CIRP Regulations. Upon such examination, the following compliances are recorded:

<b>Section of the Code / Regulation No.</b>	<b>Requirement with respect to Resolution Plan</b>	<b>Clause of Resolution Plan</b>	<b>Page No.</b>
25(2)(h)	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	Clause 4 of the Resolution Plan. Refer Page 88 of Application.	
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Undertaking submitted and marked as Refer Clause 12A and attached affidavit under Format XI	Page No.326-328 of the Application

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Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Undertaking submitted and marked as Refer Clause 12A and attached affidavit under Format XI	Page No.326-328 of the Application
Section 30(2)	Whether the Resolution Plan-  (a) provides for the payment of insolvency resolution process costs?  (b) provides for the payment to the operational creditors?  (c) provides for the management of the affairs of the corporate debtor?  (d) provides for the implementation and supervision of the resolution plan?  (e) contravenes any of the provisions of the law for the time being in force?]	(a) Resolution Plan Provides for the payment of CIRP Costs as per clause 5(a) of the plan  (b) Resolution Plan Provides for the payment as per clause 5(b) (c) and (d) of the plan  (c) Resolution Plan Provides as per clause 7 of the plan  (d) Resolution Plan Provides as per clause 8 of the plan  (e) Resolution Plan Provides as per clause 12 (c) of the plan  (f) Resolution Plan Provides as per clause 12 of the plan	Page 93 of the Application  Page 93-99 of the Application  Page 107-108  Page 108-109  Page 109  Page 109

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	(f) conforms to such other requirements as may be specified by the Board.		
Section 30(4)	Whether the Resolution Plan (a) is feasible and viable, according to the CoC? (b) has been approved by the CoC with 66% voting share?	The Resolution Plan was approved through voting by ballot paper in the 16th CoC Meeting.	Page 516 of the Application
Section 31(1)	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	Clause 6 of the Plan. Page 106 of Application	
Regulation 38 (1)	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?]	Resolution Plan Provides for the payment as per clause 5(b) (c) and (d) of the plan	Page 93-99 of the Application
Regulation 38(1A)	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	Resolution Plan Provides for the payment as per clause 12(d) of the plan	Page 110 of the Application

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Regulation 38(1B)	<p>(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code.</p> <p>(ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?]</p>	Resolution Plan Provides for the payment as per clause 12(e) of the plan	Page 110 of the Application
Regulation 38(2)	<p>Whether the Resolution Plan provides:</p> <p>(a) the term of the plan and its implementation schedule?</p>	(a) Resolution Plan Provides for the payment as per clause 6 of the plan	<p>Page 101 of the application</p> <p>Page 102 of the application</p>

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	(b) for the management and control of the business of the corporate debtor during its term?	(b) Resolution Plan Provides for the payment as per clause 7 of the plan	Page 103 of the application
	(c) adequate means for supervising its implementation?	(d) Resolution Plan Provides for the payment as per clause 8 of the plan	
38(3)	Whether the resolution plan demonstrates that –  (a) it addresses the cause of default?  (b) it is feasible and viable?  (c) it has provisions for its effective implementation?  (d) it has provisions for approvals required and the timeline for the same?  (e) the resolution applicant has the capability to	(a) Clause 4 of the resolution plan  (b) Clause 4 of the resolution plan  (c) Clause 6 and 8 of the resolution plan  (d) Clause 9 of the resolution plan  (e) Clause 3 and 4 of the resolution plan	Page 8N 8-91 of the Application  Page 88-91 of the Application.  Page 101, 103 of the Application.  Page 105 of the Application.  Page 88 of the Application

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	implement the resolution plan?		
Regulation 39(2)	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	3 PUFEE applications are filed by the Resolution Professional vide :- IA(IBC) No.:343/KB/2025 IA(IBC) No.:1389/KB/2025 IA(IBC) No.:1698/KB/2025	-
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]	Performance Bank guarantee for a sum of Rs.13,50,000/- is at page 544. Performance Bank guarantee for amount of Rs. 25,00,000/- is at page 332.	

**12. Financial Proposal:**

**In INR**

Sl. No.	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#
(1)	(2)	(3)	(4)	(5)	(6)

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1	CIRP Cost	-	-	-	<b>37,00,000.00</b>
2	Secured Financial Creditors (SBI Bank 33.84% of voting)	(a) Creditors not having a right to vote under sub-section (2) of section 21	-	-	-
		(b) Other than (a) above:			
		(i) who did not vote in favour of the resolution Plan	-	-	-
		(ii) who voted in favour of the resolution plan	225,56,42,259.80	225,56,42,259.80	78,84,720.00
	Total[(a) + (b)]	<b>225,56,42,259.80</b>	<b>225,56,42,259.80</b>	<b>78,84,720.00</b>	



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		(b) Other than (a) above:			
		(i) Government	4,97,97,46,220	495,98,90,136/-	82,00,000.00
		(ii) Workmen	-		-
		(iii) Employees - Provident Fund			
		(iv) Others			
		(v) Other Operational creditors			
		<b>Total[(a) + (b)]</b>	<b>497,97,46,220.00</b>	<b>495,98,90,136.00</b>	<b>82,00,000.00</b>
5	Other debts and dues	NA	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
6	<b>Total</b>				<b>3,52,00,000.00</b>
7	<b>WC/CAPEX</b>				<b>55,00,00,000.00</b>
<b>Grand Total</b>			<b>1458,15,85,943.25</b>	<b>1162,48,85,807.27</b>	<b>58,52,00,000.00</b>

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**13. Appointment of Registered Valuers:**

- a. In terms of Regulation 27 of the CIRP Regulations, the RP appointed registered valuers on 09.11.2024 and 28.08.2025, to determine the fair and liquidation value of the Corporate Debtor.
- b. It is submitted that the members of the CoC had submitted an undertaking to the effect that it will maintain the confidentiality of the fair value and the liquidation value and shall not use such valuers to cause undue gain or undue loss to itself or any other person and comply with the requirements under 29(2) of the I&B Code.
- c. The average fair value and the liquidation values obtained from the appointed Registered valuers and comparison with the realisable amount under the plan are as follows:

<b>SN</b>	<b>Particulars</b>	<b>Description</b>
1.	Total Realisable amount under the plan <i>(In case of real estate CDs, provide the monetary value of flats etc. given to allottees)</i>	<b>Rs. 3,85,00,000/-</b>
2.	Fair Value	Rs. 3,55,38,936/-
3.	Liquidation Value	Rs.2,87,02,095/-
4.	Percentage (%) of realisable amount to Fair Value	108.33%

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5.	Percentage (%) of realisable amount to Liquidation Value	134.14
6.	Percentage (%) of realisable amount to Principal amount	-
7.	Percentage (%) of realisable amount to Total admitted claims	0.33%
8.	Percentage (%) of realisable amount to Other than admitted Corporate Guarantee claims	0.53%

**14. Our Inference:**

**On the Conduct of CoC**

- a. Upon hearing the submissions advanced by the Learned Counsel appearing on behalf of the Resolution Professional and upon perusal of the records and documents placed before this Adjudicating Authority in I.A. (Plan) No. 1/KB/2026, it is observed that the Revised Resolution Plan dated 20th June 2025, along with all addenda thereto submitted by the Resolution Applicant, has been placed on record. The said Resolution Plan was considered and approved by the Committee of Creditors with 99.72% voting share at its 36th Meeting held on 29th June 2025, and accordingly, the Resolution Applicant has been declared as the Successful Resolution Applicant (SRA).

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- b. It is further recorded that the Committee of Creditors, after due deliberation and evaluation, has found the Resolution Plan to be viable and feasible for revival of the Corporate Debtor. The Resolution Professional has certified that the Successful Resolution Applicant has complied with all procedural and statutory requirements necessary to render the Resolution Plan effective upon approval by this Adjudicating Authority.
- c. From the record, it is noted that the Average Fair Value of the Corporate Debtor has been determined at Rs. 3,55,38,936/- and the Average Liquidation Value has been determined at Rs. 2,87,02,095/-, as per the valuation reports submitted in accordance with Regulation 35 of the CIRP Regulations.
- d. During the course of hearing, Learned Counsel for the Resolution Professional submitted that the Resolution Plan complies with the provisions of the Insolvency and Bankruptcy Code, 2016, and the applicable provisions of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and does not contravene any law for the time being in force.
- e. Upon careful examination of the Resolution Plan, the compliance certificate **in Form-H**, and the documents placed on record, this Adjudicating Authority is satisfied that the Resolution Plan submitted by the Successful Resolution Applicant is in conformity with the requirements of Sections 30(2) and 31 of the Insolvency and Bankruptcy Code, 2016, and is compliant with

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Regulations 38 and 39 of the CIRP Regulations, 2016. Accordingly, the Plan meets the statutory parameters laid down under the Code for approval.

- f. During the course of the hearing, the Learned Counsel for the Resolution Professional would submit that the Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code, 2016, read with relevant Regulations of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and does not contravene any of the provisions of law for the time being in force.
- g. Upon perusal of the documents on record and/or documents, we are satisfied that the **Resolution Plan** submitted by **Hark Industries Private Limited**, is in accordance with sections 30 and 31 of the I&B Code, 2016 and also complies with regulations 38 and 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

**On the Statutory Obligations for Seeking Approvals from the Authorities:**

- 15.** As far as the question of granting time to comply with the statutory obligations or seeking approvals from authorities is concerned, the Resolution Applicant is directed to do so

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within one year from the date of this order, as prescribed under section 31(4) of the I&B Code.

**On the Reliefs, Waivers and Concessions:**

- 16.** We have perused the reliefs, waivers and concessions as sought in the Resolution Plan. It is evident that some of the reliefs, waivers and concessions sought by the Resolution Applicant come within the ambit of the I&B Code and the Companies Act 2013, while many others fall under the power and jurisdiction of different government authorities/departments.
- 17.** This Adjudicating Authority has the power to grant only such reliefs, waivers and concessions that are directly in tune with the I&B Code and the Companies Act (within the powers of the NCLT). The reliefs, waivers and concessions that pertain to other governmental authorities/departments may be dealt with by the respective competent authorities/forums/offices, Government or Semi-Government of the State or Central Government concerning the respective reliefs, waivers and concession, whenever sought for. The competent authorities including the Appellate authorities may consider granting such reliefs, waivers and concessions keeping in view the spirit of the I&B Code, 2016 and the Companies Act, 2013.
- 18.** It is almost trite and fairly well-settled that the Resolution Plan must be consistent with the extant law. The

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Resolution Applicant shall make necessary applications to the concerned regulatory or statutory authorities for the renewal of business permits and supply of essential services, if required, and all necessary forms along with filing fees etc. and such authority shall also consider the same keeping in mind the objectives of the Code, which is essentially the resolving the insolvency of the Corporate Debtor.

19. In this context, we would rely upon the judgment in ***Embassy Property Developments Pvt. Ltd. vs. State of Karnataka*** reported at **MANU/SC/1661/2019: (2020) 13 SCC 308**, wherein, the Hon'ble Apex Court has laid down that:

“39. If NCLT has been conferred with jurisdiction to decide all types of claims to property, of the corporate debtor, Section 18(f)(vi) would not have made the task of the interim resolution professional in taking control and custody of an asset over which the corporate debtor has ownership rights, subject to the determination of ownership by a court or other authority. In fact an asset owned by a third party, but which is in the possession of the corporate debtor under contractual arrangements, is specifically kept out of the definition of the term "assets" under the Explanation to Section 18. This assumes significance in view of the language used in Sections 18 and 25 in contrast to the language employed in Section 20. Section 18 speaks about the duties of the interim resolution professional and Section 25 speaks about the duties of resolution professional. These two provisions use the word "assets", while Section 20(1) uses the word "property" together with the word "value". Sections 18 and 25 do not use the expression "property". Another

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

*25. Duties of resolution professional -*

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

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

*(a).....*

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

**This shows that wherever the corporate debtor has to exercise rights in judicial, quasi-judicial proceedings, the resolution professional cannot short-circuit the same and bring a claim before NCLT taking advantage of Section 60(5).**

**40. Therefore in the light of the statutory scheme as culled out from various provisions of the IBC, 2016 it is clear that wherever the corporate debtor has to exercise a right that falls outside the purview of the IBC, 2016 especially in the realm of the public law, they cannot, through the resolution**

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**professional, take a bypass and go before NCLT for  
the enforcement of such a right.”**

**(Emphasis Added)**

20. The reliefs sought for subsisting contracts/agreements can be granted, and no blanket orders can be granted in the absence of the parties to the contracts and agreements.

**On the Extinguishment of Claims:**

21. Concerning the waivers with regard to the extinguishment of claims which arose prior to the initiation of the CIR Process and which have not been claimed are granted in terms of the law laid down by the Hon'ble Apex Court in ***Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited*** reported in **MANU/SC/0273/2021: (2021)9SCC657: [2021]13SCR737** that **“once a resolution plan is duly approved by the Adjudicating Authority Under Sub-section (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.”** **(Emphasis Added)**

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22. Further, the relevant part of the **Ghanshyam Mishra Judgment (supra)** in this regard is given below:

*“61. All these details are required to be contained in the information memorandum so that the resolution applicant is aware, as to what are the liabilities, that he may have to face and provide for a plan, which apart from satisfying a part of such liabilities would also ensure, that the Corporate Debtor is revived and made a running establishment. The legislative intent of making the resolution plan binding on all the stakeholders after it gets the seal of approval from the Adjudicating Authority upon its satisfaction, that the resolution plan approved by CoC meets the requirement as referred to in Sub-section (2) of Section 30 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 he should start with fresh slate on the basis of the resolution plan approved.”*

*“62. This aspect has been aptly explained by this Court in the case of Committee of Creditors of Essar Steel India Limited through Authorised Signatory (supra).”*

*“107. For the same reason, the impugned NCLAT judgment [Standard Chartered Bank v. Satish Kumar Gupta] 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*

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*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 would 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, NCLAT judgment must also be set aside on this count.*

**(Emphasis Added)**

- 23.** In this regard, we would also rely upon the judgement of the Hon'ble High Court of Rajasthan in the matter of **EMC v. State of Rajasthan, Civil Writ Petition No. 6048/2020 with 6204/2020** reported in **(2023) ibclaw.in 42 HC**, wherein it has been inter-alia held that:

*“Law is well-settled that with the finalization of insolvency resolution plan and the approval thereof by the NCLT, all dues of creditors, Corporate, Statutory and others stand extinguished and no demand can be raised for the period prior to the specified date.”*

**(Emphasis Added)**

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**24.** Thus, on the date of approval of the resolution plan by the Adjudicating Authority, all such claims, that are not a part of the 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. The Hon'ble Supreme Court of India further laid down that all the dues including the statutory dues owed to the Central Govt, any State Govt 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 before the date on which the Adjudicating Authority grants its approval under Section 31 of the I&B Code could be continued.

**On Guarantors:**

**25.** Concerning the waivers sought in relation to guarantors, the Hon'ble Apex Court held in ***Lalit Kumar Jain v. Union of India*** reported in **MANU/SC/0352/2021: (2021) 9 SCC 321: (2021) ibclaw.in 61 SC** that *the sanction of a resolution plan and finality imparted to it by Section 31 does not per se operate as a discharge of the guarantor's liability. As to the nature and extent of the liability, much would depend on the terms of the guarantee itself.*

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**26.** Further, in ***Maitreya Doshi vs. Anand Rathi Global Finance Ltd. reported*** in **MANU/SC/1216/2022**, the Hon'ble Apex Court laid down that:

*“36. The proposition of law which emerges from the judgment is that a pledgor per se may not be a Financial Debtor. However, in this case, as observed above, the Appellate Authority arrived at a factual finding that Disha Holdings was a borrower. In Lalit Kumar Jain v. Union of India MANU/SC/0352/2021 : (2021) 9 SCC 321, this Court held that the approval of a resolution plan in relation to a Corporate Debtor does not discharge the guarantor of the Corporate Debtor. On a parity of reasoning, the approval of a resolution in respect of one borrower cannot certainly discharge a co-borrower.”*

**(Emphasis Added)**

**27.** Further, we would rely upon the judgment rendered by the NCLAT in ***Roshan Lal Mittal v. Rishabh Jain*** reported in **(2023) ibclaw.in 803 NCLAT** that:

*“The Resolution Plan does not absolve the personal guarantors from their guarantee. The law well settled by the Hon'ble Supreme Court in the matter of “Lalit Kumar Jain vs. Union of India & Ors. – (2021) 9 SCC 321, that by approval of resolution plan the guarantees are not ipso facto discharged.”*

**(Emphasis Added)**

**28.** Hence, we would infer that all the guarantees whether personal or corporate in nature, will not be redeemed by the virtue of the approval of this resolution plan. Thus, if there are

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any guarantors of the corporate debtor, the creditor(s) will invoke those guarantees and an appropriate action against them, as per law, be taken.

**On Inquiries, Litigations, Investigations, and Proceedings:**

**29.** For the reliefs and waivers sought for all inquiries, litigations, investigations, and proceedings shall be granted strictly as per section 32A of the I&B Code, 2016 and the provisions of the law as may be applicable.

**30.** In this context, we would infer that upon the approval of the Resolution Plan, the Corporate Debtor avails the limbs of new management to revive its business. Thus, all the past liabilities of the Corporate Debtor including criminal liability prior to the initiation of the CIR Process shall stand effaced and the new management will step into the shoes of the company with a fresh or clean slate. Hence, the old management shall be liable to face all the offences committed prior to the commencement of the CIR Process. At this juncture, we would rely upon the judgment rendered by the Hon'ble Apex Court in ***Ajay Kumar Radheyshyam Goenka vs. Tourism Finance Corporation of India Ltd.*** reported in **MANU/SC/0244/2023: (2023) 10 SCC 545** that:

*“67. Thus, Section 32A broadly leads to:*

*a. **Extinguishment of the criminal liability of the corporate debtor, if the control of the corporate debtor***

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**goes in the hands of the new management which is different from the original old management.**

*b. The prosecution in relation to "every person who was a "designated partner" as defined in Clause (j) of Section 2 of the Limited Liability Partnership Act 2008 (6 of 2009), or an "officer who is in default", as defined in Clause (60) of Section 2 of the Companies Act, 2013 (18 of 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" shall be proceeded and the law will take it's own course. Only the corporate debtor (with new management) as held in Para 42 of P. Mohanraj will be safeguarded.*

*c. If the old management takes over the corporate debtor (for MSME Section 29A does not apply (see 240A), hence for MSME old management can takeover) the corporate debtor itself is also not safeguarded from prosecution Under Section 138 or any other offences."*

**(Emphasis Added)**

**31.** Further, the Hon'ble High Court of Madras in **Vasan Healthcare Pvt. Ltd. vs. The Deputy Director of Income Tax (Investigation), Unit 3(2)** reported in **MANU/TN/0243/2024: (2024) ibclaw.in 80 HC**, (hereinafter referred to as '**Vasan Healthcare Pvt. Ltd. P**) has held that:

*"9. In the above judgement, the Apex Court after dealing with the provision in detail, came to a categoric conclusion that insofar as the criminal prosecution is concerned, the criminal liability of the corporate debtor viz., company gets completely wiped off and the new management is allowed to take over*

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*the company on a clean slate. However, the Apex Court also made it clear that the persons who are involved in the day today affairs of the company and were incharge and responsible for running of the company, will be liable to face all the **offence committed prior to the commencement of the Corporate Insolvency Resolution Process. There is no escape for those persons from criminal liability even though the corporate debtor is given a clean slate and is handed over to the new Management.***

10. Useful reference can also be made to the judgement of **the Calcutta High Court in [Tantia Constructions Limited Vs. Krishna Hi-Tech Infrastructure P Ltd] in CRP No. 172 of 2022.** The relevant portions in the order are extracted hereunder :-

4. For the **application of Section 32A of IBC, 2016** and in light of the present matter, it is pertinent to determine the following two issues, i.e.,

***i. Whether the offence as complained in the impugned criminal proceedings has been alleged to be committed before the initiation of corporate insolvency resolution process or during such process?***

***ii. Whether the resolution plan has resulted in change in the management or corporate debtor in consonance with the provisions of Section 32A(1) of IBC, 2016?***

5. With respect to Issue No. 1, it is pertinent to note that the corporate insolvency resolution process as against the Petitioner/Corporate Debtor was initiated on 13.03.2019 when the application was accepted and the Order of Moratorium under Section 14 of the IBC, 2016 was imposed by NCLT, Kolkata in the aforementioned case. The complaint that commenced the impugned criminal proceedings was filed

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*on 22.07.2019 before the concerned court by the opposite party. Whereby, said alleged offence so complained, took place before or during the corporate insolvency resolution process and is covered under the ambit of Section 32A of IBC, 2016.*

6. *With respect to Issue No. 2, it is observed that the petitioner has not made specific submission in this regard. However, it is the submission of the opposite party that the **impugned complaint case does not concern itself with the new directors that were appointed after takeover by the Resolution Applicant in line with the Resolution Plan so approved by NCLT dated 24.02.2022. It is their submission that they are primarily aggrieved by the actions of petitioner when it was in control of erstwhile Directors.***

11. *The above judgement clearly lays down the law on the subject. The moment the Corporate Insolvency Resolution Process is initiated against the corporate debtor and the application is accepted by the NCLT, the moratorium comes into operation. **Once the resolution plan is accepted by the NCLT and orders are passed and the Corporate debtor gets into hands of the new management, all the past liabilities including the criminal liability of the Corporate debtor gets wiped off and the new Management takes over the company with clean slate.***

**(Emphasis Added)**

32. Further, the Hon'ble Madras High Court in ***M/s. Vasan Healthcare Pvt Ltd v. M/s. India Infoline Finance Ltd***, CrI O.P. No. 1772 of 2024, reported in (2024) ibclaw.in 700 HC, (hereinafter referred to as '***Vasan Healthcare Pvt. Ltd. IP***') has observed that:

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“13. As a result of the above discussion and the law laid in **Ajay Kumar Radheshyam Goenka** case, it is clear that the corporate debtor cannot be prosecuted for the prior liability after the approval of the Resolution Plan. At the same time, it is to be bear in mind **the protection under Section 32-A of Insolvency & Bankruptcy Code, 2016 is restricted only to the Corporate debtor and not to its Directors who were in-charge of the affairs of the Company when the offence committed** or the signatory of the cheque.”

**(Emphasis Added)**

33. Very recently, the Hon’ble Delhi High Court in **Bhushan Power & Steel Limited v. Union of India** in **W.P. (CRL) 1261/2024**, judgment dated 30.01.2025, has laid down that:

“6.1 A plain reading of the above provision would reveal that there is no dispute over the legal position that once a resolution plan has been approved by the adjudicating authority under Section 31 of IBC and the conditions specified in Section 32A of the IBC are fulfilled, the Corporate Debtor shall not be prosecuted for an offence committed prior to the commencement of the CIRP.

6.2 However, **Section 32A of IBC also clarifies** that any erstwhile officer of the Corporate Debtor who 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 or who was **directly or indirectly involved** in the commission of such **offence prior to the commencement of CIRP** as per the complaint filed by the investigating authority, **shall**

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**continue to be prosecuted and punished for such an offence committed by the Corporate Debtor, notwithstanding that the Corporate Debtor's liability has ceased.**

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7.1 Further, in view of the mandate under sub-section (1) of Section 32A of the IBC, the Petitioner Company, having undergone a successful resolution process under Section 31 of the IBC, shall not be prosecuted for the offences committed prior to the commencement of the CIRP.”

**(Emphasis Added)**

34. Further, in **SREI Infrastructure Finance Limited vs. State of Tripura** reported in MANU/TR/0474/2024, the Hon'ble High Court of Tripura has laid down that:

**“38. The object of revival of a sick company on approval of the resolution plan by the NCLT is intended to provide a clean slate for the company to ensure that the new management makes a clean break from the past. The resolution plan of the successful resolution applicant has been approved under Section 31 of the I&B Code by the learned NCLT vide its order dated 11th August, 2023 which is Annexure-2 to the writ petition. It records that on the date of approval of the 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. It has referred to the decision of the Apex Court in Ghanashyam Mishra & Sons Pvt. Ltd (supra) wherein it has been held that once a resolution plan is duly approved by the Adjudicating Authority under sub-section (1) of section 31, the claims as**

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provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Govt. any State Govt. or any local authority, guarantors and other stakeholders. The Apex Court also held that all dues including the statutory dues owed to the Central Govt. any State govt. 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.

39. However, waiver sought in relation to guarantors would not be allowed to operate in view of the judgment of the Apex Court in Lalit Kumar Jain Vs. Union on India & Ors., MANU/SC/0352/2021 : 2021:INSC:297 as sanction of a resolution plan and finality imparted to it **by section 31 does not per se operate as a discharge of the guarantor's liability. With respect to the relief of waivers sought for all inquiries, litigations, investigations and proceedings the same shall be granted strictly as per the section 32A of the code and the provisions of the law as may be applicable.**

(Emphasis Added)

**Conclusion:**

- 35.** As far as the question of granting time to comply with the statutory obligations or seeking approvals from authorities is concerned, the Resolution Applicant is directed to do so within one year from the date of this order, as prescribed under section 31(4) of the I&B Code.

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**36.** In case of non-compliance with this order or withdrawal of the Resolution Plan, the payments already made by the Resolution Applicant shall be liable for forfeiture.

**37.** In so far as the approval of **the Resolution Plan dated** submitted by **KN Commotrade Private Limited (Successful Resolution Applicant)** is concerned, this Adjudicating Authority is bound by the judgement of the Hon'ble Supreme Court of India in **K. Sashidhar vs. Indian Overseas Bank and Ors.** reported in **(2019) 12 SCC 150: MANU/SC/0189/2019**, wherein it is held that:

*“35. [...] Reverting to Section 30(2), the enquiry to be done is in respect of whether the resolution plan provides: **(i) the payment of insolvency resolution process costs in a specified manner in priority to the repayment of other debts of the corporate debtor, (ii) the repayment of the debts of operational creditors in prescribed manner, (iii) the management of the affairs of the corporate debtor, (iv) the implementation and supervision of the resolution plan, (v) does not contravene any of the provisions of the law for the time being in force, (vi) conforms to such other requirements as may be specified by the Board.** [...]. To wit, the feasibility and viability of the proposed resolution plan and including their perceptions about the general capability of the resolution applicant to translate the projected plan into a reality. The resolution applicant may have given projections backed by normative data but still in the opinion of the dissenting financial creditors, it would not be free from being speculative. These aspects are completely within the domain of the financial creditors who are called upon to*

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vote on the resolution plan Under Section 30(4) of the I & B Code.”

(Emphasis Added)

38. Further, the Hon’ble Apex Court in **Jaypee Kensington Boulevard Apartments Welfare Association and Ors. vs. NBCC (India) Ltd. and Ors.** reported in **(2022) 1 SCC 401: MANU/SC/0206/2021** at Para 216, has laid down that:

**“The Adjudicating Authority has limited jurisdiction in the matter of approval of a resolution plan, which is well-defined and circumscribed by Sections 30(2) and 31 of the Code. In the adjudicatory process concerning a resolution plan under IBC, there is no scope for interference with the commercial aspects of the decision of the CoC; and there is no scope for substituting any commercial term of the resolution plan approved by Committee of Creditors. ... .”**

(Emphasis Added)

39. Further, in **Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta** reported at **(2020) 8 SCC 531: MANU/SC/1577/2019**, the Hon’ble Apex Court has propounded that:

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

(Emphasis Added)

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40. Reinforcing the above, the Hon'ble Apex Court in **Vallal RCK vs. Siva Industries and Holdings Limited** reported in **MANU/SC/0753/2022**, has held that:

“21. This Court has consistently held that the commercial wisdom of the CoC has been given paramount status without any judicial intervention for ensuring completion of the stated processes within the timelines prescribed by the IBC. It has been held that there is an intrinsic assumption, that financial creditors are fully informed about the viability of the corporate debtor and feasibility of the proposed resolution plan. They act on the basis of thorough examination of the proposed resolution plan and assessment made by their team of experts.”

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“27. This Court has, time and again, emphasized the need for minimal judicial interference by the NCLAT and NCLT in the framework of IBC. We may refer to the recent observation of this Court made in the case of Arun Kumar Jagatramka v. Jindal Steel and Power Limited and Anr. (2021) 7 SCC 474:

*95. ....However, we do take this opportunity to offer a note of caution for NCLT and NCLAT, functioning as the adjudicatory authority and appellate authority under the IBC respectively, from judicially interfering in the framework envisaged under the IBC. As we have noted earlier in the judgment, the IBC was introduced in order to overhaul the*

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*insolvency and bankruptcy regime in India. As such, it is a carefully considered and well thought out piece of legislation which sought to shed away the practices of the past. The legislature has also been working hard to ensure that the efficacy of this legislation remains robust by constantly amending it based on its experience. Consequently, the need for judicial intervention or innovation from NCLT and NCLAT should be kept at its bare minimum and should not disturb the foundational principles of the IBC. ....”*

(Emphasis Added)

**41.** In the present case, we note that the Resolution Plan submitted by **Hark Industries Private Limited**, the Successful Resolution Applicant, has been approved by the Committee of Creditors of the Corporate Debtor in its 16th CoC Meeting through voting by ballot paper, and thereafter formally approved on 08.01.2026 by the sole CoC member, State Bank of India, recording **100% voting share in favour of the Resolution Plan**, as reflected in the voting results placed on record.

**42.** We further note from the record that the Letter of Intent (LoI) was issued in favour of the Resolution Applicant on 29.06.2025, which was duly and unconditionally accepted by Hark Industries Private Limited. It is also placed on record that the Successful Resolution Applicant has furnished the requisite Performance Bank Guarantee (PBG), including an

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amount of Rs. 13,50,000/- (as reflected at Page No. 544 of the application) and a further amount of Rs. 25,00,000/- (as reflected at Page No. 332 of the application), in compliance with the requirements of the Code and the CIRP Regulations. Accordingly, Hark Industries Private Limited stands declared as the “Successful Resolution Applicant”. In view of the above and considering the overall facts and circumstances of the case, this Adjudicating Authority finds no reason to interfere with the commercial wisdom exercised by the Committee of Creditors of the Corporate Debtor in approving the Resolution Plan.

- 43.** In the light of the enumerations and observations made in this Order supra, we hereby **APPROVE** and **FINALLY SANCTION** the **Resolution Plan** submitted by **Hark Industries Private Limited with a Plan Value of Rs. 58,52,00,000/- (Fifty Eight Crores Fifty-two Lakhs only) including Relisable amount of Rs. 3,15,00,000/-, CAPEX / WC of Rs. 55,00,00,000/- and CIRP Cost of Rs. 37,00,000/- and the details of the Resolution Plan for Financial Plan and Mandatory Payment compliance with the regulation 38 of the IBBI(Insolvency Resolution Process for Corporate Persons) Regulations, 2016 as stated in “Clause 5” of the Resolution Plan submitted by Successful Resolution Applicant namely Hark Industries Private Limited.**

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- 44.** The Resolution Plan shall form part of this Order and shall be read along with this order for implementation. The Resolution Plan thus approved shall be binding on the Corporate Debtor and all other stakeholders involved in terms of Section 31 of the I&B Code, so that the revival of the Corporate Debtor Company shall come into force with immediate effect without any delay.
- 45.** The Moratorium imposed under section 14 of the Code by virtue of the order initiating the CIR Process, shall cease to have effect from the date of this order.
- 46.** The Resolution Professional shall submit the records collected during the commencement of the proceedings to the Insolvency & Bankruptcy Board of India for their record and also return them to the Resolution Applicant or New Promoters.
- 47.** Liberty is hereby granted for moving any application, if required, in connection with the successful implementation of this Resolution Plan.
- 48.** A copy of this Order is to be submitted to the Registrar of Companies (RoC) to whom the company is registered, by the Resolution Professional.
- 49.** A copy of this Order be served upon the Insolvency and Bankruptcy Board of India (IBBI) by the RP.

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**On PUFЕ Transactions**

**50.** We find that the Applicant has submitted in Form H that the Resolution Professional has opined and determined the existence of PUFЕ transactions within the timelines and appointed the Transaction Auditor also within the timeline. We would infer that approval of the Resolution Plan shall not affect the proceedings of the PUFЕ applications and the Resolution Professional shall continue to pursue those applications sans any barrier with the approval of the CoC of the Corporate Debtor upon communication to the SRA. We would refer to the judgment rendered by the Hon'ble Delhi High Court in **Tata Steel BSL Vs Venus Recruiters** reported at **2023/DHC/000257** wherein it is held that:

**“89. Conclusion**

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*d) It follows that the RP will not be functus officio with respect to adjudication of avoidance applications in a situation, as described hereinabove. There being a clear demarcation between the scope and nature of the CIRP and avoidance application within the scheme of the IBC, the RP can continue to pursue such applications. The method and manner of the RP's remuneration ought to be decided by the Adjudicating Authority itself.”*

**(Emphasis Added)**

**51.** The Resolution Professional is further directed to hand over all records, premises/ factories/ documents to the Resolution Applicant to finalise the further line of action required for starting the operation. The Resolution Applicant

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shall have access to all the records/ premises/ factories/ documents through the Resolution Professional to finalise the further line of action required for starting the operation.

**52.** The Resolution Professional shall stand discharged from his duties with effect from the date of this Order. However, he is required to comply with our direction given in respect of PUFÉ application.

**53.** The **Registry of this Adjudicating Authority** is directed to send e-mail copies of the order forthwith to all the parties and their Learned Counsels for information and for taking necessary steps.

**54.** In view of the above directions, the interlocutory application **I.A. (IB) (Plan) No. 1/KB/2026 along with C.P.(IB) No. 165(KB)/2022 stands disposed of** accordingly.

**55.** Certified copy of the orders, if applied for with the Registry, be supplied to the parties upon compliance with all requisite formalities.

**Cmde. Siddharth Mishra**  
**Member (Technical)**

**Bidisha Banerjee**  
**Member (Judicial)**

**This Order is signed on 12<sup>th</sup> Day of June, 2026**

M. Jana(P.S.)