

Corporate Insolvency Resolution Process

The logo for EzResolve features the text "Ez ₹esolve" in a green, sans-serif font. The Indian Rupee symbol (₹) is integrated into the word "Resolve". To the right of the text is a green line graph with an upward-pointing arrow, symbolizing growth or resolution.

**One Day Seminar on
NCLT Process under IBC – Latest
Developments in Law and Practice
(organized by ICSI)**

By

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Completed Assignments

Raghu Babu Gunturu	Kadevi Industries Limited	IRP & RP	15 Mar 2017	Liquidation order passed by NCLT CoC consists of Indian Bank, State Bank of Hyderabad, Corporation Bank, Axis Bank Total Claims Rs 460 Crores
Raghu Babu Gunturu	Viz Infra Consultants Pvt Ltd	IRP / RP	28 Aug 2018	CoC consists of IFICI Ltd and IFCI Venture Capital Limited Total Claims Rs 474 Crores NCLT approved Resolution Plan-Order passed
Raghu Babu Gunturu	Kumar's Metallurgical Corporation Limited	IRP / RP	28 Nov 2018	CoC consists of SASF, ARCIL, Prudent ARC Ltd, Central Bank of India .Total Claims Rs 5650 Crores Resolution Plan filed with NCLT, Hyderabad bench and Order is awaited

Completed assignments

Sandhya Tadla	Neutrino Systems Limited	Power Private	IRP	22 Jan 2018	Acted only IRP Period CoC consists of Bank of Bahrain & Kuwait Total Claims Rs 43 Crores
Sandhya Tadla	Ashok Limited	Polymers	IRP	19 Feb 2019	Withdrawal of Petition as per Sec-12A CoC consists of ICICI Bank and others Total Claims Rs 35 Crores
Sandhya Tadla	Ciscon Projects Pvt Ltd		IRP/RP	31 Jan 2019	CoC consists of Tata Capital Financial Services Ltd. Total Claims Rs 25 Crores Resolution Plan filed with NCLT, Hyderabad bench and Order is awaited

Ongoing Assignments

Name of the Corporate Debtor	Acted as	CIRP commenced	Remarks
Lanco Hoskote Highway Limited	IRP/RP	17 th Oct 2019	CoC Consists of State Bank of India and Edelweiss Total Claim Rs. 687.81 Crores
Sai Rayalaseema Paper Mills Limited	IRP / RP	20 Aug 2019	CoC consists of Oriental Commerce of Bank and Edelweiss Total Claims Rs 358 crores
Pavai Alloys & Steels Pvt Ltd	Liquidator	3 rd Dec 2018	

Definitions

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 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.

Corporate guarantor means - a corporate person who is the surety in a contract of guarantee to a corporate debtor.

Dispute includes - a suit or arbitration proceedings relating to– (a) the existence or the amount of debt; (b) the quality of goods or service; or (c) the breach of a representation or warranty;

Definitions

Corporate Person – Company under the Companies Act, LLP under LLP Act and any person incorporate with the limited liability Excluding provider of financial services.

Corporate debtor - means a corporate person who owes a debt to any person.

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.

Financial creditor and financial debt

“financial creditor” means any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned or transferred to.

“financial debt” means a debt along with 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;
 - [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-clause (a) to (h) of this clause;

Definitions

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.

Operational debt means a claim in respect of the provision of goods or services including employment or a debt in respect of the 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.

Definitions

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;

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

Definitions

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.

evaluation matrix means such parameters to be applied, as approved by the committee, for consideration of resolution plans for its approval.

“fair value” means the estimated realizable value of the assets of the corporate debtor, if they were to be exchanged on the insolvency commencement date between a willing buyer and a willing seller in a transaction, where the parties have acted rationally & prudently.

“liquidation value” means the estimated realizable value of the assets of the corporate debtor, if the corporate debtor were to be liquidated on the insolvency commencement date.

Who can file for CIRP

- Where any corporate debtor commits a default
 - a financial creditor,
 - an operational creditor or
 - the corporate debtor itselfmay initiate corporate insolvency resolution process in respect of such corporate debtor.

Application by Financial Creditor u/s 7

- Minimum amount of default has to be Rs. 1.00 lac to any creditor.
- A financial creditor either by itself or jointly with other financial creditors may file an application
- The Financial creditor is required to file an application *in Form 1* of [Insolvency and Bankruptcy \(Application to Adjudicating Authority, rules, 2016\)](#).
- The Financial Creditor along with the application file *a Demand Draft of Rs. 25,000/- in favour of " Pay and Accounts Officer, Ministry of Corporate Affairs"* payable at Delhi.
- The Financial Creditor is required to propose the name of *'Interim Resolution Professional' at the time of filing Application.*
- Written Consent of *Insolvency Resolution Process in Form 2* of [Insolvency and Bankruptcy \(Application to Adjudicating Authority, rules, 2016\)](#)
- Verifying Affidavit by Financial Creditor in *Form No.- NCLT 6.*

Who CANT make application for CIRP



a corporate debtor undergoing a corporate insolvency resolution process.



a corporate debtor having completed corporate insolvency resolution process twelve months preceding the date of making of the application.

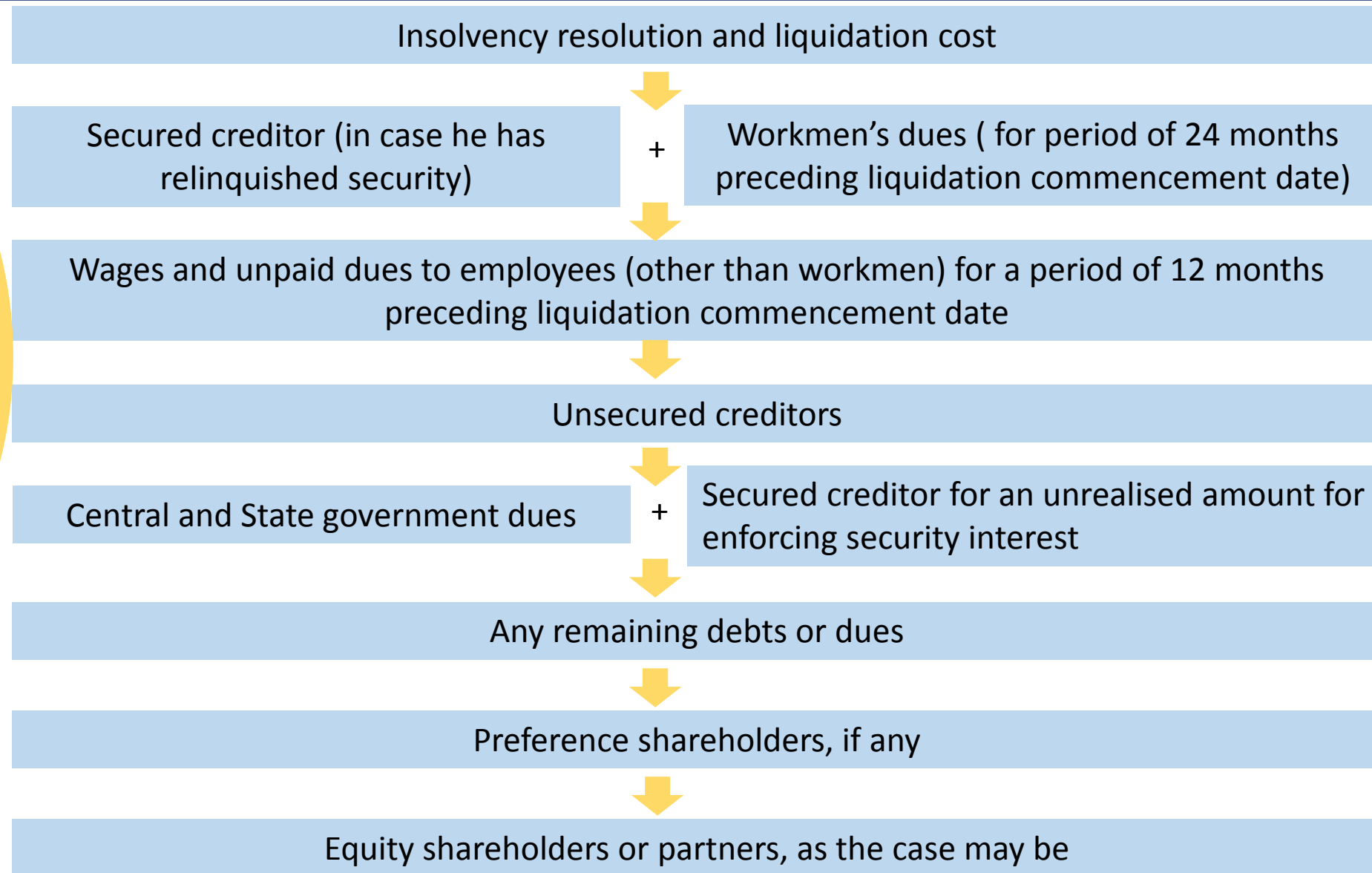


a corporate debtor or a financial creditor who has violated any of the terms of resolution plan which was approved twelve months before the date of making of an application under this Chapter

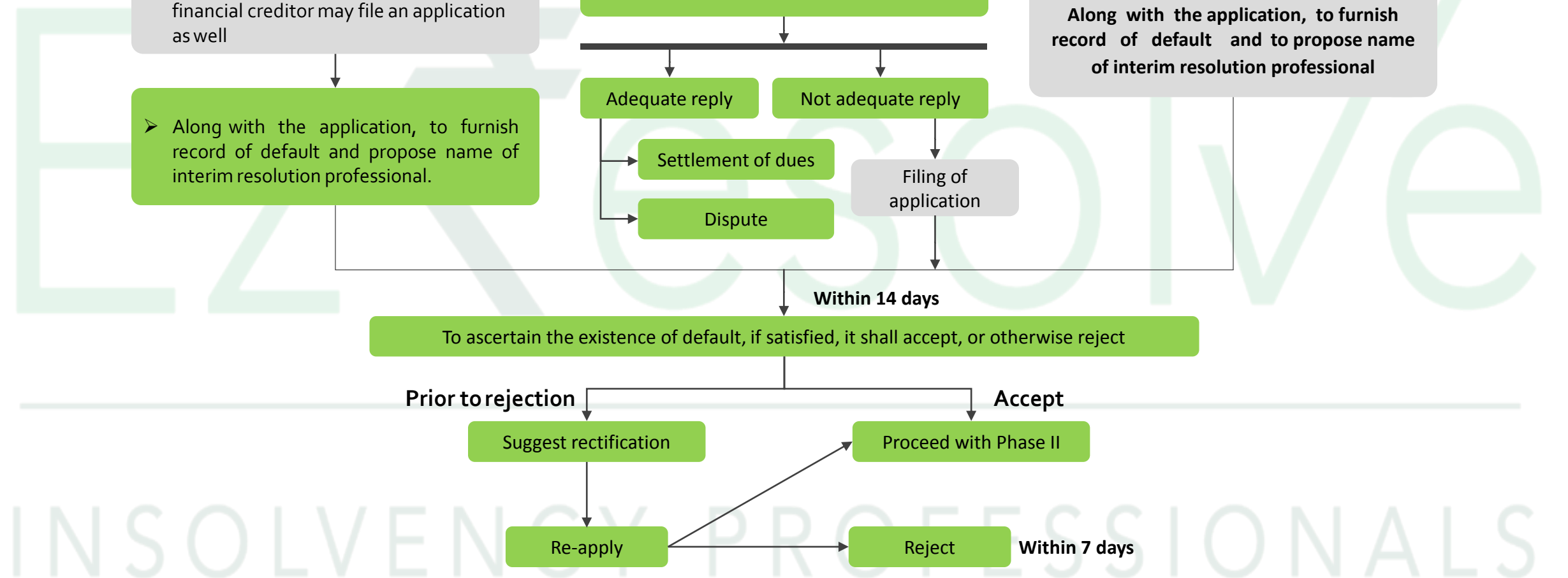
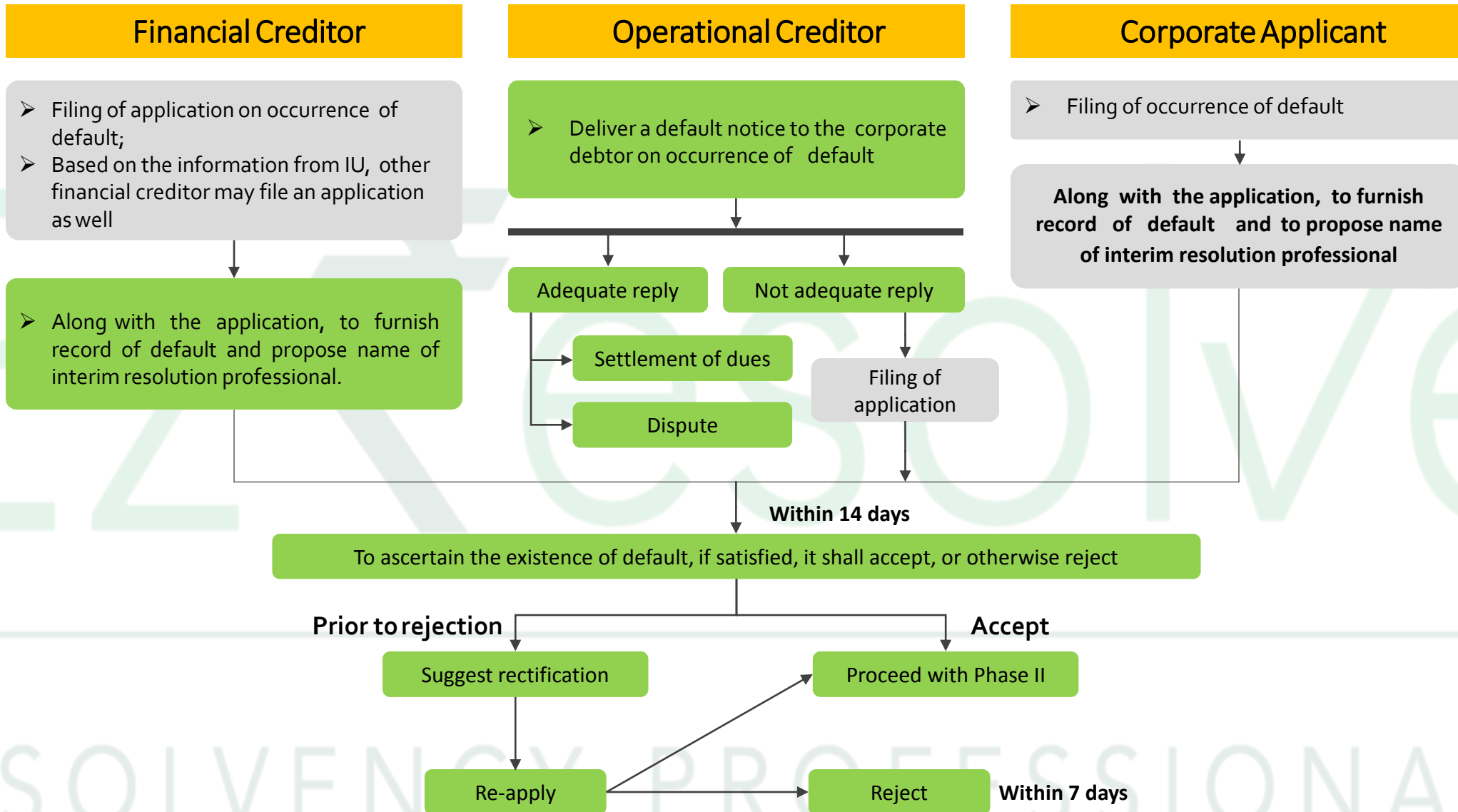
a corporate debtor in respect of whom a liquidation order has been made.

Waterfall Mechanism

In case of liquidation, the asset of the corporate debtor will be sold and the proceeds will be distributed amongst the creditors in the following order of priority:



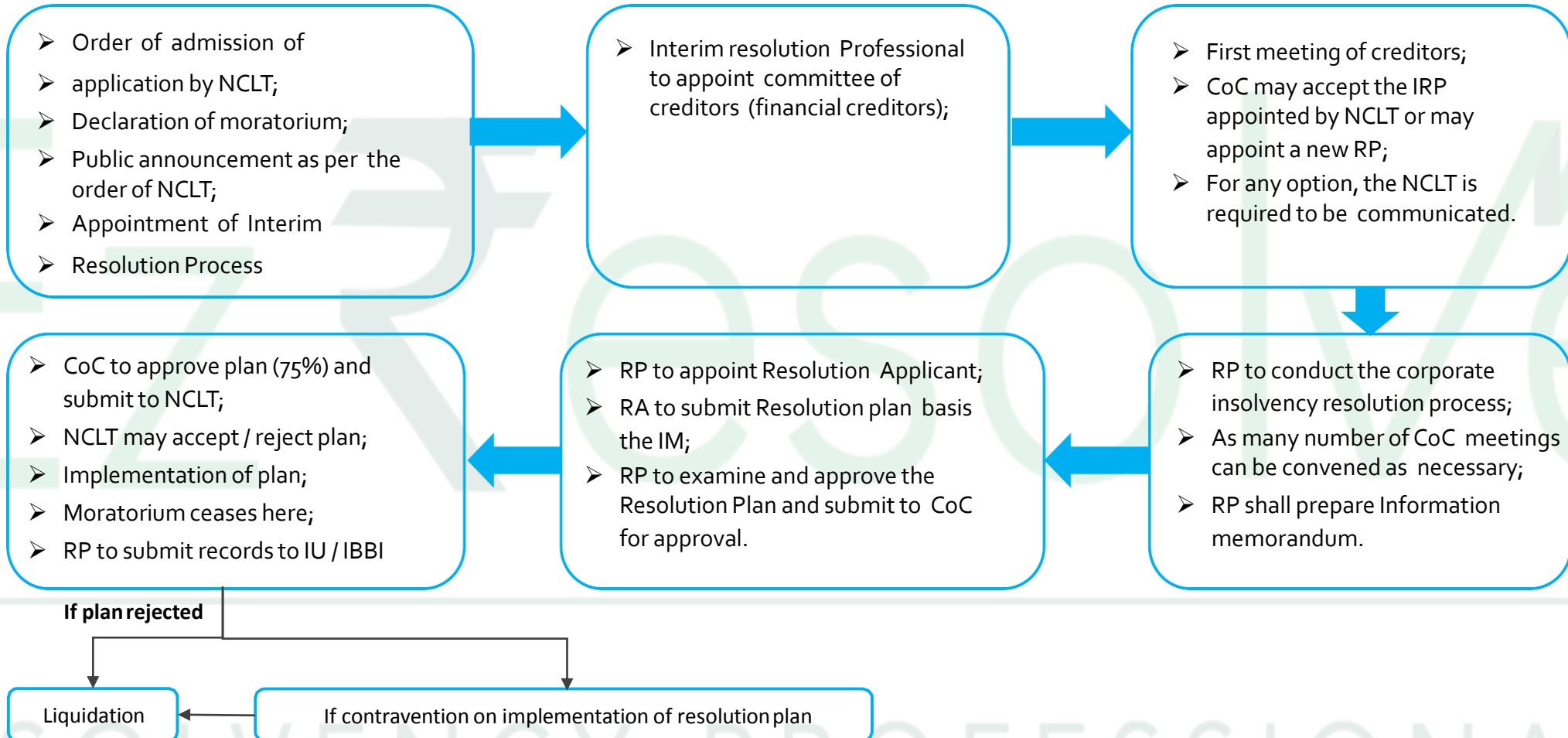
CIRP – Corporate Insolvency Resolution Process - 1



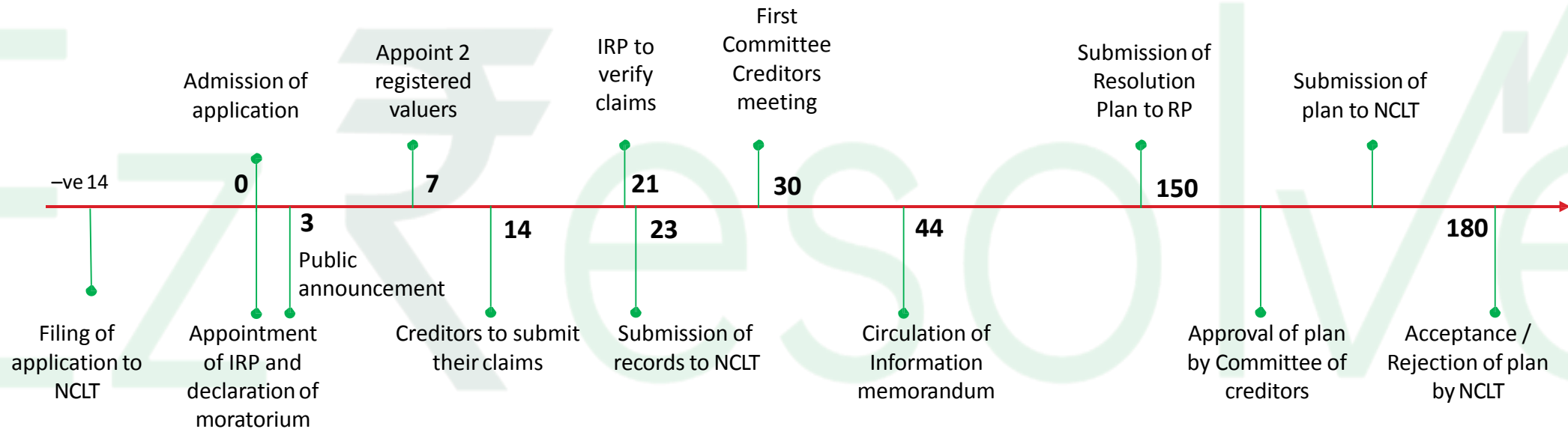
CIRP – Corporate Insolvency Resolution Process -2



The entire process shall be completed within Resolution Period (180 days; extendable by 90 days)



CIRP-3 – Time Chart



Withdrawal u/s 12A

- 116 CIRPs have been withdrawn
- Application of withdrawal by Applicant of CIRP petition – Sec.12A and Reg.30A
- Bank Guarantee for CIRP expenses
- 90% approval of CoC
- RP shall file the approved application with NCLT
- Reasons for withdrawal
 - Full settlement with applicant
 - Full settlement with other creditors
 - Agreement to settle in future
 - CDs not traceable
 - Other settlement with creditors
 - CD struck off from RoC

Moratorium

- **What does Moratorium include:**
 - **institution/continuation of suit or proceedings against the corporate debtor;**
 - **transferring or disposing off any asset by the corporate debtor;**
 - **any action to foreclose/recover any security interest created by corporate debtor vis-à-vis property including any action under SARFAESI, 2002; and**
 - **recovery of any property by an owner where property is occupied/ is in possession of corporate debtor.**
- **Moratorium shall cease to be in effect:**
 - **on completion of CIRP; or**
 - **when resolution plan is approved by NCLT during the CIRP period; or**
 - **where liquidation order is passed**

Public Announcement

- An insolvency professional shall make a public announcement **in Form A within 3 days** from the date of his appointment as an IRP.
- The public announcement shall be published –
 - In one English and one regional language newspaper with wide circulation at the location of the registered office and principal office;
 - On the website of corporate debtor
 - On the website, if any, designated by the Board for the purpose

Details in Information Memorandum

Assets and Liabilities on Insolvency Commencement Date

Audited Financial Statements("FS") for last 2 FY's and provisional FS up to not earlier than 14 days from application

list of creditors with names, claim and security interest

Related party debts due to/from corporate debtor

details of guarantees

details of partners/members holding at least 1% stake in corporate debtor

details of material litigation and ongoing investigation initiated by government and statutory authorities

number of workers/employees and liability towards them

the liquidation value

the liquidation value due to operational creditors

other information which RP deems relevant to the COC

Interim Resolution Professional (“IRP”)

NCLT shall appoint an IRP within fourteen days from the insolvency commencement date.

Role of IRP

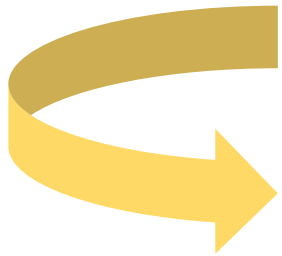
From the date of appointment of the IRP-

the management of the affairs of the corporate debtor shall vest in the IRP;

the powers of the board of directors or the partners of the corporate debtor, shall stand suspended and be exercised by the IRP;

the officers and managers of the corporate debtor shall report to the IRP and provide access to documents of the corporate debtor as may be required by IRP

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



The interim resolution professional shall make every endeavor to protect and preserve the value of the property of the corporate debtor and manage the operations of the corporate debtor as a going concern.

Duties of IRP

From the date of appointment of the IRP-

→ collect all information relating to the assets, finances and operations of the corporate debtor for determining the financial position of the corporate debtor

→ receive and collate all the claims submitted by creditors to him, pursuant to the public announcement made;

→ constitute a committee of creditors

→ file information collected with the information utility.

→ 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

The interim resolution professional shall after collation of all claims received against the corporate debtor and determination of the financial position of the corporate debtor, constitute a committee of creditors

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 IRP

Powers of IRP

IRP has been vested with the powers to-

→ Appoint accountants, legal counsels who may provide specialist advice to the IRP;

→ Enter into contracts on behalf of the corporate debtor or to amend/ modify the contracts which were entered into before the commencement of the CIRP;

→ Raise interim finance;

→ Issue instructions to the personnel of the corporate debtor to keep the corporate debtor as a going concern;

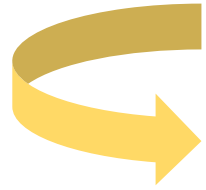
→ Take all such actions as are necessary to keep the corporate debtor as a going concern.

The IRP may sell unencumbered assets of the corporate debtor, other than in the ordinary course of business, if he is of the opinion that such a sale is necessary for a better realization of value.

IRP has to manage the operations of the corporate debtor as a going concern to enable him to protect and preserve the value of the property of the corporate debtor.

Resolution Professional (“RP”)

The committee of creditors, may, in the first meeting, by a majority vote of not less than 75% of the voting share of the financial creditors, either resolve to appoint IRP as RP or to replace IRP by another RP.



RP shall conduct the entire Corporate Insolvency Resolution Process (“CIRP”) and manage the operations of the corporate debtor during CIRP period;

The RP shall give notice of each meeting of the committee of creditors to— (a) members of Committee of creditors; (b) members of the suspended Board of Directors or the partners of the corporate persons (c) operational creditors or their representatives if the amount of their aggregate dues is not less than ten per cent of the debt.

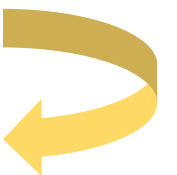
Duties of RP

Preserve and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor

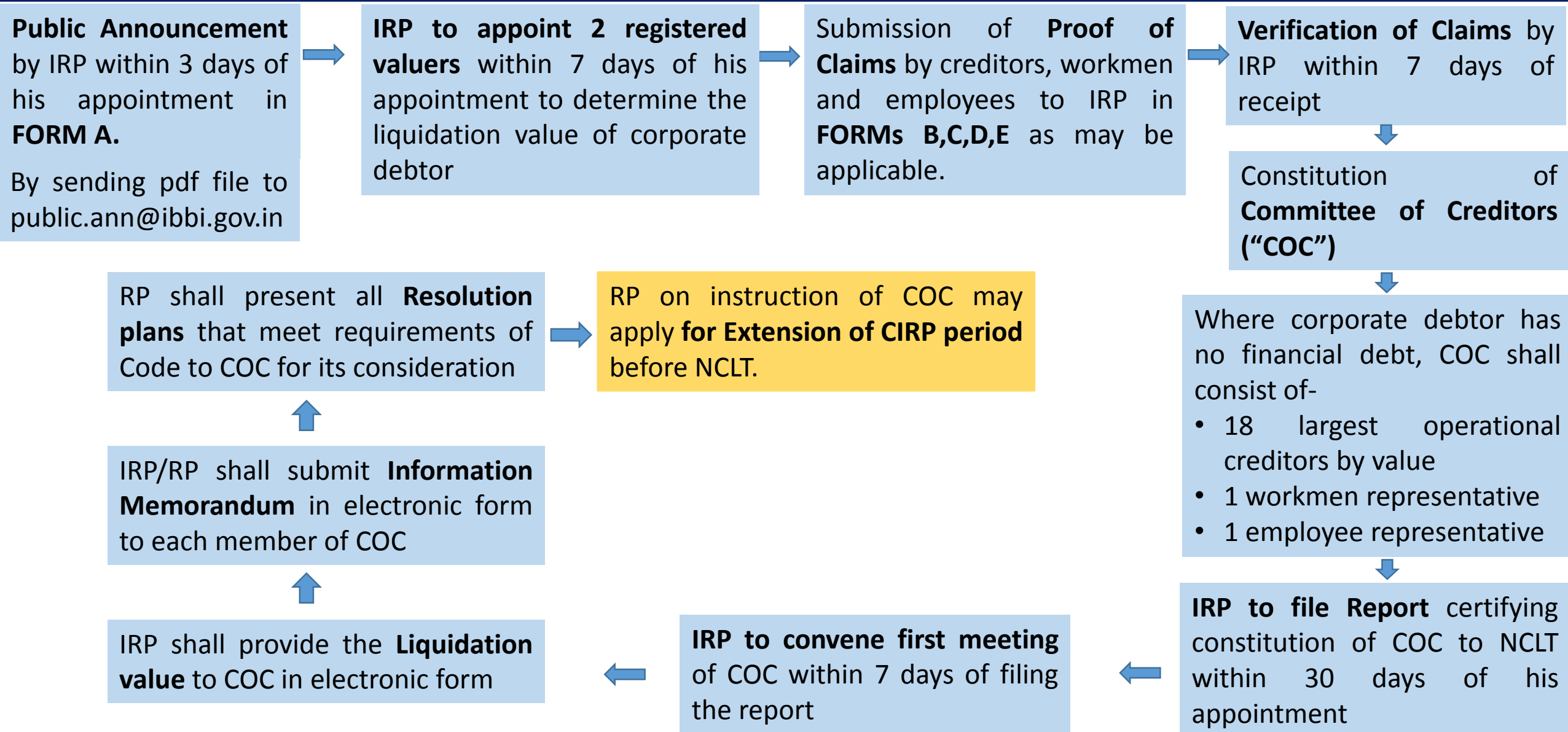
The RP shall prepare an information memorandum containing relevant information as specified by IBBI for formulating a resolution plan.

The RP shall submit the resolution plan as approved by the committee of creditors to the Adjudicating Authority.

Initiation of Liquidation



Role of IRP/RP in Insolvency Resolution Process for Corporate Persons



Verification of Claims

Conflicts between CoC and RP on Related party issues where equity + Financial

Issues arising from Assignment of Debt

Late submission of big claims by operational / unsecured creditors.

CoC Voting power changes after majority of time elapsed

Non-provision of Interest in the Books of CD

Rate of Interest, Penal Interest differs from Banks and CD

Lot time for reconciliation for assessing the right claim / right claim amount

Interest claim by operational creditors where no clauses in PO/Agreements.

Subsequently, CD approves the interest claim.

Committee of Creditors

- The interim resolution professional shall after collation of all claims received against the corporate debtor and determination of the financial position of the corporate debtor, constitute a committee of creditors.
- The committee of creditors shall comprise all financial creditors of the corporate debtor.
- Each consortium members shall be part of CoC to the extent of their voting share.
- Where person is a financial and operational creditor, to the extent of financial creditor it becomes part of CoC.
- Assignee of operational creditor cant become part of CoC
- Trustee representing syndicated members.
- Related party excluded from voting; does not apply to FC regulated by financial sector regulator.
- Authorised representative – Securities or deposits; IRP shall appoint through approval.

Voting by CoC

- Only FC are entitled to vote
- all decisions of the committee of creditors shall be taken by a vote of not less than 51% of voting share of the financial creditors.
- 66% approval of COC
 - Extension of CIRP period beyond 180 days.
 - Appointment of RP
 - Approval of Resolution Plan
 - Approval for Liquidation before CIRP
 - Approval of certain transactions under sec.28
- 90% approval of COC – withdrawal of CD from CIRP.

Meetings - CoC

- CoC members may meet in person or through VC.
- All meetings of the committee of creditors shall be conducted by the resolution professional.
- RP shall notice to
 - To all Financial Creditors including to authorised representatives.
 - Operational Creditor whose debt is more than 10% of total debt.
 - Members of the suspended Board or partner of LLP.

Activity	Statutory Timeline	Targeted Timeline (No. of days)
Appointment of valuer	Within 7 days of appointment of RP, but not later than 40th day of commencement	*X = Date of commencement of CIRP X + 47
Verification of claims	Within 7 days from the receipt of claim	Within 7 days from the receipt of claim
Submission of IM to CoC	Within 2 weeks of appointment of RP, but not later than 54th day of commencement	X+54

Targeted Timeline for CIRP

Activity	Statutory Timeline	Targeted Timeline (No. of days)
Invitation of Eol	Within 75 days of commencement	X+ 75
Submission of Eol	At least 15 days from issue of Eol (Assume 15 days)	X+90
Provisional List of RAs by RP	Within 10 days from the last day of receipt of Eol	X+100
Submission of objections to provisional list	For 5 days from the date of provisional list	X+105
Issue Request for Resolution Plan (RFRP) including Evaluation Matrix and IM	Within 5 days of the issue of the provisional list	X + 105

Targeted Timeline for CIRP (contd.)

Activity	Statutory Timeline	Targeted Timeline (No. of days)
Final List of RAs by RP	Within 10 days of the receipt of objections	X + 115
Receipt of Resolution Plan	At least 30 days from issue of RFRP (Assume 30 days)	X + 135
Verification of Resolution Plan	within 10 days of receipt of Resolution Plan	X + 145
Submission of Resolution Plan to CoC	With in 5 days of verification	X + 150
Submission of CoC approved Resolution Plan to AA	As soon as approved by the CoC	X + 165

Targeted Timeline for CIRP (contd.)

Eligibility of Resolution Applicant (Sec.29A)

Ineligible

- Undischarged Insolvent
- Wilful defaulter
- NPA
- Convicted for any offence
- disqualified to act as director
- prohibited by SEBI
- promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under this Code
- executed an enforceable guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this Code
- Has been subject to any disability, corresponding to clauses above, under any law in a jurisdiction outside India
- Has a connected person not eligible under above

Eligibility of Resolution Applicant (Sec.29A)

- NPA ineligibility is not applicable to the financial entity which is not a related party
- Financial entity which becomes related party only because of debt conversion is not treated as related party
- MSMEs are excluded from the applicability of 29A (excepting wilful defaulter)

Resolution Plan

- Invitation to EoI from Resolution Applicants
- Eligible Applicant
- Verification of compliance requirements of Resolution Plan
- Mandatory contents of Resolution Plan
 - Source of fund for – Insolvency resolution process cost; liquidation value due to operational creditors and liquidation value to dissenting creditors
 - Statement as to how it has dealt with the interests of all the stakeholders
 - Details of Resolution applicant and its connected persons
- Selection of the best Resolution Plan
- Aspects that attract CoC to approve the Plan
 - Settlement is higher than liquidation value
 - Minimal hair cut
 - Low timelines for payments

Resolution Plan

- Statutory Approvals
- Waiver of outstanding
- Waiver of liabilities or retention of liabilities by CD
- Staggered Payments
- Implementation of Resolution Plan
- Consequences of failure of implementation
- Rights of CoC post approval of Plan

Resolution Plan – What it can provide



Statutory Approvals



Waiver of outstanding



Waiver of liabilities or retention of liabilities by CD



Staggered Payments



Implementation of Resolution Plan



Consequences of failure of implementation



Rights of CoC post approval of Plan



Number of Plans approved so far by AA – about 69 Resolution Plans

Related party transactions

Sec 43 – Preferential Transactions – Disclosure

- Transfer of property or interest therein for a benefit of a creditor or a surety or a guarantor or on account of antecedent financial debt or operational debt or other liabilities owed by the corporate debtor.
- Relevant period – 2 years before the admission date.
- Submit report on this to COC.

Sec 45 – Undervalued Transactions – Report to Adjudicating Authority and get the transactions declared as void and reverse the effect of such transactions - one year look back period and two years if it was between related parties. Ex: Gift to a person, transfer of assets at less than fair value

Sec 50 – Extortionate Credit Transactions – Receipt of Financial Debt or Operational Debt at an exorbitant levels – 2 year look back period.

Process Advisor Role



Information Memorandum : IM as per section 29 of IBC 2016, read with Regulation 36 of IBBI



Virtual data room : Third Party application (such as Merrill Datasite, Ideal, Drop Box etc.,). To facilitate the data / information on real time basis to the potential resolution applicants, on Finance & Accounts, Taxes, Legal, Information and Memorandum etc.,



Resolution Plan : creating, drafting and finalising in consultation with Resolution Professional and CoC,



Qualifying requirement of Resolution Applicants (RA)



Evolution criteria

Process Advisor Role

Running the process from EoI to shortlisting the RA for sharing the offer

document

Issuing of letter of Intent to the successful RA

Committee of Creditors (CoC) : Attending CoC meeting and presenting the status from time to time

National Company Law Board : If required to attend the NCLT hearings and update the status of various process under taken by the process advisor.

Evaluation Metrics

Sl No	Orchid Pharma	Deccan Chronicle
1	<p>Upfront cash payment as part of resolution plan – to be paid with in 30 days from NCLT approval of the resolution plan</p> <p>Two additional bonus points (without weightage) shall be awarded for every 1% increase in Upfront Cash over and above 35% of resolution Debt.</p> <p>$\geq 35\%$ of the resolution debt = 10 & $< 1\%$ = 0</p> <p>Weightage = Max 40</p>	<p>Upfront cash recovery as per resolution plan</p> <p>This shall refer to the up front amount being paid to the financial creditors within 30 days of NCLT approval (i.e. Receipt of certified copy of the order).</p> <ul style="list-style-type: none"> •Resolution Plan involving upfront cash recovery should be backed by letter of commitment from a bank or cheque. •If up front cash in fusion by way of equity, the sources should be laid out in the plan <p>Weightage : Max 20</p>

SI No	Orchid Pharma	Deccan Chronicle
2	<p>Cash on deferred Payment basis / Assumed term loan liability on company – NPV – discount rate 1m – 1 year 5%, 1-3 Yrs 8%, 3-5 Yrs 10%, Above 5 yrs 15% One Additional bonus point(without weightage) shall be awarded for every 2% increase in NPV >25 %</p> <p>>=25% of the resolution debt = 10 & 3% = 0 Weightage = Max 20</p>	<p><i>NPV factoring in upfront cash recovery (tiered rate of discount)</i></p> <p>This shall refer to the discounted value of all cash flows (including interest, repayment and upfront cash)using tiered discounting.</p> <p>Annual discount rate</p> <p><=5 years 10% >5 & <=10 years 15% >10 years 30%</p> <p>Weightage : Max 35</p> <p><i>“Resolution Debt Amount” to equal the amount of claims in relation to financial creditors admitted by the resolution professional as on the resolution plan submission date (or any value revised after that date if so deemed necessary by the RP). Based on the Resolution Plans received, the CoC reserves the right to rescale the scores for one or more quantitative parameters. Such rescaling, if any, will be done for all Resolution Plans and the maximum score permissible for each criteria shall remain the same</i></p>

Evaluation Metrics

Sl No	Orchid Pharma	Deccan Chronicle
3	<p>Equity in the company, post money to financial creditors (As a percentage of the total paid up equity of the company)</p> <p>Expected allotment of equity (Post money) >20% < 24 % - 10 >1% <5% - 2</p> <p>Weightage – Max 5</p>	<p><i>Equity upside</i></p> <p>This shall refer to the equity stake offered to financial creditors multiplied by fresh equity infusion for improving operations.</p> <p>Weightage : Max 5</p>

Evaluation Metrics

Sl No	Orchid Pharma	Deccan Chronicle
4	<p>Fresh Equity infusion for improving the operations only if the lenders are continuing < 6 months – 100%, > 6 months <12 months – 50%, > 12months – 0%</p> <p>>15% of the Resolution Debt - 10 >1% < 5% - 2 Weightage – Max 10</p>	<p><i>Fresh equity infusion for improving operations</i></p> <p>This shall refer to fresh capital infusion within 6 months from NCLT approval (i.e. receipt of certified copy of the order).</p> <ul style="list-style-type: none"> • Sources of funds to be laid out in the plan, and to be unsecured i.e. no charge on assets to be created on account of these funds. • In addition to infusion by way of equity, it may also include quasi-equity subject to: <ul style="list-style-type: none"> • Approval being required from existing lenders for redemption of such quasi-equity instrument; and • Coupon payment for such quasi-equity instrument to accrue, but remain unpaid until continuing debt is fully repaid; and • Such quasi-equity instrument being subordinate in all respects to the continuing debt. <p>Weightage : Max 10</p>

Evaluation Metrics

SI No	Orchid Pharma	Deccan Chronicle
5	<p>Reasonableness of financial projections I.e. Sales, EBITDA etc minimum three years Certainty/Likelihood/Feasibility/Eventuality of honoring proposed commitments etc.</p> <p>Range – 0 -10 Weightage –Max 5</p>	<p><i>Reasonableness of financial projections/ Certainty / Likelihood/ Feasibility / Eventuality of honoring proposed commitment</i></p> <p>This shall be assessed based on, but not limited to the assumptions in the financial projections (including but not limited to, revenue growth, profitability, market share and net working capital), treatment of other stakeholders (including payment made to operational creditors, statutory creditors, employee and workmen) and conditions precedent (if any submitted as a part of the plan).</p> <p>Weightage : Max 10</p>

Evaluation Metrics

SI No	Orchid Pharma	Deccan Chronicle
6	<p>Ability to turnaround distressed companies – Managerial competence and technical abilities, Key managerial personnel, track record in implementing turnaround the stressed asset etc</p> <p>Range 0-10 Weightage – Max 10</p>	<p><i>Ability to turnaround distressed companies – Managerial competence and technical capabilities, key managerial personnel, track record in implementing turnaround of stressed assets</i></p> <p>This shall be assessed based on, but not limited to, the experience of the Resolution Applicant in turning around distressed assets, experience in acquiring companies/ businesses, technical experience and abilities in the media sector and the managerial team.</p> <p>Weightage : Max 10</p>

Evaluation Metrics

SI No	Orchid Pharma	Deccan Chronicle
7	<p>Standing of Bidder/group in sector/external rating/adherence to financial discipline/Financial strength/ record of regulatory compliance/whether NPA, including group companies</p> <p>Range 0-10 Weightage –Max 10</p>	<p><i>Standing of RA/ External Rating/adherence to financial discipline/ record of regulatory compliance/ whether NPA, including group companies <12 months</i></p> <p>This shall be assessed based on various financial metrics related to the Resolution Applicant and group, but not limited to, net-worth, assets under management, external credit ratings and quality of third party security interest offered (corporate guarantee or pledge of shares).</p> <p>Weightage – Max 10</p>

Stakeholders

- Corporate Debtor
- Committee of Creditors
- Resolution Professional
- Promoters / Suspended Board of Directors
- Valuers
- Process Advisor
- Forensic Auditors
- Investment Banker
- Legal Counsel for RP and CD
- National Company Law Tribunal

EzResolve
Framework
for CIRP



INTERIM
MANAGEMENT



REVIVAL OR
RESOLUTION



LEGAL &
COMPLIANCE

Factors influencing interim management

Nature of business – manufacturing | trading | service; B2B | B2C

Regulatory environment for business – Pharma | Hospitals | Software | Infra

Number of locations

Number and Profile of Financial Creditors – Asset Reconstruction Companies | Public Sector | NBFCs

Role of Central or State Governments

Public Interest

Scale of operations

Ownership Profile

EzResolve Framework for CIRP – Interim Management



Managing business – Day one



- Take control of Cash
- Let all senior management is aware of CIRP / Liquidation and have meeting with them.
- Record status of operations as on first date and have it signed by all the senior management.
- Draw financials as on the date and signed by the senior management. This becomes base line.

Managing business



- Engage with Key Managerial personnel and understand operations of the company
- Create Managing committee – RP and Senior Management.
- Meet and interact with all the services providers, consultants, internal and statutory auditors etc.,
- Diagnose financial performance for the last three years.
- Cash Flow - Close monitoring and control of cash flow
- Interim Finance

Managing business



- Inventory - Take a deep dive into inventory – Disposal of obsolete inventory.
- Receivables – study and put in place plan for recovery
- Review contracted payment obligations / fixed overhead and rationalise it.
- Control Mechanism - acceptance of purchase / sales order, Moment of Inventory / goods
- Insurance coverage
- Security and Surveillance

Study the CD's business and industry and come out with road map for CD.

Get the feasibility report from Industry expert

Explore various options for revival

assist in identification of prospective investor

Ways to maximize the value of assets of CD

Bring out resolution plan.

EzResolve Framework for CIRP – Revival or Resolution

EzResolve framework for CIRP – Compliance & Legal

Ensuring
Compliance with
IBC code and
regulations

Honouring
Adjudicating
Authority orders.

Ensuring CD
complies with all
the applicable laws
and regulations.

Build trusted
partnership with
COC.

Appoint
Compliance Officer
and entrust
responsibility

Personal Guarantors



Moratorium is not applicable to Personal Guarantors



Insolvency can be initiated against Personal Guarantors (SBI Vs Ramakrishna)



No lenience on Personal Guarantors



Cannot be resolution applicant if CIRP is initiated against the CD in whose favour guarantee is given and guarantee is invoked and remains unpaid

Whether Criminal or Civil?

Shah Brothers Ispat Pvt Ltd vs P. Mohanraj & Ors-NCLAT – Cheque Bounces come under criminal proceedings under sec.138 of NI Act, 1881

- Penal in nature
- Company cannot be imprisoned
- Imposition of fine cannot be held to be money claim
- Sec.138 empowers courts to pass order for imprisonment or fine
- Does not come under moratorium – sec.14 of IBC

Cheque bounces are criminal in nature and directors of CD under CIRP can be sued / penalised.

Directors' Liability is not protected under Moratorium

Cheque Bounce cases



Is IBC Successful?

Challenges ahead

Undesirable
liquidation

Applicability of 29A
to all promoters
may hinder the
purpose of IBC

Meeting the
Timelines

Approvals from
creditors /
authorised
representatives

Support of Team of
Corporate Debtor

Funds for meeting
the CIRP expenses

Thank you

Raghu Babu Gunturu

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EzResolve LLP

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EVALUATION MATRIX

CALS REFINERIES LIMITED

(COMPANY UNDER CORPORATE INSOLVENCY RESOLUTION PROCESS)

(As approved by CoC in the meeting held on 20.03.2018)

NOTICE

To Whomsoever it may concern

Entity Name: Cals Refineries Limited
(Under Corporate Insolvency Resolution Process)
NCLT New Delhi Bench: IB-447(ND)/2017

Evaluation Matrix for Resolution Applicants

Cals Refineries Limited (“Cals”/ “The Company”) is a Listed entity whose scrips are listed at Bombay Stock Exchange. This Company is having a main business of crude oil refinery and based in New Delhi. The Company is registered at Registrar of Companies, NCT of Delhi & Haryana and having CIN: L51909DL1984PLC018775, the Registered office of the Company is situated at 209, 2nd Floor, Suneja Tower-2, District Centre, Janakpuri, New Delhi- 110058.

Cals had a plan to set up crude oil refinery in Haldia, West Bengal with a capacity of 5 MMTPA refinery project. Though the project as on date is in defunct stage. Though the shareholder’s base of the Company is larger, presently the total No. of shareholders in the Company is approx. 1.80 lacs. The Company is under Corporate Insolvency Resolution Process (CIRP) vide Hon’ble National Company Law Tribunal Order dated 23.11.2017. Mr. Rakesh Kumar Jain was appointed as Resolution Professional (RP) by the CoC in its meeting held on 11.01.2018, replacing the Interim Resolution Professional (IRP).

The RP in consonance with the Committee of Creditors (CoC) has invited the application of prospective Resolution Applicant vide requisite Form-G (Under sub-regulation (5) of regulation 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016), the said Form G was uploaded on the website of the Company www.cals.in on 06.03.2018 and the same is also published in the newspapers Financial Express (English) and Jansatta (Hindi) on 06.03.2018. The instant Evaluation Matrix is in connection with the said invitation of proposed Resolution Applicant in Form-G and for their necessary evaluation and comparison.

The prospective Resolution Applicant are requested to contact the RP vide email rp.calsref@gmail.com for obtaining a copy of the Non-Disclosure Agreement (NDA). Information Memorandum (IM) and other documents shall be shared with the prospective Resolution Applicants once the NDA is in place.

The Evaluation Criteria is applicable for all prospective Resolution Applicants who have submitted non-binding investment offers and other prospective Resolution Applicants, who fulfil the eligibility criteria.

(Rakesh Kumar Jain)

Resolution Professional

IBBI/IPA-002/IP-N00053/2017-18/10105

CALS REFINERIES LIMITED

Company under Corporate Insolvency Resolution Process

EVALUTAION MATRIX
CALS REFINERIES LIMITED

(UNDER CORPORATE INSOLVENCY RESOLUTION PROCESS)

(A) QUANTITATIVE PARAMETERS (WITH MAXIMUM 60% WEIGHTAGE)

S.N.	Parameters	Weightage	Score Range/Matrix	Maximum Score	Rational for Suggestion
1.	Upfront cash payment as part of resolution plan	50%	0-100 100% of the Resolution debt amount	50	Bidder offering upfront cash payment will get a score of 100 and for other bidders the score will reduce by 10 against every difference with highest bidder (rounding off would be done).
2.	Net Present Value (NPV) of continuing portion of debt (Discounting rate of 10% per annum would be used for NPV for all the bidders)	20%	0-100	20	Bidder offering highest NPV of the continuing portion of debt will get a score pf 100 and for other bidders the score will reduce by 10 against every 10% difference with highest bidder (rounding off would be done)
3	Term of Resolution	20%	0-100	20	Bidder offering minimum number of years after approval of resolution plan by NCLT will get a score of 100 and for other bidders the score will reduce by 20 against every year difference with highest bidder.
4.	Fresh fund introduced (equity or debt) for the purpose of capital expenditure and working capital requirements	10%	0-100	10	Bidder introducing highest fresh funds (not more 24% of the present equity capital), will get a score of 100 and for other bidders the score will reduce by 10 against every 10% difference with highest bidder (rounding off would be done)
	Total Score of quantitative parameters	100		100	
	Total weight of quantitative Parameters (A)	60%			

B. QUALITATIVE PARAMETERS (WITH MAXIMUM 40% WEIGHTAGE)

S.N.	Parameters	Weightage	Score Range/Matrix	Maximum Score	Rational for Suggestion
1.	Experience of resolution applicant/group in Crude Oil Refinery Industry	25%	0-100	25	The experience of resolution applicant would be important as this entity requires specific experience and knowledge of crude oil industry and the experienced person/entity will have higher possibility of successful revival of the unit. The score will be awarded by COC based on presentation by resolution applicant along with documentary evidences.
2.	Financial strength of resolution applicant/group (group net worth, revenue, EBIDTA)	35%	0-100	35	The financial strength of applicant would be important as the corporate debtor would need huge financial support for working capital and creation of the necessary assets for the crude oil refinery. The score will be awarded by COC based on presentation by resolution applicant along with documentary evidences.
3.	Availability of turnaround distressed Companies- Managerial competency and technical abilities.	25%	0-100	25	Additional collateral security, corporate guarantee and personal guarantee of resolution applicant, proposed management would provide additional comfort to lenders.
4.	Availability of additional collateral security and personal/corporate guarantee and value thereof	15%	0-100	15	Additional collateral security, corporate guarantee, Bank Guarantee or personal guarantee, (for minimum 10% of the total resolution cost), of resolution applicant/proposed management would provide additional comfort to lenders
	Total score of qualitative parameters	100%		100	
	Total weight of qualitative parameters (B)	40			
	Total Score of resolution applicant (A+B)	100%		100	

Notes:

1. Bid evaluation matrix is required for making comparison between bids received during resolution process. It is not meant for taking a decision on acceptance or rejection of the offer.
2. The bid evaluation matrix would only be used in case resolution plans are received from more than one resolution applicants.
3. Resolution debt for the evaluation purposes shall mean the total admitted claims in the Company as on Form G uploaded, i.e., 06.03.2018, which is INR 2,07,45,121 (may undergo change based on admission/rejection of claims).
4. Upfront Cash shall mean the cash payable by the Resolution Applicant to the CoC on the transfer date as per the Resolution Plan.

(Rakesh Kumar Jain)

Resolution Professional

IBBI/IPA-002/IP-N00053/2017-18/10105

CALS REFINERIES LIMITED

Company under Corporate Insolvency Resolution Process

7. To approve the evaluation matrix for Resolution Plan

The Resolution Professional briefed the Publication of Form G (Invitation of Expression of Interest for submission of the Resolution Plans by the potential resolution applicants (PRA's)), receipt EOIs from the PRAs, sharing of provisional list of prospective resolution applicants to the CoC members and PRAs on 3rd March 2019. Further briefed, the Resolution Professional shall issue the information memorandum, evaluation matrix and a request for resolution plan by 8th March, 2019, to the prospective resolution applicants and the CoC shall approve the Evaluation Matrix and finalize the list of Prospective Resolution Applicants to submit the resolution plans. After extensive discussions on each item of the Draft Evaluation Matrix, the CoC agreed the Evaluation Matrix and put up for E-Voting for their approval

“Resolved that the consent of the Members of Creditors’ Committee of Kumar’s Metallurgical Corporation Limited is hereby approve the Evaluation Matrix, for considering the resolution plans, as mentioned below:-

EVALUATION MATRIX

The Resolution Plans submitted by Resolution Applicants (RA) shall be evaluated after considering a defined set of quantitative as well qualitative parameters as detailed below. The weightage to be assigned to the 2 categories of parameters shall be as follows:

S No.	Section	Marks
Part A	Quantitative Parameters	80
Part B	Qualitative Parameters	20
	Total	100

PART-A – Quantitative Parameters (Total 80 marks)

- The evaluation of Resolution Plan under this category will be with the objective of ascertaining the commercial attractiveness of the Resolution Plan
- The key quantitative parameters that shall be considered for the purpose of evaluation are as follows

Sl No	Parameters	Weigh tage	Total Score	Marks	RATIONALE FOR SUGGESTION
1	Upfront cash recovery for financial creditor Explanation: Amount to be paid by the Resolution Applicant within 30 days of approval of Resolution Plan by NCLT, with a minimum amount of Rs 6.00 crores or 25% of the Successful Resolution Applicant Contribution which ever is high, shall be considered as “upfront cash”	60%	0 – 100	60	Bidder offering maximum upfront cash recovery more than Rs 6.00 Cr or 25% of the Successful Resolution Applicant Contribution whichever is high will get a score of 100 and for other bidders the score will reduce by 10 against every 10% difference with highest bidder (rounding off would be done). Upfront cash less than Rs 6.00 crores will get a score Zero.

2	Net present value (NPV) of continuing portion of debt (Discounting rate of 12% per annum would be used for NPV for all the bidders)	25%	0 – 100	25	Bidder offering highest NPV of continuing portion of debt will get a score of 100 and for other bidders the score will reduce by 10 against every 10% difference with highest bidder (rounding off would be done)
3	Term of resolution plan (number of months after approval of resolution plan by NCLT)	10%	0 – 100	10	Bidder offering minimum number of months after approval of resolution plan by NCLT will get a score of 100 and for other bidders the score will reduce by 20% against every 3 months difference with highest bidder.
4	Amount offered to operational creditors and other stake holders	5%	0 – 100	5	Bidder offering maximum to operational creditors and other stake holders will get a score of 100 and for other bidders the score will reduce by 10 against every 10% difference with highest bidder (rounding off would be done)
	Total score of quantitative parameters	100%		100	
	Total weight of quantitative parameters (A)	80%		80	

PART-B – Qualitative Parameters (Total 20 marks)

- The evaluation of Resolution Plan under this category will be with the objective of ascertaining the qualitative aspects of the Resolution Plan / Resolution Applicant
- The key qualitative parameters that shall be considered for the purpose of evaluation are as follows

1	Experience of resolution applicant/group in industry of the corporate debtor	30%	0 – 100	30	Having experience in manufacturing of Sponge Iron or any body involved in manufacturing of Iron Ore, Steel and Steel Products value chain, in terms of no.of years and their turnover Bidders having maximum no of years experience and maximum turnover will get a score of 100 and for other bidders the score will reduce proportionately no.of years experience and turnover
2	Financial strength of resolution applicant/group (group net worth, revenue, EBIDTA) and source of fund.	50%	0 - 100	50	Assessment of credibility of applicant and reputation based on industry experience, Turnover, net worth, Asset under Management, Collaterals.

3	Adherence to financial discipline/record of regulatory compliance/External Rating/ Whether any group companies is an NPA	20%	0 – 100	20	<p>1. Statutory compliance record basis available reports/documents – score of 40</p> <p>a. PF/ESI /GST/TDS compliance (Payment & Returns) for the period prior to six months from the date of Resolution Plan submission – Score 20</p> <p>b. Environment / Safe Compliance – Valid till submission of the Resolution Plan date – Score 10</p> <p>c. MCA / SEBI / Stock Exchange Compliance – Score 10</p> <p>For corporates: performance with respect to metrics stipulated below</p> <p>Or</p> <p>For Financial Investors viz. Banks, FIs and ARCs etc.: Performance of any one investee company with manufacturing turnover of INR 1000 crore or more with respect to metrics stipulated below:</p> <p>2. Long term External Credit Rating points:</p> <p>AA & above – score of 30 A & above – score of 20 B & above – score of 10 Lower than B – score of 0</p> <p>3. Asset Classification of RA’s group companies:</p> <p>>=Standard category – score of 30 SMA/NPA category – score of 0</p>
	Total score of qualitative parameters	100%		100	
	Total weight of qualitative parameters (B)	20%		20	
	Total score of resolution applicant (A+B)			100	

Notes:

1. Bid evaluation matrix is required for making comparison between bids received during resolution process. It is not meant for taking a decision on acceptance or rejection of the offer
2. The bid evaluation matrix would only be used in case resolution plans are received from more than one resolution applicants
3. The committee of creditors will have right to reject a resolution plan even if the resolution applicant has top score and may opt for another bid inviting process with different evaluation matrix or may opt for liquidation of the corporate debtor.
4. The Committee of Creditors will have all rights to accept or reject any presentation done by any resolution applicant based on insufficiency of documents and evidences.”

KNOWLEDGE REPOINERE (17th– 30thSeptember,2019)

Dear Professional Members,

Greetings!

We are pleased to share with you our next issue of the knowledge bulletin on the Insolvency and Bankruptcy Code, 2016 ("**Code**").

NEWS UPDATE(S)

➤ **Jet lenders asked to release interim funds**

On 25th September,2019, the Mumbai bench of the National Company Law Tribunal (NCLT) has directed the Financial Creditors to approve and allocate funds (as interim finance) to the Resolution Professional (RP) of Jet Airways. The orders came in the background of RP's counsel informing the Tribunal that the share of banks in interim financing was approved in the first meeting of CoC where the lenders had decided to release collectively Rs. 63 Crores. He further informed that, as against this, only the SBI and Syndicate Bank had released their part of the fund.

Read more at:

<https://economictimes.indiatimes.com/industry/transportation/airlines-/-aviation/nclt-asks-jet-lenders-to-release-lifeline-funds-within-15-days/articleshow/71298440.cms?from=mdr>

➤ **Thomas Cook collapses leaving some travelers stranded**

A 178-year-old British tour company, Thomas Cook, has collapsed. The immediate answer suggested in this regard is that it was unable to secure a £200m lifeline from its bankers, including government-owned RBS. The company said in a statement that its Board "concluded that it had no choice but to take steps to enter into compulsory liquidation with immediate effect."

Read more at:

<https://edition.cnn.com/videos/business/2019/09/23/thomas-cook-travel-firm-collapse-vpx.cnn>

LIST OF COMPANIES THAT HAVE RECENTLY UNDERGONE RESOLUTION

S. No	Case Title	Bench	Date of Order
1.	<i>In the matter of Scotts Garments Limited</i>	Bengaluru	16.09.2019
2.	<i>In the matter of Jasper Engineers Private Limited</i>	New Delhi	17.09.2019

LIST OF COMPANIES THAT HAVE RECENTLY UNDERGONE LIQUIDATION

S. No	Case Title	Bench	Date of Order
1.	<i>In the matter of Transstroy (India) Limited</i>	Amaravathi Bench	18.09.2019
2.	<i>In the matter of Devikripa Trading Pvt. Ltd.</i>	Kolkata	19.09.2019
3.	<i>In the matter of Antrix Diamond Exports Pvt. Ltd.</i>	Mumbai	20.09.2019

BRIEF OF JUDGEMENTS

S. No.	Case Details	Date of Order	Courts	Brief	Case link
1.	<i>Committee of Creditors of Amtek Auto through Corporation Bank v. Dinkar T. Subramaniam and Ors.</i>	24.09.2019	Supreme Court	<p>The civil appeal was filed contending that the resolution plan wrt Amtek Auto Ltd. had failed owing to non-fulfillment of the commitment by the Resolution Applicant, Liberty House, which consumed the time period provided under Section 12 of the Code.</p> <p>Placing reliance on</p>	https://ibbi.gov.in/uploads/order/ddb77798c9c62a395a6a6c7719578b01.pdf

				<p>the third proviso to section 12(3), IBC as introduced by virtue of the Amendment Act, 2019 made effective from 16.08.2019, by which the resolution process may be permitted to be completed within 90 days from the date of the commencement of the Amendment Act, the Tribunal held that the period for completion of resolution process now would be 15th November 2019 and therefore, the resolution professional was directed to invite fresh resolution plans for the CoC to consider.</p>	
2.	<i>Edelweiss Asset Reconstruction Company Limited v. Sachet Infrastructure Pvt. Ltd. & ors.</i>	20.09.2019	NCLAT	<p>Corporate Insolvency Resolution Process in respect of M/s Adel Landmarks Limited was admitted by the Adjudicating Authority vide its order dated 5.12.2018. During its pendency, Edelweiss Asset Reconstruction Company Limited, in</p>	<p>https://ibbi.gov.in/uploads/order/e43157f60f13a1679d4efb03b8d3a908.pdf</p>

whose favour certain Corporate Guarantees were executed by a number of Corporate Guarantors in respect of the loan facility extended by it to M/s Adel Landmarks Ltd., had filed different insolvency applications under Section 7 IBC against all the nine Corporate Guarantors, which were dismissed by the Adjudicating Authority.

The Resolution Professional of Adel Landmarks Limited had made a submission that in the given circumstances, the resolution process would not succeed if the whole project was not taken over by the Resolution Professional for a consolidated Resolution Plan as to keep the project a going concern.

While setting aside the impugned order dated 7th March, 2019 and remitted the case to the

				<p>Adjudicating Authority, the NCLAT directed the AA to admit the applications under Section 7 filed by 'Edelweiss Asset Reconstruction Company Limited' against five companies and to appoint the Resolution Professional of Adel Landmarks Limited as common Resolution Professional to ensure joint corporate insolvency resolution process.</p>	
3.	Jet Airways (India) Ltd v. State Bank of India & Anr.	24.09.2019	NCLAT	<p>NCLAT has allowed the Dutch Bankruptcy Administrator to attend the meeting of CoC in the ongoing Jet Airways Insolvency proceedings. NCLAT held that the Dutch Administrator is equivalent to the Resolution Professional in India, and as per our law also he has the right to attend CoC meetings. NCLAT further clarified that the Dutch Administrator would</p>	<p>https://ibbi.gov.in/uploads/order/b7bbd5ba93be73bb4602dfe25f25cdd4.pdf</p>

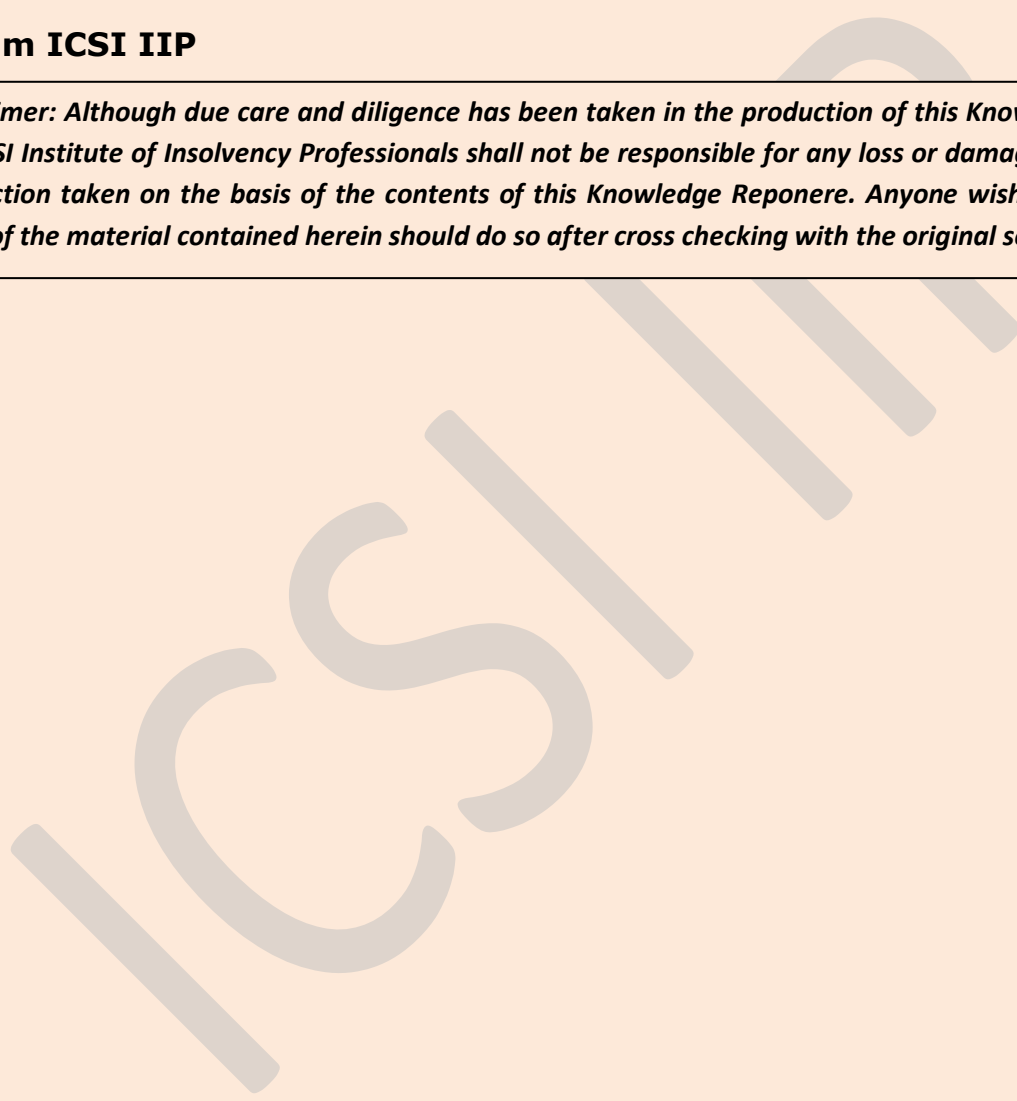
				work in cooperation with the Resolution Professional and shall give its suggestions.	
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We trust you will find this issue of our Bulletin useful and informative.

Wish you good luck in all your endeavors!!

Team ICSI IIP

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INSTITUTE OF INSOLVENCY PROFESSIONALS

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KNOWLEDGE REPONERE (1st - 15th October, 2019)

Dear Professional Members,

Greetings!

We are glad to introduce you to our Managing Director, CA. Dr. Binoy J. Kattadiyil who has joined ICSI IIP on 7th October, 2019.



Dr. Binoy is a fellow member of the Institute of Chartered Accountants of India (ICAI) and has over two decades of rich experience in fields as diverse as, Private Equity, Project Development and Corporate Governance. Dr. Binoy was earlier the Managing Director for a SEBI licensed Portfolio Management and Alternative Investment Fund Company in India. Prior to that, he was the Finance Director for the iconic development of Atlantis, The Palm Jumeirah project in Middle East.

His education includes a Doctorate (PhD) in Finance, Fellow Chartered Accountant (FCA), research Masters in Economics (MS), Masters in Business Administration (MBA) and Masters in Law (LLM).

Dr. Binoy strongly believes in the success of present Insolvency and Bankruptcy law regime in India established under the Insolvency and Bankruptcy Code, 2016. He considers prescription of strict timelines under the Code (IBC) as one of the biggest contributor to the success of the legislation.

We look forward to your continuous support!

We are pleased to share with you our next issue of the knowledge bulletin on the Insolvency and Bankruptcy Code, 2016 ("**Code**").

NEWS UPDATE(S)

- **Haldiram emerges as sole bidder to buy insolvency-bound Kwality for Rs. 130 crore.**

In the insolvency proceedings initiated by the global private equity player, KKR India Financial Services, against *M/s Kwality Ltd.* wherein RP Shailendra Ajmera, who is a part of the multinational consultancy firm EY, is appointed as the Resolution Professional, Delhi-based Haldiram group has emerged as the sole bidder for acquiring debt-ridden dairy firm *Kwality* with an offer of around Rs. 130 crores in the ongoing insolvency process. *Kwality* has a total debt of Rs. 19,00 Crores.

Read more at:

[//economictimes.indiatimes.com/articleshow/71519712.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst](http://economictimes.indiatimes.com/articleshow/71519712.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

- **NCLAT asked Enforcement Directorate to release Bhushan Power's attached property**

The National Company Law Appellate Tribunal (NCLAT) on 14th October, 2019 has put JSW Steels' payment of Rs 19,700 crores to acquire Bhushan Power and Steel (BPSL) on hold and has asked the Enforcement Directorate (ED) to release the BPSL's attached properties. The attachment (of immovable properties) was caused (by the ED) pursuant to a money laundering case against the CD for allegations of siphoning-off of funds obtained as loans from various Banks and Financial Institutions.

The appellate tribunal has further directed the ED not to attach any more property of BPSL without its permission.

Read more at:

[//economictimes.indiatimes.com/articleshow/71582768.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst](http://economictimes.indiatimes.com/articleshow/71582768.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

- **Government mulls raising Rs 1 lakh default threshold for invoking IBC.**

The Government is examining the suggestion made to it to raise the threshold limit (of Rs. 1 lakh default) to invoke the provisions of Insolvency and Bankruptcy Code (IBC) to reduce number of cases in the NCLT, Corporate Affairs

Secretary, Injeti Srinivas said. He also mentioned that the banks should be looking at other options for recovering loans before invoking the IBC, especially in those cases where amount of bad loans is not significant.

Read more at:

[//economictimes.indiatimes.com/articleshow/71583287.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst](http://economictimes.indiatimes.com/articleshow/71583287.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

LIST OF COMPANIES THAT HAVE RECENTLY UNDERGONE LIQUIDATION

S. No	Case Title	Bench	Date of Order
1.	<i>In the matter of Guman Furniture and Services Pvt. Ltd.</i>	Jaipur	01.10.2019
2.	<i>In the matter of Sharif Knife Company Pvt. Ltd.</i>	Mumbai	01.10.2019

BRIEF OF JUDGEMENTS

S. No.	Cause Title	Date of Order	Court	Order Brief	Case link
1.	<i>Duncans Industries Ltd. v. A.J. Agrochem</i>	04.10.2019	Supreme Court	In an appeal filed by the CD against NCLAT's order wherein the NCLAT had reversed AA's order of declining to entertain OC's application (filed u/s 9, IBC) on the ground that the application is not maintainable in view of provisions of Tea Act, 1953, the SC, while upholding NCLAT's order, has clarified on the over-riding effect of IBC over the Tea Act, 1953. The SC held that the provisions of IBC have an overriding effect	https://ibbi.gov.in/uploads/order/e28afc56033ed5b324a7f49ad62e3049.pdf

				<p>over the Tea Act, 1953. The context of the order is that in cases wherein management of a tea unit has been taken over by the Central Government, section 16G(1)(c) of the Tea Act, 1953 requires consent of the Central Government to be mandatorily taken before initiation of proceedings for winding up or for appointment of a receiver in respect of such company. Thus, <i>vide</i> its order dt. 4th October, 2019 passed in the matter, the Apex Court has clarified that the insolvency proceedings initiated under Section 7 or Section 9 by the FC or the OC respectively shall be maintainable even without obtaining Central Government's consent.</p>	
2.	<i>Sagar Sharma & Anr v. Phoenix Arc Pvt. Ltd.</i>	30.09.2019	Supreme Court	<p>In the present appeal matter, Hon'ble Apex Court, while clarifying that Article 141 of the Constitution of India requires that its judgments are to be followed both in letter and in spirit, has ruled that the date of coming into force of IBC the cannot form the trigger</p>	<p>https://ibbi.gov.in/uploads/order/f20674d09e65a0cbd694fbb4d13cb754.pdf</p>

point of limitation for applications filed under the Code.

While reiterating its ruling passed in the matter of *B.K. Educational Services (P) Ltd. v. Parag Gupta & Associates*, the Apex Court further clarified that for the applications filed u/s 7, IBC the article of Limitation Act, 1963 which shall be applicable is Article 137, which is in the nature of a residuary clause and provides for a limitation period of 3 years in cases of applications for which no period of limitation is provided for.

Vide the impugned order Article 62 (erroneously stated to be Article 61) was stated to be attracted to the facts of the case in view of the fact that there was a deed of mortgage executed between the parties. The SC, however, made it clear that an application u/s 7, IBC does not purport to be an application to enforce any mortgage liability, and is an application made by a Financial Creditor stating that a default, as

				defined under the IBC, has been made, which amounts to Rs. 1 lac or above.	
3.	<i>Action Ispat & Power Pvt. Ltd v. Shyam Metalics & Energy Limited & Ors.</i>	10.10.2019	High Court	<p>In an appeal preferred against a single judge bench order, wherein, on an application moved by the SBI (FC), the winding-up proceedings initiated by one of the Creditors (M/s Shyam Metalics & Energy Ltd.) of the CD were revoked and the Company Petition was directed to be transferred to the NCLT, the Division Bench (DB) of the Delhi High Court while upholding the impugned order has held that an application for transfer of a case to the National Company Law Tribunal under Insolvency and Bankruptcy Code is maintainable even after service of notice on company in respect of whom the winding up proceedings are filed.</p> <p>The DB also held that merely because the Ld. Company Judge had ordered the winding-up of the appellant, it does not follow that it should be necessarily liquidated and dissolved. It further held that other options available, namely to</p>	https://ibbi.gov.in/uploads/order/fe0847ae462b5419ffdb414d58e583c4.pdf

				<p>resolve/revive a company, can and should always be explored unless irrevocable steps towards liquidation have already been undertaken.</p> <p>The DB placed reliance on Section 434 of <i>the Companies Act, 1956</i> and Rules 5 and 6 of <i>the Companies (Transfer of Pending Proceedings) Rules, 2016</i> to hold that unless an order for dissolution of the company was passed, there was no bar against the proceedings under section 7 of the IBC.</p>	
4.	<i>JSW Steel Limited v. Mahender Kumar Khandelwal & Anr.</i>	14.10.2019	NCLAT	<p>The issues raised in this Appeal was whether the <i>Directorate of Enforcement</i> has jurisdiction to attach the property of the CD or part thereof which is undergoing CIRP; and whether the 'Directorate of Enforcement' comes within the meaning of OC in terms of Section 5 (20) and (21) of the IBC, for the purpose of money claim (civil matter), which may be generated out of the attached property/ part thereof of the CD.</p>	https://ibbi.gov.in/uploads/order/eb655b79aa6e04ecf4af2d6c353cfb7e.pdf

In the matter, a reply affidavit was filed by the Union of India stating that *"under the process envisaged under the Insolvency & Bankruptcy Code, 2016, once a Resolution Plan is approved by the Ld. Adjudicating Authority, it is binding on all stakeholders. Before approving the Resolution Plan, objections are heard by the Ld. Adjudicating Authority and once hearing on the Resolution Plan and objections is completed before the Ld. Adjudicating Authority and the Resolution Plan is approved, such approved Resolution Plan is binding on all stakeholders, including all government agencies. The provision of the Insolvency and Bankruptcy Code (Amendment) Act, 2019 by which Section 31(1) was amended, makes it amply clear that a resolution plan is binding on Central Government and all statutory authorities."*

Taking into consideration the stand taken by the parties, the Appellate Tribunal, while

				<p>answering the issues raised, held that the Director, Deputy Director and other officers of 'Directorate of Enforcement' are prohibited from attachment of any property of the Corporate Debtor (Bhushan Power and Steel Limited) without prior approval of the Appellate Tribunal.</p>	
5.	<i>Karan Goel v. M/s Pashupati Jewellers & Anr</i>	01.10.2019	NCLAT	<p>An appeal was preferred by Mr. Karan Goyal, Promoter of M/s Marigold Overseas Limited (Corporate Debtor) challenging impugned order dated 20th September, 2019 passed by the AA wherein the AA admitted an application filed under Section 7, IBC preferred by M/s Pashupati Jewellers (Financial Creditor).</p> <p>The CIRP proceedings initiated against the CD were challenged on the ground that the loan facility of Rs. 2.6 Crores was availed by one Mr. Bal Karan Singh Bhullar from Sumedha Kanodia and an agreement thereof was executed on 7th April, 2017. The Appellant contended that the said agreement</p>	<p>https://ibbi.gov.in/uploads/order/1c818fd036a03eaa5eb874f2f41c631.pdf</p>

was executed in violation of Section 185 of the Companies Act, 2013 and that the 'Corporate Guarantee and Undertaking' Agreement dated 7th April, 2017 as purported, has been given by the CD. It was alleged that there is a fraud played by one of the erstwhile Director, namely - Mr. Navlesh and the so-called 'Corporate Guarantee and Undertaking' Agreement dated 7th April, 2017 is not reflected in the records of the 'Corporate Debtor' available with the Registrar of Companies. Relying on these contentions, it was contended that in the eyes of law, no 'Corporate Guarantee' has been given by the CD, and therefore, application u/s 7, IBC is not maintainable.

In order to decide the merit of the contentions raised and to dispose-off the appeal, NCLAT relied upon the judgement of Hon'ble Supreme Court passed in the matter of *Innoventive Industries Ltd. v. ICICI Bank and Anr.* and held that once

				<p>the AA is satisfied on the basis of records that the debt is payable and there is default, the AA is required to admit the application. It further held that merely because a suit has been filed by the Appellant which is pending, cannot be a ground to reject the application u/s 7, IBC. Pre-existing dispute cannot be a subject matter of Section 7, though it may be relevant under Section 9, IBC.</p>	
6.	<i>R.G.Steels v. Berry Auto Ancillaries Pvt. Ltd.</i>	23.09.2019	NCLT, New Delhi	<p>A petition was preferred by M/s RG Steels as an Operational Creditor under Section 9, IBC seeking orders for initiation of CIRP against <i>M/s. Berry Auto Ancillaries Private Limited</i> (Corporate Debtor) before the Adjudicating Authority.</p> <p>While dismissing the petition preferred, the AA held that the petition has been preferred by M/s RG Steels, which is a Sole Proprietary Concern. It was further held that by virtue of definition as contained in Section 3(23) of IBC, 2016 a person even though includes an "individual" it does not</p>	<p>https://ibbi.gov.in/uploads/order/3b4ed0e251cf3d3791b458c5c50bb0c1.pdf</p>

				<p>include within its ambit a "Sole Proprietary" concern.</p> <p>Accordingly, Hon'ble NCLT held that in aforementioned circumstances, a Sole Proprietary Concern cannot initiate Corporate Insolvency Resolution Process.</p>	
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We trust you will find this issue of our Bulletin useful and informative.

Wish you good luck in all your endeavors!!

Team ICSI IIP

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EVALUATION MATRIX FOR RESOLUTION APPLICANTS

OF

VIZ INFRA CONSULTANTS PRIVATE LIMITED

The Resolution Plans submitted by Resolution Applicants (RA) shall be evaluated after considering a defined set of quantitative as well qualitative parameters as detailed below. The weightage to be assigned to the 2 categories of parameters shall be as follows:

S No.	Section	Marks
Part A	Quantitative Parameters	70
Part B	Qualitative Parameters	30
	Total	100

PART-A – Quantitative Parameters (Total 70 marks)

- The evaluation of Resolution Plan under this category will be with the objective of ascertaining the commercial attractiveness of the Resolution Plan
- The key quantitative parameters that shall be considered for the purpose of evaluation are as follows

Sl No	Parameters	Weightage	Total Score	Marks	RATIONALE FOR SUGGESTION
1	Upfront cash recovery for financial	80%	0 – 100	80	Bidder offering maximum upfront cash recovery will get a

	creditor				score of 100 and for other bidders the score will reduce by 10 against every 10% difference with highest bidder (rounding off would be done)
2	Net present value (NPV) of continuing portion of debt (Discounting rate of 10% per annum would be used for NPV for all the bidders)	10%	0 – 100	10	Bidder offering highest NPV of continuing portion of debt will get a score of 100 and for other bidders the score will reduce by 10 against every 10% difference with highest bidder (rounding off would be done)
4	Term of resolution plan (number of months after approval of resolution plan by NCLT)	10%	0 – 100	10	Bidder offering minimum number of months after approval of resolution plan by NCLT will get a score of 100 and for other bidders the score will reduce by 20 against every year difference with highest bidder.
	Total score of quantitative parameters	100%		100	
	Total weight of quantitative parameters (A)	80%		80	

PART-B – Qualitative Parameters (Total 30 marks)

- The evaluation of Resolution Plan under this category will be with the objective of ascertaining the qualitative aspects of the Resolution Plan / Resolution Applicant
- The key qualitative parameters that shall be considered for the purpose of evaluation are as follows

1	Financial strength of resolution applicant/group (group net worth, revenue, EBIDTA) and source of fund.	100%	0 - 100	100	Assessment of credibility of applicant and reputation based on industry experience, net worth, credit rating, record of regulatory compliance, managerial competence and technical abilities
	Total score of qualitative parameters	100%		100	
	Total weight of qualitative parameters (B)	20%		20	
	Total score of resolution applicant			100	

	(A+B)				
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Notes:

1. Bid evaluation matrix is required for making comparison between bids received during resolution process. It is not meant for taking a decision on acceptance or rejection of the offer
2. The bid evaluation matrix would only be used in case resolution plans are received from more than one resolution applicants
3. The committee of creditors will have right to reject a resolution plan even if the resolution applicant has top score and may opt for another bid inviting process with different evaluation matrix or may opt for liquidation of the corporate debtor.
4. The Committee of Creditors will have all rights to accept or reject any presentation done by any resolution applicant based on insufficiency of documents and evidences.

(Raghu Babu Gunturu)

IBBI/IPA-002/IP-0025/2016-2017/10053

Resolution Professional (RP)

Viz Infra Consultants Private Limited (Corporate Debtor)

Address of RP:

402B, 4th Floor, Technopolis, Chikoti Gardens, Begumpet, Hyderabad – 16.

Email – Raghu@EzResolve.in

Date:

Place: Hyderabad

**In the National Company Law Tribunal
Mumbai Bench**

MA 2144 of 2019 in CP No.1300/I&BC/MB/MAH/2017

Application Under **Section 30(1) & (6)** and **Order under section 31** of Insolvency &
Bankruptcy Code 2016

In the matter of

IFCI Ltd.

V.

Viz Infra Consultants Private Limited

By Mr. Raghu Babu Gunturu
.....Applicant/ Resolution Professional

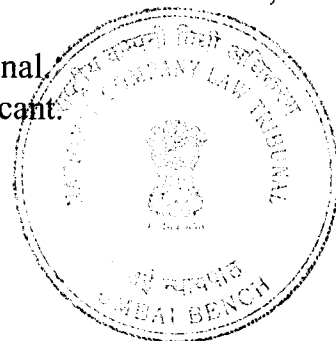
Order delivered on: 21.11.2019

Coram: Hon'ble Shri M.K. Shrawat, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

For the Applicant : Advocate Shavez Mukri a/w Ms. Almira Lasrado i/b India Law,
for the Resolution Professional (RP).
Mr. Raghu Babu Gunturu, Resolution Professional.
Mr. Omkar Deosthale, for the Resolution Applicant.

Per: M.K. Shrawat, Member (Judicial).

ORDER

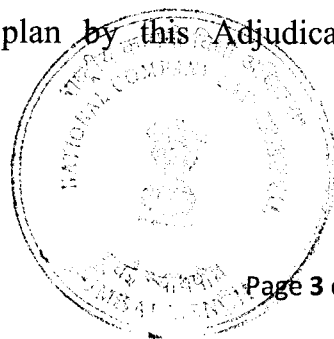


1. An Application has been moved on 11.06.2019 by the Learned Resolution Professional by invoking the Provisions of Section 30(6) of the Insolvency & Bankruptcy Code, 2016 read with Regulation 39(4) of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) 2016 for approval of a Resolution Plan. On receiving this Application along with Resolution Plan, an Order is hereunder passed as prescribed U/s **31(1) of The Code.**
2. The Financial Creditor IFCI Ltd. had filed a Petition against the Corporate Debtor Viz Infra Consultants Private Limited by invoking the Provisions of Section 7 of The Code read with Rule 4 of The Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules 2016.

3. After considering the merits of the case, the said Petition was **admitted** vide an **Order dated 28.08.2018 (CP No.1300/I&BC/NCLT/MB/MAH/2017)**. Mr. Raghu Babu Gunturu was appointed as the Interim Resolution Professional (IRP). The said IRP was confirmed as the Resolution Professional (RP) in the first CoC meeting dated 27.09.2018.
4. The RP, who is the Applicant herein, submits that on 10.11.2018, Invitation for Expression of Interest for submission of Resolution Plans for the Corporate Debtor was published. The last date for submission of Expression of Interest was 20.12.2018. The CoC in the meeting dated 26.12.2018 fixed up the parameters for evaluation matrix for ascertaining the commercial aspects of the Resolution Plan.
5. In the fourth CoC meeting dated 19.02.2019, the CoC approved the extension of CIRP period by 90 days. Subsequently, an application, MA No. 581 of 2019, for extension of CIRP period for 90 days, was moved, which was allowed by this Bench vide order dated 14.03.2019.
6. In the fourth CoC meeting dated 19.02.2019, the CoC was informed by the Applicant that two Resolution Plans from the Prospective Resolution Applicants, namely Giriganga Infrsolutions Private Limited (hereinafter referred to as "H1 Bidder") and Balaji Operation and Maintenance Services Private Limited (hereinafter referred to as "H2 Bidder") were received. The CoC proposed to the Prospective Resolution Applicants for further improvement in the plan viz. enhancing the resolution amount of H1 Bidder and H2 Bidder. The Resolution Applicants were also informed that any cost in addition to ₹32 lakhs as approved by CoC as CIRP Cost would have to be then borne by the Resolution Applicant.
7. The Applicant informed CoC in the sixth meeting dated 09.05.2019 that H1 bidder has considered to improve the plan from ₹12 crore to ₹14 crore. However, H2 Bidder was not willing to further improve the Resolution Amount and therefore was not considered further by CoC. The Resolution

Applicant i.e. H1 Bidder also desired release of all the securities held by secured Financial Creditors including personal and corporate guarantees. However, the CoC was of the view that guarantees can be released only on an increase of Resolution amount substantially and on better payment terms.

8. In light of the above, in the seventh CoC meeting dated 24.05.2019, the RP informed the CoC that H1 bidder has improved the offer from ₹14 crore to ₹19.5 crore and also agreed to bear CIRP Cost of ₹40 lakhs. In the eighth CoC meeting dated 04.06.2019, the RP submitted the Fair Market Value and the Liquidation Value before the CoC.
9. In the ninth CoC meeting dated 07.06.2019, the Resolution Applicant agreed to make resolution amount as ₹25 crore including CIRP cost of ₹40 lacs. The RP placed the Resolution Plan for voting and **the CoC with voting share of 99.6% voted in favour of the Resolution Plan submitted by Giriganga Infrasonolutions Private Limited (“H1 Bidder”)**.
10. There are only three members in CoC, two of them namely IFCI Limited and IFCI Venture Capital Funds Limited, constituting 99.6% voting share in CoC, voted in favour of the Resolution Plan, whereas Xanadu Project Developers Private Limited, the remaining financial creditor of the Corporate Debtor, abstained from voting.
11. The Applicant states that the Resolution Applicant / H1 Bidder has submitted its affidavit dated 11.04.2019 confirming its eligibility to submit a resolution plan for the Corporate Debtor under Section 29A of the I&B Code. The Applicant also states that Resolution Applicant is not ineligible under section 29A to submit a Resolution Plan for the Corporate Debtor.
12. The Applicant has duly submitted Form H stating that the resolution plan is compliant of the provisions of the code. The Applicant has preferred the present application for approval of resolution plan ~~by this~~ Adjudicating Authority.



13. The Resolution Plan as approved by the CoC in the meeting dated 07.06.2019 is reproduced for ready reference:

“RESOLUTION PLAN FOR CORPORATE DEBTOR

The Resolution Plan for the M/s Viz Infra Consultant Private Limited Corporate Debtor has been bifurcated into three major categories covering all the mandatorily details as required under the provisions of IBC, CIRP Regulations and the RFRP issued by the Resolution Professional. The contents of the Resolution Plan have been explained under each of the following three categories as the following details:

Sl. No.	Particulars	Page No
1.	Composition and Ownership Structure of the Resolution Applicant (Appendix No –A)	
2.	Financial and Implementation Proposal of Resolution Plan (Appendix No –B)	
3.	Conditions precedent to the effectiveness of the Resolution Plan (Appendix No –C)	

The following table contains the list of annexures enclosed along with Resolution Plan.

Sl. No.	Annexures	Page No
1.	Copy of MOA & AOA (Annexure-I)	
2.	Profile of the Company, Directors and future Business Plan (Annexure-II)	
3.	Copy of Annual Reports for FY: 2015-16, FY: 2016-17, FY: 2017-18 (Annexure-III)	
4.	Board Resolution (Annexure-IV)	
5.	Net worth Certificate as on 31.12.2018 (Annexure-V)	
6.	PAN No. of the Resolution Applicant (Annexure-VI)	
7.	Undertaking regarding eligibility (Annexure-VII)	
8.	Affidavit regarding eligibility under section 29A (Annexure-VIII)	
9.	Undertaking confirming the correctness of information submitted in the plan. (Annexure-IX)	
10.	Indemnity to indemnify Committee of Creditors & Resolution Professional (Annexure-X)	
11.	Undertaking on Performance Guarantee (Annexure-XI)	
12.	List of Operational Creditors (Annexure-XII)	
13.	List of Shareholders of Corporate Debtor (Annexure-XIII)	



Appendix- A

COMPOSITION AND OWNERSHIP STRUCTURE OF THE RESOLUTION APPLICANT

1. **Basic Details as submitted in EOI to be given enclosing:**
 - a. **MOA & AOA- (Annexure-I)**
 - b. **Profile of the Company, Directors and Future Business Plan - (Annexure-II)**
 - c. **Annual Reports- (Annexure-III)**
 - d. **Board Resolution -(Annexure-IV)**
 - e. **Net worth Certificate -(Annexure-V)**
 - f. **PAN No. of Company -(Annexure-VI)**
2. **Prior Experience in managing/turning around of Companies including managerial competence, technical abilities, key management personal experience**

The profile of the Resolution Applicant (RA) detailing write up on the management competence and technical abilities is enclosed as **Annexure-II**

3. **Indemnity for the COC, Resolution Professional and Resolution Process Advisor for all acts done in good faith. The indemnity will survive the CIRP period.**

The Resolution Applicant undertakes to indemnify COC and Resolution Professional against specific loss or damage arising out the action of Resolution Applicant during CIRP Period.

4. **Details of Group/Connected Companies**

- (i) The Resolution Applicant undertakes that neither it nor any of its connected person(s) suffer from any ineligibility under section 29A of the IBC, 2016 to the extent applicable. It is further undertakes that we shall intimate the Resolution Professional of the Company forthwith if it or any of its connected person(s) becomes ineligible at any time during the corporate insolvency resolution process. The undertaking in this regards is enclosed as **Annexure-VII.**
- (ii) In accordance with Section 30(1) of the Code, a separate affidavit of Resolution Applicant is enclosed as **Annexure- VIII** confirming its eligibility under Section 29A of the Code



Appendix – B**FINANCIAL AND IMPLEMENTATION PROPOSAL OF RESOLUTION PLAN****1. Financial Proposal**

1.1. The Resolution Applicant propose to offer **Rs. 25.00 Crores (Rupee Twenty Five Crores)**, including CIRP Cost, towards Bid Value which shall be paid by RA in the manner as mentioned in Table- I below:

Table I - Financial Proposal with Bid Value

Particulars	Upfront Payment (within 30 days from NCLT Approval)	Within 60 days from NCLT approval	Within 90 days from NCLT approval	Within 240 days from NCLT approval
Installments	I	II	III	IV
Payment of Bid Value	40%	20%	20%	20%

1.2. Further it is proposed that the Bid Value shall be appropriated among the creditors of the Corporate Debtor strictly in the manner as mentioned in Table – II below:

Table II – Appropriation of the Bid Value**(Amount in Rs.)**

S. No (1)	Particulars (2)	Total Admitted Amount (3)	Upfront Payment (within 30 days from NCLT Approval) (4)	Within 60 days from NCLT approval (5)	Within 90 days from NCLT approval (6)	Within 240 days from NCLT approval (7)	Total Amount (INR) (8)
	Installment		I	II	III	IV	
1.	CIRP Cost*	40,00,000	40,00,000/-				40,00,000/-
2.	Operation Creditors	76,28,76,030	1,00,000/-	-	-	-	1,00,000/-
3.	Secured Financial Creditors	396,22,86,731	9,58,00,000/-	5,00,00,000/-	5,00,00,000/-	5,00,00,000/-	24,58,00,000/-
4.	Unsecured Financial Creditors	1,49,83,752	1,00,000/-	-	-	-	1,00,000/-
	Total	474,33,46,513	10,00,00,000/-	5,00,00,000/-	5,00,00,000/-	5,00,00,000/-	25,00,00,000

*Rs. 40 Lacs of CIRP Cost is admitted expense upto 20th May, 2019 and balance CIRP cost upto NCLT order approving Resolution Plan shall be paid after obtaining the certified true copy of Order of NCLT.

1.3. The Earnest Money Deposit (EMD) of Rs.10 Lakh enclosed along with this Resolution Plan shall be adjusted against the proposed upfront payment.

1.4. Bid Value as reduced by EMD amount will be deposited into an account, to be opened especially for this purpose, as per the payment schedule stipulated in Table-II above.

RP is being hereby authorized to distribute such money as proposed in this Resolution Plan after its approval by NCLT without any consent from Resolution Applicant. In case Resolution plan after approval of NCLT and receipt of certified true copy of order of NCLT approving Resolution Plan ("Effective Date") challenged within the time period

of 30 days from NCLT approval, in that case the above upfront payment will be released within 30 days of final disposal of such legal matter(s).

1.5. **Resolution Amount** – It is the total amount mentioned under Col (8) of Table II to be paid in three instalments

1.6. **Equity Rights to Financial Creditors:** No equity and equity rights to financial creditors of the Corporate Debtor is proposed as part of this Resolution Plan.

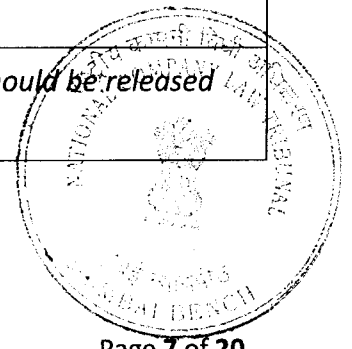
1.7. **Priority of Payments:** The payment of insolvency resolution Process cost will be paid on top priority. Subsequently, as per the provisions 30 (2) (b) of IBC, 2016, payment to Operational Creditor(s) to be made equivalent to amount which they get in the event of liquidation of the Corporate Debtor. Further, it is also proposed to pay Rs. 1.00 lakh over and above the liquidation value of Operational Creditor(s). Secured Lenders will be paid as specified in the above Table-II above and no payment is proposed to Unsecured Creditors.

1.8. **Source of Fund:** Resolution Applicant will fund the Resolution Amount from internal sources which inter-alia includes amount receivable from its Debtors and other Parties. The total dues receivable from such parties are around Rs. 41 Crore as on 3rd June, 2019 and realization of the same are expected soon. Further, as on date, RA is debt free Company having net worth of around Rs.33 Cr. as on 31.12.2018 which is expected to be around Rs. 40 Cr. by March, 2019 and likely to cross Rs.55 Cr. by end of Financial Year 2019-20. Accordingly, if required, RA would be able to raise funds from the market to ensure timely payment as proposed in this Resolution Plan.

1.9. **Treatment of Securities Available with Secured Creditors:** All existing securities provided by the borrower/subsidiaries/associates/any third party and taken by Secured Creditors of the Corporate Debtor (based on information available in Information Memorandum (IM)) for which any charge has been filed with MCA or not, shall be considered in toto and after full payment of Resolution Amount, no security of whatsoever nature will be enjoyed by Secured Lenders except personal guarantee of Mr. M.S. Ramakrishna and shall stand released/transferred automatically upon release of consideration as proposed in the Resolution Plan. An illustrative chart based on information available in IM has been as tabulated below:

Table- III Existing Securities and its treatment

S. No.	Existing Securities	Proposed Treatment
1.	Pledge of Shares of Athena Infraprojects Pvt. Ltd. - 63,03,329 nos @ 10/-	Should be released
2.	Pledge of 13,53,26,667 Equity shares of M/s. Athena Energy Ventures Pvt Ltd., dated 12.07.2013 executed by Corporate Debtor and M/s. Satluj Infraprojects Pvt. Ltd (SIPL) i.e., 13,33,26,667 Equity shares by Viz Infra and 20,00,000 equity shares by SIPL	Shares pledged by Corporate Debtor should be released and Shares pledged by SIPL shall be transferred to RA
3.	Pledge of 5,93,87,009 Equity shares of M/s. Athena Infraprojects Pvt. Ltd by Corporate Debtor.	Should be released



4.	<i>Pledge of 1,25,05,000 Equity Shares held in M/s Athena Kynshi Power Private Limited and 1,15,05,000 equity shares held in M/s Athena Emra Power Pvt. Ltd. Dated 22.11.2013 executed by M/s. Chiron Infratech Pvt Ltd.</i>	<i>shall be transferred to RA</i>
5.	<i>Pledge of 32,00,000 equity shares of M/s Athena Kynshi Power Private Ltd dated 22-11-2013 executed by Athena Infraprojects Pvt. Ltd.</i>	<i>shall be transferred to RA</i>
6.	<i>Pledge of 4,79,73,600 Equity Shares of Athena Infraprojects Pvt. Ltd. Dated 28.05.2014 executed by Corporate Debtor.</i>	<i>Should be released</i>
7.	<i>Corporate Guarantee dated 26.03.2013 executed by M/s. Athena Infra Projects Limited</i>	<i>Should be released</i>
8.	<i>Promissory Note dated 2nd April, 2014 (Rs. 4.30 Cr.)</i>	<i>Should be released</i>

1.10. Lands given as Collateral Security in favour of third party (ies) by Corporate Debtor: The land owned by Corporate Debtor, Ac 58.54 Cents and Ac 18.16 Cents mortgaged in favor of IFCI for loan availed by ABIR and mortgaged in favor of Coastal Infrastructure Pvt. Ltd., respectively, must be made free from all encumbrances or charges or any third party rights/claims upon payment of the Bid Value.

1.11. Liquidation Value and Interest of Stakeholders: As per the estimates of the Resolution Applicant, the verified/admitted claims of the Secured Financial Creditors are more than the Liquidation Value. Further, the proposed Bid Value is also less than the admitted claims of the Secured Financial Creditors; as such the liquidation value payable to Operational Creditors including statutory dues and dissenting Financial Creditors shall be **NIL**.

1.12. All liabilities including outstanding amount to any of the creditors, statutory dues and others which have either not been claimed by anybody or claimed and not admitted by RP and any liability which has been provided or not provided for and not included specifically in Table-II above, shall stand extinguished.

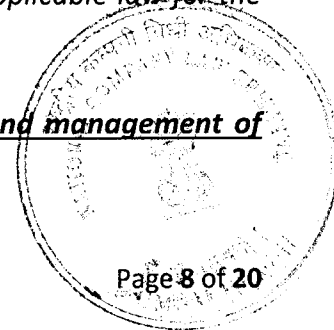
1.13. Resolution Plan as approved by Hon'ble NCLT will be acceptable and binding to Resolution Applicant.

1.14. Under provisions of section 31 (1) of IBC, Resolution Plan as approved by Hon'ble NCLT shall be binding on the Corporate Debtor, members, creditors, guarantors and other stakeholders of or relating to Corporate Debtor. Any of the stakeholders as mentioned herein will have no claims of whatsoever nature against the Corporate Debtor and Resolution Applicant or its guarantors.

1.15. The Resolution Applicant or any of its related parties have never been involved in the CIR Process and hence they have not failed to implement any resolution plan under Insolvency and Bankruptcy Code, 2016.

1.16. This Resolution Plan does not contravene any provisions of the applicable law for the time being in force.

2. Term of the Resolution Plan, its Implementation and Supervision and management of affairs after approval of Resolution Plan:



2.1. **Term of the Resolution Plan:** The Term of the Resolution Plan shall be from the date of approval of the Resolution Plan by NCLT and till the Transfer Date. Transfer Date shall be date of payment of last installment of Resolution Amount.

2.2. **Implementation, Supervision of the Resolution Plan & means thereof and Management & Control of Business of the Corporate Debtors during term of the Resolution Plan:**

Upon the approval of this Resolution Plan by Hon'ble NCLT:

2.2.1. The Resolution Professional shall be released of his statutory duties and responsibility and handover of all the records, assets and information of the Corporate Debtor under his custody /control to the Resolution Applicant.

2.2.2. Pursuant to the approval of NCLT, the suspended Board of Directors shall stand dissolved and the Directors of the Corporate Debtor immediately within 30 days from NCLT approval deemed to have resigned.

2.2.3. The COC of Corporate Debtor shall be dissolved against the Order of Honble National Company Law Board. A Committee comprising of Resolution Professional, the Member of the COC and also nominee(s) of the Resolution Applicant ("**Monitoring Agency**"), shall be constituted to manage day to day affairs of Corporate Debtor under its supervision, until, the full payment of Bid Value by Resolution Applicant, transfer & release of all securities as proposed in the Resolution Plan and full hand-over of assets of the Corporate Debtor including business records, all statutory books, accounts books taken into custody by the Resolution Professional under the various provisions of IBC, 2016.

2.2.4. Following shall be Members of Monitoring Agency:

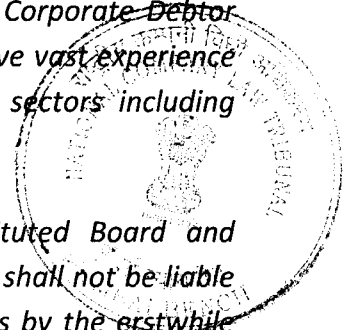
- (i) Resolution Professional (Chairman)
- (ii) One member representing COC
- (iii) One member representing Resolution Applicant.

Scope of Monitoring Agency shall be to oversee the implementation of this Resolution Plan as per the order of Hon'ble National Company Law Tribunal. A fee of Rs. 2,00,000/- Per month plus applicable GST shall be paid to Resolution Professional by the Resolution Applicant from the date of approval of Resolution Plan by NCLT till the cessation of Monitoring Agency. Monitoring Agency shall cease to operate on disbursing full resolution amount to the creditors and on release of all securities by the Creditor in favor or the benefit of Resolution Applicant and both process will run together.

2.2.5. The Monitoring Agency shall manage the affairs of the Corporate Debtor along with Board of Directors of the Corporate Debtor till completion of Term of Resolution Plan. The members of Monitoring Agency shall be invitees to the Board Meeting during the existence of Monitoring Agency.

2.2.6. After Transfer Date, Resolution Applicant will control the management and affairs of the Corporate Debtor by appointing its nominee(s) on the Board of Corporate Debtor. With effect from the Transfer Date, the Corporate Debtor shall be managed by experienced professionals who shall have vast experience in managing the affairs of the businesses across various sectors including infrastructure.

2.2.7. It is hereby clarified that the directors on the reconstituted Board and managerial personnel appointed by the Resolution Applicant shall not be liable for any past non-compliance of provisions of applicable laws by the erstwhile



Board of Directors of the Corporate Debtor and erstwhile key managerial personnel of the Corporate Debtor respectively.

2.2.8. *The Corporate Debtor shall continue as a going concern and operate in its normal course of business after implementation of the Resolution Plan subject supervision of Monitoring Agency wherever required.*

3. Financial assumptions & Projections:

3.1. *The Corporate Debtor is Investment Company and engaged in the business of providing consultancy services.*

3.2. *Further, upon making payments/settlement of the creditors, the Corporate Debtor will become a debt free company and thus, the financial cost will become NIL i.e. the major component of the total expenses of Corporate Debtor.*

3.3. *Being Investment/consultancy Company, operating cost is almost negligible which is variable in nature and if required, shall be incurred through various arrangements/internal sources.*

3.4. *Corporate Debtor has noticeable stake, direct/indirect, in various power projects; however, no return is expected on any of the investment made in these power projects. Further, considering most of the projects are green filed projects and are in the process of obtaining various statutory/regulatory permits/clearances for the commencement of construction at site, any major fund requirement towards capital expenditure is unlikely in near future.*

3.5. *Further, RA would be in the position to explore the opportunities by extending various services to such Projects including consultancy and infrastructure facilities, to revive the business of Corporate Debtor.*

4. Proposal for meeting the interest of all other stakeholders, along with timelines:

S. No.	Particulars	Treatment/Payment Proposed
1.	CIRP Cost	<i>CIRP Cost of Rs. 40 Lacs. (Upto 20th May and balance CIRP cost upto NCLT order approving Resolution Plan shall be paid after obtaining the certified true copy of Order of NCLT.)</i>
2.	Secured Financial Creditors	<i>Rs. 24.58 Cr. as per Table-II of para 1.2 and 1.6 of Appendix-B of Resolution Plan.</i>
3.	Unsecured Financial Creditors	<i>Rs. 1.00 Lac</i>
4.	Operation Creditors	<i>Rs. 1.00 Lac (List of Operational Creditors as Provided in Information Memorandum is enclosed as Annexure- XII)</i>
5.	Present Equity Shareholders	<i>All shares issued by Corporate Debtor either in physical or dematerialized form till date in possession/control/pledge of shareholder/nominee or with anybody else in whatever form shall stand cancelled in totality without calling back physical certificates. These shareholders/their nominees shall not have any rights /claims to damages/compensation of whatsoever nature on this</i>

S. No.	Particulars	Treatment/Payment Proposed
		<p>account from CD or RA.</p> <p>List of Shareholder of Corporate Debtor as provided in Information Memorandum is enclosed as Annexure- XIII</p> <p>Any commitment to issue shares in future by Corporate Debtor before approval of Resolution Plan by NCLT, will stand cancelled/null & void.</p> <p>Any rights of whatsoever nature given to existing shareholders or proposed shareholders through Article of Association of the Corporate Debtor (AoA) will stand cancelled and withdrawn and suitable changes in the AoA will be made pursuant to the approval of Resolution Plan by NCLT.</p> <p>All shareholders' agreements/MoUs or inter se agreements among shareholders, if any, stand cancelled and are not enforceable as the same are infructuous, with implementation of Resolution Plan.</p> <p>Any agreements / contracts/ MOU/ settlement deeds or any documents of whatsoever nature which may also give rise to any rights of claim to third parties, not factored or declared now, including and not limited to agreements executed with other parties will be treated as cancelled and will have no enforceable value/rights after approval of Resolution Plan by NCLT.</p> <p>All the paid up equity share capital at present against which issued shares are being cancelled, will be transferred to Reserve and Surplus along with recasting of assets and liabilities representing true and fair value of state of affairs of CD.</p> <p>Any compliance(s) require to be executed for the proposed transactions/structure/event under this Resolution Plan under Companies Act / any other Act, will be deemed as granted, as a fait accompli to the Resolution Process, by virtue of NCLT order accepting this Resolution Plan.</p>
6.	Present Directors	All existing Directors of the Corporate Debtor (filed/non-filed at RoC) will cease to be Directors and the approval of Resolution Plan by NCLT serves as an order for filing necessary forms with MCA or any other statutory authority or regulators, if any, required.
7.	Compliances	Upon cancellation of equity shares of existing shareholders, all existing Directors of the Corporate Debtor (filed/non-filed at RoC) will cease to be Directors.

S. No.	Particulars	Treatment/Payment Proposed
		<p>and this order will serve as approval for filing:</p> <ul style="list-style-type: none"> - their resignation/removal forms with MCA; - amend list of shareholders with deletion of names of existing shareholders and new shareholders of Resolution Applicant getting in to as brought out in subsequent paras - Compliance with the terms of the Resolution Plan approved by the NCLT is within itself the requisite consent and therefore automatically empower RA and CD to complete necessary formalities connected with filings with regard to change in shareholders, directors and such other filings as are relevant for completing the resolution process to the end – be it with ROC, MCA, Statutory Authorities, Government and Tax Departments, Regulators and will not require any separate consent from any authority
8.	Status of Authorized Share Capital	<p>Upon adjustment of existing Paid Up Capital as aforesaid in S. No. 1, CD will issue further shares in future against existing authorized share capital without payment of additional charges for enhancement of authorized share capital to Ministry of Corporate Affairs (MCA), if any, as proposed under relevant Act.</p>

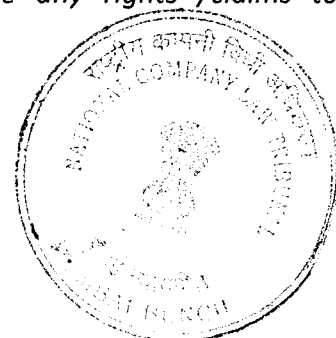
Any and all compliances required under Companies Act, 2013, shall be treated as complied with/taken, on approval of Hon'ble NCLT accepting this Resolution Plan. Any compliance required to execute proposed transactions/structure/event under this Resolution Plan under Companies Act / any other Act will be deemed as granted by virtue of NCLT order approving this Resolution Plan.

The requisite amendments to the Article of Association (AoA) of Corporate Debtor shall be carried out to give effect to the agreed understanding. New Shareholder Agreement and AoA shall be in place within 40 days from NCLT approval that will override each and every document related in this regard and any approval/procedure required in this regard from any authority under any Act will be deemed to have been complied with by virtue of this order.

Shareholder Agreement/ AOA in existence, giving rights to any erstwhile shareholder/nominee of such shareholder shall stand cancelled in totality without any consideration. These shareholders/nominees shall not have any rights /claims to damages/compensation of whatsoever nature.

5. Other Key Issues:

5.1. Addressing of the Cause of Default:



5.1.1. Cause of the Default: *The loan has been taken by the Corporate Debtor in the form of Secured Redeemable Debentures from IFCI (Financial Creditor) for the following purposes:*

5.1.1.1. Rs. 124.99 Cr. for buying out of the existing equity shareholding of IFCI in Athena Energy Ventures Private Limited (AEVPL); and

5.1.1.2. Balance towards investment in AEVPL for meeting the additional requirement of Athena Chattisgarh Power Limited (ACPL)

The Corporate Debtor is engaged in the business of providing consultancy services and infrastructure development. Majority of the exposure of the Corporate Debtor is in Power Sector including Thermal and Hydro across the country through various JVs and/or investment entities. However, due to the challenges faced by the power sector in the country, the various power projects wherever Corporate Debtor has associated could not be taken off. Consequently, the Corporate Debtor and its promoters have faced acute financial crunch which has led to default in payment of the dues of IFCI.

5.1.2. Addressing of the Default: *RA in the instant case has proposed to make the Corporate Debtor a debt free company within 240 days of the approval of the Resolution Plan by NCLT. The details of the same were provided in the Table – I and Table – II above.*

5.2. Feasibility, Viability and Effective Implementation of the Resolution Plan:

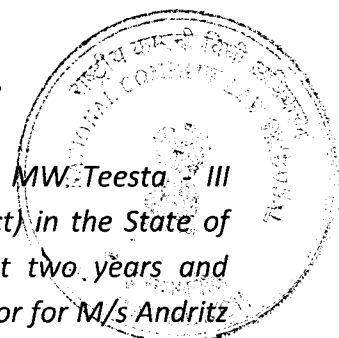
5.2.1. RA shall be able to pay the Bid Value as per the Resolution Plan by arranging/raising the funds from its internal sources/from the market through various financial instruments. Upon making payments/settlement of the creditors as per the proposed Resolution Plan, the Corporate Debtor will become a debt free company and thus, the financial cost will become NIL which is the major component of the total expenses of the Corporate Debtor. The operating cost is almost negligible which is variable in nature and if required, shall be incurred through various arrangements. The Corporate Debtor is having noticeable stake in various power projects which are at various stages such as operational, under development etc. RA would be best placed to extend the various services including consultancy and also in creating basic infrastructure at respective project site. Thus, the synergy among the RA, the Corporate Debtor and the various project SPVs would result into optimal harmony.

5.3. Provisions for Approvals Required and Timeline for the Same:

5.3.1. Corporate Debtor being an investor and engaged in the business of providing consultancy services, no major statutory clearances/approvals are envisaged for implementation of Resolution Plan. However, in future, if any clearance required, the same will be taken accordingly.

5.4. Capabilities of the RA w.r.t. implementation of the Resolution Plan:

5.4.1. Presently, Resolution Applicant is carrying out O&M of 1200 MW Teesta - III Hydro Electric Project (India's 2nd Largest Hydro power project) in the State of Sikkim, which is successfully under operation for almost last two years and supplying the electricity to the national grid, as a sub - contractor for M/s Andritz



O&M Private Limited (Andritz). Resolution Applicant also created the brand named "Krishiurja" for sale of organic Products in India.

Resolution Applicant offers knowledge based technical services customized to client's needs & assets, maximizing cost benefits in operation & maintenance of strategic assets. As of now Resolution Applicant is also exploring opportunities in the field of Operation and Maintenance of Thermal and Renewable power plants in India.

5.4.2. The Resolution Applicant believes that its unique combination of financial strength, management depth, unmatched experience and broad technological expertise especially in the infrastructure sector would enable it to successfully implement its Resolution Plan for the Corporate Debtor. The financial projection of the Resolution Applicant are as follow:

Amount in Rs. Cr		
Particulars	2018-19	2019-20
Revenue	92	119
Expenses	69	96
PBT	23	23
Tax	7	7
PAT	16	16
Net Worth	41	57

Snapshot of Salient Terms and Conditions of the Proposal are as below:

S. No	Particulars	Details
1.	Amount of upfront payment to creditors (Upfront Cash Recovery)	As mentioned above under Table-I & II above.
2.	Balance repayment obligations to creditors (other than upfront payment)	As mentioned above under Table-I & II above.
3.	Corporate Guarantee or additional collateral/ security being offered by the Resolution Applicant	NIL
4.	Any third-party collateral being offered as additional security by the Resolution Applicant(s)	NIL
5.	Performance Guarantee	Bank guarantee/Demand Draft equivalent to 10% of the Bid Value will be submitted within timeline stipulated in RFRP. In case, DD is submitted towards Performance Guarantee, the same shall be adjusted against the upfront payment as proposed in Resolution Plan.
6.	Equity to Lenders	NIL
7.	Details of Key Management Personnel of the Resolution Applicant(s) with a brief	The same are briefed in Annexure-II

S. No	Particulars	Details
	<i>description of experience in managing capital intensive assets</i>	
8.	<i>Details of prior experience of the Resolution Applicant(s) in managing capital intensive businesses</i>	<ul style="list-style-type: none"> - <i>Operation and Maintenance of one of largest Hydro Power Projects i.e. 1200 MW Teesta-III HEP</i> - <i>Organic Fertilizer- Set up the network of 100 dealers and complete marketing team comprising of marketing experts, marketing field officers and agronomists.</i>
9.	<i>Brief description of successful turnaround case studies in India or abroad</i>	<i>Nil</i>
10.	<i>Credit Rating of the Resolution Applicant(s) For Unrated Corporates , please provide details of Net worth For Funds please provide details of Assets Under Management</i>	<p><i>Company has not availed any debt through any of the financial instruments. As such no credit rating has been obtained.</i></p> <p><i>Net Worth Certificate as on 31st December, 2018 is enclosed.</i></p>



Appendix – C

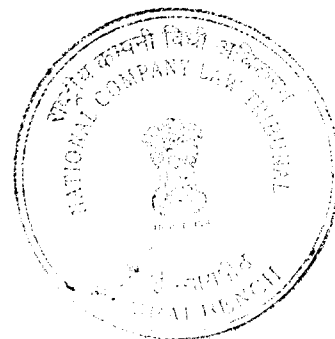
CONDITIONS PRECEDENT TO THE EFFECTIVENESS OF THE RESOLUTION PLAN

“No conditions precedent is proposed to the effectiveness of the Resolution Plan”

We understand that the members of the COC have further right to renegotiate the terms of this Resolution Plan and the decision of the COC in selection of the Successful Resolution Applicant shall be final and binding on us.

Yours sincerely

For Giriganga Infrsolutions Private Limited”



Summary of the Resolution Plan

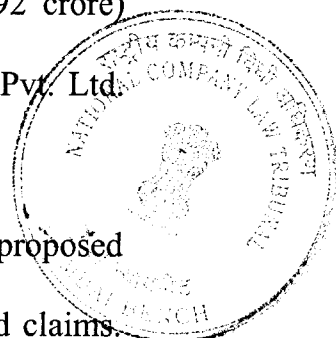
14. A bird's eye view of the resolution plan as approved by CoC is as under:

S. No.	Particulars	Total Admitted Amount (₹)	Upfront payment within 30 days from NCLT approval	Within 60 days from NCLT Approval	Within 90 days from NCLT Approval	Within 240 days from NCLT Approval	Total Amount (₹)
Instalment			I	II	III	IV	
1.	CIRP Cost*	40,00,000	40,00,000				40,00,000
2.	Operational Creditors	76,28,76,030	1,00,000	-	-	-	1,00,000
3.	Secured Financial Creditors	396,22,86,731	9,58,00,000	5,00,00,000	5,00,00,000	5,00,00,000/-	24,58,00,000
4.	Unsecured Financial Creditors	1,49,83,752	1,00,000	-	-	-	1,00,000
	Total	474,41,46,513	10,00,00,000	5,00,00,000	5,00,00,000	5,00,00,000	25,00,00,000

**₹40 lakh of CIR Cost is admitted expense upto 20.05.2019 and balance CIRP Cost upto NCLT order approving Resolution Plan shall be paid by CoC after obtaining the certified true copy of order of NCLT.*

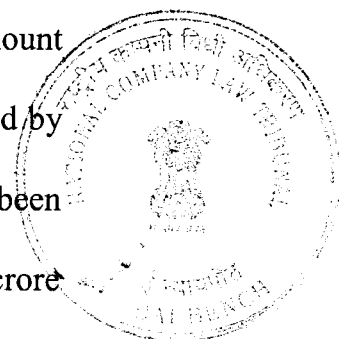
15. As per the above table, the Resolution Applicant intends to settle the dues of creditors by bringing in ₹25 crore for this project. The Applicant submits that no claims pertaining to statutory dues have been received. There are no workmens' and employees' outstanding dues. The Liquidation Value and Fair Market Value of the Corporate Debtor as determined by two independent valuers as per Regulation 35 of the IBBI (CIRP) Regulations, 2016 is stated to be ₹13,05,00,000/- and ₹18,65,00,000/- respectively. It is stated during the course of the hearing that the corporate Debtor is in the business of providing financial consultancy services and infrastructure development. There is only one asset i.e. land & Building located at Yerramanchi Village, Penkonda Mandal, Ananthapur District, which is valued by M/s. ANVI Advisors, for the purposes of calculating liquidation value and fair market value. The investments of the Corporate Debtor (Book Value ₹355.92 crore) have been valued as 'NIL' by M/s. Adroit Technical Services Pvt. Ltd. and M/s. TRC Corporate Consulting Private Limited.

16. The claims of the secured financial creditors as per the proposed Resolution Plan are being settled at 6.20% of the total admitted claims.



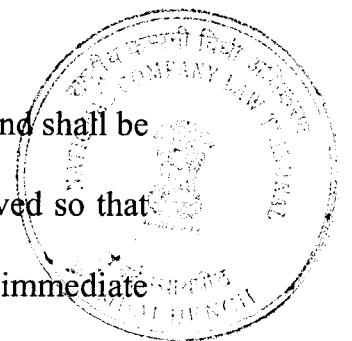
Similarly, those of unsecured financial creditors at 0.67% and for the operational creditors, it is at 0.01% of the total admitted claim in the resolution plan.

17. The Plan provides for management of affairs of the Corporate Debtor and implementation & supervision of the plan. The RP has given a statement in Form H that the plan deals with interests of all stakeholders as required under Section 30(2) of the I&B Code and Regulation 38 of CIRP Regulations.
18. Regarding the history of the Resolution Applicant, the RP submits that a manpower of around 450 employees and workers is employed under the Resolution applicant. The Resolution Applicant is handling Operations and Management (O&M) of one of largest Hydro Power Projects i.e. 1200MW Teesta-III HEP. It has receivables from its ongoing projects valuing at around ₹41 crore. The Resolution Applicant intends to fund this transaction through internal accruals. It is stated that there are no loans and long term liabilities on this Resolution Applicant. It is a debt free company. The net worth of the Resolution Applicant is around ₹33 crore as on 31.12.2018 which is expected to go upto ₹40 crore by March, 2019 and likely to cross ₹55 crore by the end of Financial Year 2019-20. The Resolution Applicant, on being inquired by this Bench about its strategy to run the Corporate Debtor as a going concern, submits that if required, it would raise funds from the market to ensure timely payment as proposed in the plan.
19. It is stated that the resolution plan amount of ₹25 crore would be arranged from the receivables of around ₹41 crore from the Resolution Applicant's other ongoing projects. The RP further states that 10% of the plan amount i.e. ₹2.5 crore for Performance Bank Guarantee has already been paid by DD as a security deposit . Further, an amount of ₹10 lakh has also been paid as Earnest Money Deposit. Hence, out of an amount of ₹10 crore



which is payable within 30 days of approval from this Tribunal, an amount of ₹2.6 crore has already been paid by the Resolution Applicant.

20. When inquired by this Bench about the scheme of the Resolution Applicant to run the company as a going concern, it was contended that the funds will be raised from market as when the need arises. As far as the feasibility and viability of the resolution Plan is concerned, it is submitted that the Resolution Applicant shall be able to pay the Bid Value as per the Resolution Plan by arranging/raising the funds from its internal sources. The Corporate Debtor would be a debt free company pursuant to payment to all the creditors. The operating cost of the Corporate Debtor, which is variable in nature, shall be incurred through various arrangements, as per the requirement. The Resolution Applicant would be best placed to extend the various services including consultancy and also in creating basic infrastructure at respective project site. Thus, the synergy among the Resolution Applicant, the Corporate Debtor would result into optimal growth path.
21. On hearing the submissions made by the Ld. Counsel for the resolution Professional, the Resolution Plan in hand satisfies the minimum threshold of approval by 66% majority of the CoC. The Resolution Applicant is not barred under section 29A of the I&B Code to file the resolution plan. The CoC has looked into the feasibility and viability of the Resolution Plan. The plan stands the requirement of being viable and feasible for revival of the Corporate Debtor. By and large, all the compliances have been done by the RP and the Resolution Applicant for making the plan effective after approval by this Bench.
22. The Resolution Plan, subject to this order, is hereby approved, and shall be binding on the Corporate Debtor and other stakeholders involved so that revival of the Debtor Company shall come into force with immediate effect and the "Moratorium" imposed under section 14 shall cease to have



any effect henceforth. The Resolution Professional shall submit the records collected during the commencement of the Proceedings to the Insolvency & Bankruptcy Board of India for their record and also return to the Resolution Applicant or New Promoters. Certified copy of this Order be issued on demand to the concerned parties, upon due compliance. That liberty is hereby granted that, if deem fit, and legally permissible, to move Miscellaneous Application if required in connection with implementation of this Resolution Plan. That in respect of stepping by the New Promoters/Resolution Applicant into the shoes of the erstwhile Company and taking over the business, the provisions of Companies Act, 2013 shall be applicable and because of this reason a copy of this Order is to be submitted in the Office of the Registrar of Companies, Mumbai.

23. The RP is directed to handover all records, premises/factories/documents to Resolution Applicant to finalise the further line of action required for starting of the operation. The Resolution Applicant shall have access to all the records/premises/factories/documents through Resolution Professional to finalise the further line of action required for starting of the operation.

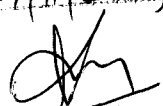
24. The directions embodied and period of implementation provided hereinabove shall be effective from the date of receipt of this Order.

Sd/-
CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Sd/-
M.K. SHRAWAT
MEMBER(JUDICIAL)

Date : 21.11.2019
JS



Certified True Copy
Copy Issued "Free of cost"
On 27/11/2019

Assistant Registrar
National Company Law Tribunal Mumbai Bench