National Steel & Agro Industries Ltd

November 19, 2020

Ref. No.: NSAIL/SEC/2020-21

To,
BSE Limited
1st Floor, New Trading Ring,
Rotunda Building, P J Towers,
Dalal Street, Fort,
Mumbai – 400 001

To,
National Stock Exchange of India Limited
'Exchange Plaza', C-1, Block G,
Bandra - Kurla Complex,
Bandra (E)
Mumbai 400 051

Ref: Regulation 31A of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ["SEBI (LODR) Regulations"]

Sub: Intimation of request received for Reclassification of Shareholding from 'Promoter and Promoter Group' to 'Public'

Dear Sir/Madam,

This is to inform you that, the Company has received a request letter dated November 18, 2020 from Ruchi Soya Industries Limited ("**RSIL**") seeking reclassification of its shareholding in the Company from the "Promoter and Promoter Group" category to the "Public" category as RSIL was undergoing Corporate Insolvency Resolution Process (CIRP) with effect from December 15, 2017 and the approved Resolution Plan has been successfully implemented w.e.f December 18, 2019 under Insolvency and Bankruptcy Code, 2016 (IBC) (*a copy of the request letter is enclosed herewith*).

The aforesaid request for reclassification will be placed before the Board in its forthcoming meeting and the approval of the Board for the aforesaid reclassification

NATIONAL STEEL & AGRO INDUSTRIES LTD. NATIONAL

shall be subject to approval of the members of the Company and the Stock Exchanges in terms of Regulation 31A of SEBI (LODR) Regulations.

Kindly take this on record and acknowledge receipt of this intimation.

Thanking You,

Yours Faithfully,

For National Steel and Agro Industries Limited

Anurag Gangrade

Company Secretary

Membership No.: FCS 9187

NATIONAL STEEL & AGRO INDUSTRIES LTD. NATIONAL

Encl: as above

RUCHI SOYA INDUSTRIES LIMITED

Ruchi

Head Office :
601, Part B-2, 6th Floor,
Metro Tower, Vijay Nagar,
A.B. Road, Indore - 452 010 (M.P.) India
Tel.: +91-731-4767009/109
E-mail : ruchisoya@ruchisoya.com

CIN : L15140MH1986PLC038536

By speed post and email

Date: November 18, 2020

To
The Board of Directors
National Steel & Agro Industries Limited
621, Tulsiani Chambers,
Nariman Point, Mumbai 400021 (M.H.)

Subject: Reclassification under Regulation 31A of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("Listing Regulations") of status of Ruchi Soya Industries Limited from "Promoter and Promoter Group" category to "Public" category of National Steel & Agro Industries Limited

Dear Sir / Madam,

We may inform you that Ruchi Soya Industries Limited ("RSIL") is a member of National Steel & Agro Industries Limited (the "Company") holding 8,83,500 (Eight Lakhs Eighty-Three Thousand and Five Hundred only) equity shares constituting 1.99% of the total equity share capital of the Company as on date.

While filing disclosures with the stock exchanges, RSIL has been classified under the category of "Promoter and Promoter Group" of the Company. This is primarily because of the reason that RSIL alongwith the other members (also forming part of the Promoter and Promoter Group) of the Company had direct or indirect control over the affairs of the Company because of the common management and Promoter and Promoter Group.

RSIL was under the Corporate Insolvency Resolution Process ("CIRP") with effect from December 15, 2017 under the provisions of Insolvency and Bankruptcy Code, 2016 ("IBC") by an order passed by Hon'ble National Company Law Tribunal, Mumbai Bench ("NCLT"). The NCLT vide its order dated July 24, 2019 read with its order dated September 04, 2019 has approved the resolution plan submitted by the Consortium of Patanjali Ayurved Limited, Divya Yog Mandir Trust (through its business undertaking, Divya Pharmacy), Patanjali Parivahan Private Limited and Patanjali Gramudhyog Nyas ("Resolution Applicants") under Section 31 of the IBC, which has been successfully implemented with effect from December 18, 2019 (i.e. closing date as defined under the resolution plan). Upon successful implementation of the resolution plan, the Resolution Applicants took control over the affairs and management of RSIL.

As a part of the implementation of the resolution plan, the erstwhile Directors of the RSIL ceased to be the Directors and a new Board of the RSIL was constituted with effect from December 18, 2019. RSIL has also made an application under Regulation 31A of the Listing Regulations to the BSE Limited and National Stock Exchange of India Limited ("Stock Exchanges") for the reclassification of the status of its erstwhile Promoters and Promoter Group form "Promoter and Promoter Group" category to "Public" category and Resolution Applicants under "Promoter and Promoter Group" category. The said reclassification application is pending with the Stock Exchanges.

RUCHI SOYA INDUSTRIES LIMITED

Ruchi

Head Office :
601, Part B-2, 6th Floor,
Metro Tower, Vijay Nagar,
A.B. Road, Indore - 452 010 (M.P.) India
Tel.: +91-731-4767009/109
E-mail : ruchisoya@ruchisoya.com

CIN : L15140MH1986PLC038536

In accordance with the provisions of the IBC and the NCLT order, the approved resolution plan is binding on the Company and its employees, members, creditors, guarantors and other stakeholders involved.

RSIL does not exercise control over the affairs of the Company, whether directly or indirectly, other than in its capacity as a member of the Company.

In view of the above, we request you to reclassify the status of Ruchi Soya Industries Limited from "Promoter & Promoter Group" category to "Public" category.

In this regard, we hereby confirm that:

a) RSIL does not hold more than ten percent of the total voting rights in the Company;
b) RSIL does not exercise control over the affairs of the Company, whether directly or indirectly;
c) RSIL does not have any special rights with respect to the Company through formal or informal arrangements including through any shareholder agreements;
d) RSIL is not represented on the Board of Directors (including not having a Nominee Director) of the Company;
e) No Director of the RSIL is acting as a Key Managerial Person in the Company;
f) RSIL is not a 'wilful defaulter' as per the Reserve Bank of India guidelines; and
g) No Director of the RSIL is a fugitive economic offender.

We also undertake to abide by the conditions listed in Regulation 31A(4) of Listing Regulations post such re- classification being approved by the members of the Company and Stock Exchanges.

We attach herewith a copy of Order dated July 24, 2019 and September 04, 2019 passed by Hon'ble NCLT in support of above.

We request you to consider our request for reclassification of status of Ruchi Soya Industries Limited from "Promoter & Promoter Group" category to "Public" category and accord your approval thereof at the earliest.

Should you require any other information/document, kindly advise us.

Kindly acknowledge the receipt.

Thanking you,

Yours faithfully,
For Ruchi Soya Industries Limited

R.L. Gupta
Company Secretary

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH

MA 1721/2019, MA 1428/2019, MA 1746/2019 & MA 1816/2019
In CP (IB) 1371 & 1372 (MB)/2017

Under Section 30(6) of the I&B Code, 2016

Shailendra Ajmera

...Resolution Professional/Applicant

In the matter of

Standard Chartered Bank

DBS Bank Limited

...Petitioners

v/s.

Ruchi Soya Industries Limited

...Corporate Debtor/Respondent

Order Delivered on 24.7.2109

Coram: Hon'ble Member (Judicial) Mr V.P. Singh
Hon'ble Member (Technical) Mr Ravikumar Duraisamy

For CoC: Mr. Pradeep Sancheti, Sr. Counsel, Adv Pulkit Sharma and Adv Prateek Mishra

For Resolution Applicant: Mr. J. P. Sen, Sr. Counsel, Adv Kunal Vaishnav and Adv Pratiksha

For Resolution Professional: Adv Dhananjay Kumar, Adv Anush Mathkar and Adv Kaustubh Rai

For ICICI Bank Ltd.: Adv Ankit Lohia, Adv Meghna Rajadhyaksha and Mr Rishabh Jaisani

Per: V.P. Singh, Member (Judicial)

ORDER

1. The Miscellaneous Application (**MA**) No.1721 of 2019 is filed under section 30(6) of Insolvency and Bankruptcy Code, 2016 (**I&BCode**) in the C.P.No. 1371& 1372 of 2017 which was admitted u/s 7 of I&B Code vide order of this Tribunal dated 15.12.2017 initiating Corporate

Insolvency Resolution Process (**CIRP**) against Ruchi Soya Industries Ltd., the Corporate Debtor.

2. The MA1721/2019 is filed by the Resolution Professional (**RP**) of the Corporate Debtor. The RP has filed this application under Section 30(6) of the I&B Code, seeking orders for approval of the resolution plan for the Corporate Debtor submitted by the consortium led by Patanjali Ayurved Limited as approved by the members of Committee of Creditors (**CoC**).

3. After the initiation of the CIRP, the Interim Resolution Professional published Public Announcement on 21.12.2017 calling upon the creditors of the Corporate Debtor for submission of claims by 29.12.2017. The RP under review and verification of the proof of claims filed by creditors of the Corporate Debtor constituted CoC by Section 21 of the Code. The first CoC meeting was held on 12.1.2018 wherein the IRP was appointed as RP.

4. The 2ndCoC meeting was held on 1.2.2018, wherein the draft of the Expression of Interest (EOI) was approved by CoC. The publication was made on 5.2.2018 for inviting EOI. Under such publication, 28 EOIs were received. Out of 28, two prospective resolution applicants were rejected as one was disqualified under Section 29A of the Code (related party) and the other was a financial investor who did not meet the criteria in the EOI evaluation parameters. Further, non-disclosure agreements were executed with potential resolution applicants and access to the Virtual Data Room (VDR) was provided, and the Information Memorandum dated 28.2.2018 was shared with the Resolution Applicants.

5. In the 3rdCoC meeting held on 28.2.2018, the evaluation criteria for evaluating resolution plans were presented and discussed with the members of CoC, which was approved by way of an e-voting scheduled on 3.3.2018. Based on the approval by e-voting, the approved evaluation matrix was included in the Process Memorandum dated 7.3.2018, which was amended on 11.4.2018. To avail access to

the VDR and conduct site visits from 23.3.2018 till 2.5.2018, eligible applicants were to deposit Rs 10 crores and Rs 40 crores.

6. The Process Memorandum contained various terms and conditions about resolution plans to be submitted such as a deposit of EMD of Rs.50,00,00,000/- in two tranches, performance deposit of Rs.150,00,00,000/- as clear funds.

7. The RP has invited submission of resolution plans from prospective eligible Resolution Applicants in Form G on 18.4.2018, as per Regulation 36A(5) of the CIRP Regulations. The last date for submission of the resolution plan was 2.5.2018. The RP received resolution plans submitted by four resolution applicants by 11:00 a.m. on 2.5.2018, i.e. from Adani Wilmar Limited (AWL), consortium of Patanjali Ayurved Limited, Divya Yog Mandir Trust (through its business undertaking, Divya Pharmacy), Patanjali Parivahan Pvt Ltd and Patanjali Gramudhyog Nyas (collectively, Patanjali Consortium), Godrej Agrovet Limited (Godrej) and Emami Agrotech Limited (Emami). In addition to those above, four other entities namely – 3F, Sakuma, Agrocorp, South India also communicated their interest to participate in the resolution process but had neither deposited the 1st and 2nd Tranche EMD aggregating to Rs.50 crores nor submitted a resolution plan.

8. The applicant reviewed the four resolution plans submitted by the resolution applicants and found that only the plans submitted by AWL and Patanjali Consortium provided for the corporate insolvency resolution of the Corporate Debtor as a whole and on a going concern basis.

9. The Resolution Applicants were given a chance to submit amended resolution plan by 11:00 a.m. on 14.5.2018.

10. Meanwhile, since the CIRP period was getting expired, thus the RP based on the resolution of CoC filed an application for extension of CIRP period for a further period of 90 days, as per Section 12 of the Code. This Bench, vide its order dated 8.6.2018 extended the CIRP period by further 90 days.

11. In the 7thCoC meeting held on 22.5.2018, the resolution plans submitted by AWL and Patanjali Consortium was discussed by the representatives of Resolution Applicants with CoC, and the resolution applicants were requested to submit a final cured plan by 30.5.2018.

12. The RP has appointed T.R. Chadha & Co. LLP and GAA Advisory as the Registered Valuers to determine the liquidation value of the Corporate Debtor on 21.12.2017. **The average liquidation value submitted by the Registered valuers is Rs.2391.16 crores, and the Fair value submitted by the Registered Valuers is Rs.4161.86 crores.**

13. Under discussion held during the 9thCoC meeting held on 1.6.2018, the applicant circulated the Process for Negotiation dated 2.6.2018 to AWL and Patanjali Consortium to improve certain commercial parameters of their resolution plans. AWL and Patanjali Consortium submitted their unconditional confirmation to the Process for Negotiation on 8.6.2018. After following the negotiation process set out in the Process for Negotiation, AWL had emerged as the "Potential Successful Applicant" as per the Process for Negotiation.

14. During the 13thCoC meeting held on 21.8.2018, the resolution plan submitted by AWL was put for e-voting which was commenced on 22.8.2018 and ended on 23.8.2018. **The said resolution plan was approved by a vote share of 96.85%.**

15. Since the resolution plan submitted by AWL was approved by CoC with a vote share of 96.85%, the applicant filed MA 926/2018 under Section 30(6) of IBC, 2016 before this Bench for approval of the resolution plan submitted by AWL. While the MA 926/2018 was pending for consideration before this Bench, Hon'ble Supreme Court by its order dated 31.1.2019 in *V.K. Jain Vs. Standard Chartered Bank &Ors. (Civil Appeal No.8430 of 2018)* directed as under:

> *"18. We may indicate that the time that has been utilised in these proceedings must be excluded from the period of the resolution process of the corporate debtor as has been held in Arcelor Mittal India Private Limited v. Satish Kumar Gupta &*

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Ors., Civil Appeal Nos. 9402-9405/2018 [decided on 04.10.2018] (at paragraph 83). In each of these cases, the appellants will be given copies of all resolution plans submitted to the CoC within two weeks from the date of this judgment. The resolution applicant in each of these cases will then convene a meeting of the CoC within two weeks after that, which will include the appellants as participants. The CoC will then deliberate on the resolution plans afresh and either reject them or approve of them with the requisite majority, after which, the further procedure detailed in the Code and the Regulations will be followed. For all these reasons, we are of the view that the petition and appeal must be allowed and the NCLAT judgment set aside."

Under the order of Hon'ble Supreme Court, the approval of the CoC of the resolution plan of AWL was interdicted.

16. In compliance of the above mentioned Hon'ble Supreme Court order, this Bench by its order dated 7.2.2019 directed as follows:

"Resolution Professional is directed to comply with the directions of the Hon'ble Supreme Court and submit the report within the stipulated time as provided by the Hon'ble Supreme Court."

17. After that, the Counsel for the Resolution Professional submitted that due to subsequent developments in the case, he wants to withdraw MA 926/2018. This Bench, vide its order dated 7.2.2019, dismissed the MA 926/2018 as withdrawn.

18. After the conclusion of the 23rdCoC meeting, it was decided and agreed by the members to put the resolution plan of Patanjali Consortium submitted on 2.5.2018 to e-vote commencing from 8 p.m. on 26.4.2019 till 8.00 p.m. on 30.4.2019. In the e-voting concluded on 30.4.2019, the CoC approved the resolution plan submitted by Consortium of Patanjali with a vote share of 96.95%.

<u>Salient features of the Resolution Plan</u>

19. It is stated in the resolution plan that as part of this Plan, **the Resolution Applicant is required to infuse/bring in an aggregate**

amount of Rs. 4350 (Four thousand three hundred and fifty only) **crores in SPV** which shall be amalgamated with and into the Corporate Debtor on and from the Closing Date. **The aggregate amount to be infused shall be Rs. Four thousand three hundred fifty crores, out of which Rs. 4,235 crores shall be towards a settlement to be provided to each of the class of creditors & stakeholders and the remaining amount of Rs. 115 (One hundred fifteen crores) shall be towards equity infusion for improving operations of the Corporate Debtor.** A snapshot of the sources of the fund is set out below:

S. No.	Particulars	Amount(₹Crores)	Source of Fund
1	**Equity infusion by Resolution Applicant in SPV**	**204.75**	**Performance Deposit of Rs. 150,00,00,000/- (Rupees One Hundred and Fifty Crores only)** + **Earnest Money Deposit of Rs. 50,00,00,000/- (Rupees Fifty Crores only)** deposited in favour of the Corporate Debtor in the designated bank accounts, amounting to a sum of Rs. 200,00,00,000/- crores (Rupees Two Hundred Crores Only) **Remaining 4.75 crores (Four Crores and Seventy-Five Lakhs Only) to be generated**

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			out of internal accruals of the Resolution Applicant.
2	**Non-Convertible Debentures subscribed by Resolution Applicant in SPV**	**450.00**	**To be subscribed by Patanjali Ayurved Limited.** **Break up of fund-infusion of Rs. 900,00,00,000/- (Rupees Nine Hundred Crores only) for subscription to these instruments:** **i. Rs. 300, 00,00,000/- (Rupees Three Hundred Crores only) –In-Principle Sanction Letter for Funding from Bank of Baroda in favour of Patanjali Ayurved Limited, provided at page 483 of the Application.** **ii. The remaining sum of Rs 600,00,00,000/- (Rupees Six Hundred crores only) –To be generated out of internal funding/internal accruals/cash flow of the Resolution Applicant. Bank**
3	**Preference shares subscribed by PAL in SPV**	**450.00**	

			Statements showing a balance of Patanjali Parivahan Limited, Patanjali Gramudyog Nyas and Patanajli Gramudyog Nyas Trustee as well as CA certificates certifying the availability of funds/liquid assets in Divya Pharmacy and Patanjali Ayurved Limited, have been provided at pages 483-533 of the Application.
4	**New Debt infusion/arranged in SPV**	**3,233.36**	**Rs. 3245.25 crores (Three Thousand Two Hundred and Forty-Five Crores and Twenty Five Lakhs only):** - **In Principle Sanction Letters for Funding from State Bank of India for Rupees 3300 crores (Rupees Three Thousand Three Hundred Crores only) in favour of the Patanjali Consortium and Union Bank of India for Rs 600 crores (Rupees Six Hundred Crores only) in favour**
5	**Providing counter guarantee/ 100% margin/ replacement of existing bank guarantees that are not invoked**	11.89	

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			of the SPV-Patanjali Consortium, at pages 477 and 480 of the Application respectively.
Total		**4,350.00**	

20. The Resolution Applicant proposes to infuse/arrange to infuse, in an escrow account to be opened and operated by the Monitoring Agent specifically for CIRP, an aggregate amount of Rs. Four Thousand Three Hundred Fifty crores in SPV which shall get amalgamated with the Corporate Debtor on and from the Closing Date. It is stated that the maximum offer under this Plan to settle the claims of the creditors by the Resolution Applicant is capped at Rs. 4,235 crores and the remaining Rs. One Hundred Fifteen crores are meant for improving the operations of the Corporate Debtor. It will be the responsibility of the Monitoring Committee to distribute the proposed amount to various creditors in terms of the distribution mechanism.

21. The Resolution Plan further provides the clause that in full and final settlement of the admitted claims of the stakeholders, the following payments are proposed on or around the Closing Date.

S.No.	Name/Category	Verified Claims (₹Crores)	Proposed Payment (₹Crores)	Payment Structure
1	Corporate Insolvency Resolution Process Cost	-	Actuals as approved by the CoC	(i) Insolvency Resolution Process costs to be paid in full and in priority to any Claim of any other creditor as on

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				the Closing Date. (ii) To be paid out of the internal accruals/cash flow of the Corporate Debtor.
2	Secured Financial Creditors	8377.42	4053.19	(i) In the event the amount payable towards the Workmen and Employee dues, as on the Effective Date, is less than ₹14.92 crores, the excess amount shall be additionally paid to the secured financial creditors. (ii) In the event, the amount of uninvoked bank guarantee is less than the amount currently allocated towards the contribution for providing counter-guarantee or 100% margin as against the existing guarantees; then the excess amount would be additionally paid to the secured

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				financial creditors. (iii) All claims or liabilities etc. owed to the secured financial creditors by the Corporate Debtor proposed to stand extinguished upon the receipt of the said amount by them under the approval of the resolution plan by the Hon'ble NCLT.
3	Workmen and Employee dues	N/A	14.92	(i)Payment proposed to be paid on the Closing Date, and in priority to the financial creditors. (ii) Payment of the recurring amount of the workmen and employees being made by the Resolution Professional so far on a periodical basis. (iii) 100% of the amounts duly verified by the resolution professional and which are

				outstanding as on the Effective Date or the proportionate of the liquidation value allocable to them, whichever is higher, subject to the maximum amount of ₹14.92 crores, is the maximum payment proposed to be made towards workmen and employee dues.
4	**Unsecured Financial Creditors (other than related parties)**	**1007.32**	**40.00**	(i) All claims or liabilities etc owed to the unsecured financial creditors by the Corporate Debtor, in relation to any period prior to the Effective Date or arising on account of the acquisition of control by the Resolution Applicant through the SPV of the Corporate Debtor proposed to stand extinguished upon the receipt of the said amount by the unsecured financial creditors pursuant to the

				approval of the resolution plan by the NCLT.
5	**Statutory Dues (Claims by Government Authorities)**	**44.96**	**25.00**	(i) Maximum of Rs 25 crores or the liquidation value allocable towards the statutory dues, whichever is higher, is proposed to be made towards claims by Government Authorities. (ii) All claims or liabilities etc owed to any Government Authority by the Corporate Debtor, in relation to any period prior to the Effective Date or on acquisition of control of the Corporate Debtor by the Resolution Applicant through the SPV proposed to stand extinguished upon the receipt of the said amount towards statutory dues pursuant to the approval of the resolution plan by

				the Hon'ble NCLT.
6	Operational Creditors (other than a related party to and connected persons of the Corporate Debtor and its existing promoters, other than Workmen and Employee Dues and Statutory Dues)	2716.61	90.00	(i) Maximum of Rs. Ninety crores or payment of liquidation value allocable to Operational Creditors, whichever is higher, on a pro-rata basis, has been proposed to be paid to the operational creditors of the Corporate Debtor. (ii) Amounts due to operational creditors proposed to be made in priority to the financial creditors. (iii) All claims or liabilities etc owed to any Operational Creditor by the Corporate Debtor, in relation to any period prior to the Effective Date or on acquisition of control of the Corporate Debtor by the Resolution Applicant through the SPV

				proposed to stand extinguished upon the receipt of the said amount by the operational creditors pursuant to the approval of the resolution plan by the Hon'ble NCLT. (iv) Only ₹14,31,62,68,911/- is said to be claimed by unrelated parties. As per the resolution plan, the amounts proposed by the resolution applicant for operational creditors is to be distributed amongst those that are unrelated parties.
7	Providing counter guarantee/ 100% margin/ replacement of existing bank guarantees that are not invoked	N/A	11.89	(i) The said amount is the amount of the uninvoked bank guarantee as in force on the insolvency commencement date of the Corporate Debtor. (ii) The Resolution Applicant proposes the counter guaranteeing by the

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				bankers of the SPV or the providing of 100% margin for such guarantees by the SPV to prevent invocation, revocation, or cancellation of such bank guarantees, and to renew or roll over the term of such bank guarantees to maintain the Corporate Debtor as going concern.
Total		**12,146.31**	**4,235.00**	

22. The Resolution Applicant undertakes that as on the date of submission of this Resolution Plan, the Resolution Applicant and the person acting in concert with the Resolution Applicant or who is promoter or person in management or control of the Resolution Applicant and their Connected Person are eligible to submit this Resolution Plan in accordance with section 29A of the Code and other provision of Applicable Law. The Resolution Applicant has submitted an affidavit for each of the consortium companies that they are individually eligible under section 29A of I&B Code has been filed.

23. The Ld. Competition Commission of India vide its order under section 31(1) of the Competition Act, 2002 dated 06.03.2019 in Combination Registration No. C-2019/01/631 has stated as follows:

"17. The Commission, with respect to overall edible oil market including its by-products, considered the market share of the Parties

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in broader segments as well as in sub-segments along with other factors such as fragmented nature, presence of a number of organized as well as local and unorganized players, low entry barriers and reliance on imports and observed that there will not likely to be any competition concern as a result of the Proposed Combination.

18. About existing and potential vertical relationships, the Commission noted that these relationships might not cause any competition concerns due to lack of ability and incentive to foreclose the competition in any of the markets by the Parties.

19. Considering the facts on record, details provided in the notice given under sub-section (2) of Section 6 of the Act and assessment of the proposed combination on the basis of factors stated in sub-section (4) of Section 20 of the Act, the Commission is of the opinion that proposed combination is not likely to have an appreciable adverse effect on competition in India."

24. Therefore, in light of the order of the Competition Commission of India as aforementioned, the Resolution Plan is not in violation of the Competition Act, 2002. The RP has certified, as per Regulation 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, that the contents of the resolution plan, as approved by the Committee of Creditors with more than 66% majority in favour, meets all the requirements of the I&B Code and the regulations as applicable on the date thereof.

25. The Resolution Applicant proposes that IRP Costs be paid in full **by the Closing Date that is not more than 75 days from the Effective Date** and in priority to any Claim of any other creditor, out of the internal accruals/cash flow of the Corporate Debtor. It is further provided that all costs, expenditure incurred / to be incurred by the Committee of Creditors towards the CIRP of the Corporate Debtor ("**CoC Costs**") shall be fully borne by the CoC except to the extent of Rs. 2 crores which shall be paid by the Corporate Debtor out of the

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internal accruals/cash flow of the Corporate Debtor on or prior to the Closing Date and shall not be considered as a part of the IRP cost.

26. **The total admitted amount claimed by the Operational Creditors is ₹2,716.61 crores. It stated in the plan that Liquidation Value due to operational creditors (as defined under the Code) was not known to the Resolution Applicant at that stage. It is proposed under this Plan that the Operational Creditors who are Unrelated Party to and not Connected Persons of the Corporate Debtor and its existing promoters, other than the Workmen and Employee Dues and the Statutory Dues, shall be settled by way of maximum payment of Rs. 90 (Ninety)crores or by paying the Liquidation Value allocable towards the Operational Creditors, whichever is higher, on a pro-rata basis against the Verified Amount of Operational Creditors. In the event, the Liquidation Value allocable towards the Operational Creditors is higher than Rs. 90(Ninety) crores then the same shall be made in priority and before any payment is made to the Financial Creditors. The entire proposed amount will be paid by the Closing Date that is not more than 75 days from the Effective Date and in priority to Financial Creditors.**

27. The **term of the Plan** shall commence on the Effective Date and shall continue until the Closing Date. During the Term, a monitoring committee shall be constituted ("**Monitoring Committee**") which during the period between the Effective Date until the Closing Date, shall comprise of 3 (three) representatives of the Financial Creditors, 3 (three) representatives of the Resolution Applicants and the Monitoring Agent. During the period between the Effective Date and the Closing Date, the Resolution Applicant shall have the right to appoint an observer on the Monitoring Committee who will be entitled to receive all notices, agendas, explanatory statements, minutes of meetings sent to the members of the Monitoring Committee, and participate in all meetings of the Monitoring Committee but not vote in any such meetings. Mr Shailendra Ajmera, who was acting as RP, to act as a

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monitoring agent till the Closing Date. The Monitoring Committee shall supervise the implementation of the Plan, decide to appoint advisors, legal and technical consultants, etc., and undertake and monitor the management and operations of the Company in the ordinary course and on a going concern basis.

28. After the Term, the Resolution Applicant proposes to reconstitute the board of directors of the Corporate Debtor as necessary, to spearhead their business plan and the proposed nominated members on the board of directors of the Corporate Debtor are (a) Shri Acharya Balkrishna (b) Shri Ram Bharat; and (c) Smt. Sneh Bharat. The Resolution Applicant further proposes to identify other members of the board of directors and the same shall be appointed in compliance with all Applicable Law on the expiry of the Term. The Resolution Applicant also proposes to retain the existing senior management personnel of the Corporate Debtor and will further appoint additional members as key managerial personnel to spearhead and strengthen the business and operations of the Company. The implementation of the Plan will be supervised by the Monitoring Agent, until Closing Date.

29. The Resolution Applicant has dealt with the interests of all stakeholders in the Corporate Debtor, including the Financial Creditors and the operational creditors.

30. The Resolution Applicant has declared that neither the Resolution Applicant nor any of its related parties have failed to implement or contribute to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past.

<u>Reliefs, concessions and dispensations</u>

31. The Resolution Applicant in the Resolution Plan has sought certain reliefs, concessions and dispensations which are said to be procedural and necessary for timely implementation of the Resolution Plan.

32. Under clause 8.1.1 of the Resolution Plan the Resolution Applicant seeks relief of providing Suspension Period to be in effect till the closing date, meaning thereby that certain action cannot be initiated or continued against the Corporate Debtor *viz.* the institution of suits or

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continuation of pending suits or any legal proceedings; foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property; and the recovery of any property. The said relief is in effect to extend the moratorium beyond the statutory period as per the I&B Code which cannot be granted and hence denied.

33. In Clause 8.1.5 it is prayed that the Central Board of Direct Taxes shall provide that income/ gain/ profits, if any, arising as a result of giving effect to the Plan should not be subjected to Tax including minimum alternate tax in the hands of Corporate Debtor. Additionally, it is prayed that any book losses generated out of write-off of assets shall allow being set-off against the book profits going forward. Reference is sought to the press release of the Ministry of Finance dated 06.01.2018 in respect of the minimum alternate tax exemption proposed to be made available to companies under insolvency as set out below:

> *"With a view to minimizing the genuine hardship faced by such companies, it has been decided, that, with effect from Assessment Year 2018-19 (i.e. Financial Year 2017-18), in case of a company, against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Code, the amount of total loss brought forward (including unabsorbed depreciation) shall be allowed to be reduced from the book profit for the purposes of levy of MAT under section 115JB of the Act".*

34. With regard to the Clause 8.1.5, the Resolution Applicant has to comply with the provisions of the Income Tax Act, 1961 and other directions issued by the relevant authority under the Act.

35. In clauses 8.1.7 & 8.1.13 it is prayed that **all the respective Governmental Authorities shall waive of any stamp duty, filing fees, Tax payable to the Governmental Authority** or such other amounts payable / becoming payable on the transaction or actions contemplated under this Resolution Plan including but not limited to increase in authorized share capital of the Corporate Debtor and the

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stamp duty payable on amalgamation of the SPV with the Corporate Debtor. **We are not inclined to allow the said relief. The Resolution Applicant may apply to the relevant regulatory authority for this exemption and the relevant authority may consider it as per law.**

36. Concerning the relief sought in clause 8.1.10 regarding modification, change, or termination of the contract entered by the Corporate Debtor, with either related party or unrelated party of the Corporate Debtor or existing promoters, no unilateral right of modification, change, or termination of contract can be allowed. However, the Resolution Applicant may modify, change or terminate any contract as per the due process of law.

37. As per the Information Memorandum, all the intellectual property rights including brands, trademarks, copyrights mentioned in Schedule 9 to this Plan, are owned by RSIL. The Resolution Applicant is further given to understand that all the intellectual property rights, including brands, trademarks, copyrights, registered in the name of RSIL and/or used by RSIL, including those mentioned in Schedule 9 to this Plan, are solely and exclusively legally and beneficially owned by RSIL and RSIL has the sole and exclusive right to use the said intellectual property rights and all such intellectual property rights shall continue to (even on account of change of control of the Corporate Debtor) be solely and exclusively owned and used by RSIL. Further, the value assigned to the intellectual property rights in the audited financial statements of the Corporate Debtor for the financial year ended March 31, 2017, as provided in the Virtual Data Room, is approx. 28% of the Non-Current Assets. Therefore, the intellectual property rights of Corporate Debtor is a material asset. The price quoted by the Resolution Applicant under the Resolution Plan carries a considerable portion on this particular asset. In light of which, the Resolution Applicant hereby prays that the Adjudicating Authority, while approving this Resolution Plan, shall also finally and conclusively adjudicate any question of law or fact or any application / petition filed in relation to ownership and/or usage by RSIL of the intellectual

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property rights (including arbitration petition no. MJC AV/0000023/2018 filed during the moratorium period or any other legal proceedings to be initiated in relation thereto) confirming that the Corporate Debtor is the legal, beneficial and sole owner and user of such intellectual property rights free from all Encumbrances and owning and using of the same does not infringe the rights of any third party over the intellectual property rights. It is further prayed that if there is any contract or arrangement wherein any rights in relation to intellectual property have been shown to be conferred in favour of any Person, the said contract or arrangement, upon the approval of this Resolution Plan, shall stand terminated and abated with effect from the Effective Date without any further act, deed or action and without any liability or obligation on the part of Corporate Debtor. The said relief is allowed however it is clarified that we have not adjudicated any question of law or fact or any application/petition filed in relation to ownership and/or usage by RSIL of the intellectual property rights, including arbitration petition no. MJC AV/0000023/2018 filed during the moratorium period or any other legal proceedings to be initiated in relation thereto and the said proceedings shall follow their complete course as per law without being affected by this order.

38. Any relief sought for in the Resolution Plan, where the contract/agreement/understanding/proceedings/actions/notice etc. is not specifically identified or is for future and contingent liability, is at this moment rejected.

39. The Resolution Applicant, on taking control of the Corporate Debtor, shall ensure compliance under all applicable law for the time being in force.

40. We shall clarify here that any resolution applicant shall takeover the Corporate Debtor with all its assets and liabilities as per terms of the approved Resolution Plan. If any relief concerning any identified liability of the Corporate Debtor is required, then that needs to be specifically mentioned and sought for in the Resolution Plan. This bench cannot allow any general power to any resolution applicant absolving him of liability of the corporate debtor company without

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knowing about the liability against which such exemption is sought. In other words, reliefs/exemptions from only existing liabilities which are specifically identified can be sought and allowed in the Resolution Plan.

41. On perusal of the Resolution Plan, we find that the resolution plan has necessary provisions for its effective implementation.

42. The resolution applicant shall obtain the necessary approval required under any law for the time being in force within one year from the date of this order or within such period as provided for in such law, whichever is later.

43. The Resolution Professional has filed an Application being MA 1428/2019 on 12.04.2019 under Section 60(5) of I&B Code, seeking a relaxation of a timeline as provided under Regulation 39(4) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (**CIRP Regulations**).

44. It is submitted that the CIRP was initiated vide order dated **15.12.2017** thereby appointing Interim Resolution Professional and slapping Moratorium. The CIRP period of 180 days was further extended by 90 days vide order dated 08.06.2018, i.e. till 10.09.2018.

45. The Resolution Professional filed MA 926/2018 for approval of Resolution Plan submitted by Adani Wilmar Ltd. (**AWL**) on 24.08.2018 as approved by CoC. While the MA 926/2018 was pending before the Tribunal, the Hon'ble Supreme Court by its order dated 31.01.2019 in *V.K. Jain v/s. Standard Chartered Bank &Ors. (Civil Appeal No.8430 of 2018)* directed as follows :

> *"18. We may indicate that the time that has been utilized in these proceedings must be excluded from the period of the resolution process of the corporate debtor as has been held in ArcelorMittal India Private Limited v. Satish Kumar Gupta &Ors., Civil Appeal Nos. 9402-9405/2018 [decided on 04.10.2018] (at paragraph 83). In each of these cases, the appellants will be given copies of all resolution plans submitted to the CoC within two weeks from the date of this*

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judgment. The resolution applicant in each of these cases will then convene a meeting of the CoC within two weeks after that, which will include the appellants as participants. The CoC will then deliberate on the resolution plans afresh and either reject them or approve of them with the requisite majority, after which, the further procedure detailed in the Code and the Regulations will be followed. For all these reasons, we are of the view that the petition and appeal must be allowed and the NCLAT judgment set aside."

46. It is stated that the CIRP period in the present case will expire on 07.05.2019. As per Regulation 39(4) of CIRP Regulation, Resolution Plan as approved by the CoC is to be filed with the Adjudicating Authority 15 days in advance of the expiry of CIRP. Accordingly, the 255 days for submitting the Resolution Plan as contemplated under Regulation 39(4) will expire on 22.04.2019. The Resolution Professional has stated that it may not be possible for the final Resolution plan to be placed before this CoC and sufficient time to be provided to the CoC to obtain the requisite authorisation to consider such Resolution Plan when it is put to the vote. The Resolution Professional submits that the CIRP is in its concluding stage, and the relaxation of the timeline will enhance the chances of successful resolution of the Corporate Debtor. It is also submitted that the Regulation 39(4) was amended on 03.07.2018 to provide that the Resolution Professional shall endeavour to file the approved Resolution Plan with Adjudicating authority atleast 15 days before the last date of CIRP.

47. There is no opposition to MA 1428/2019. The MA is filed seeking a relaxation of a timeline as provided under Regulation 39(4) of the CIRP Regulations. In I&B Code, there is no period provided for submission of a resolution plan except for that it has to be within total CIRP Period of 180 or 270 days as the case may be. The timelines provided for in the CIRP Regulations are directory and not mandatory hence the MA 1428/2019 is allowed.

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48. The DBS Bank Ltd., Singapore (**DBS**) has filed an application being MA 1746/2019 under Section 60(5) of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) seeking, inter alia, directions to set aside the decision of CoC taken in the meeting held on 23.04.2019 to the extent of the distribution of proceeds of the Resolution Plan and to restrain the Resolution Applicant from distributing the proceeds of the Resolution Plan until the final disposal of this MA 1746/2019.

49. The DBS is challenging the manner of distribution of proceeds under the resolution plan as approved by the CoC and filed for approval of this Tribunal. It is stated that DBS had extended financial debt to the Corporate Debtor and its claim admitted by the Resolution Professional is to the extent of about ₹243 crores. The updated list of Creditors as on 26.04.2019, submitted by the Resolution Professional is exhibited to the Application.

50. It is stated that DBS's claim is secured by an exclusive first charge by way of mortgage/hypothecation on Fixed Assets of the Corporate Debtor at Baran, Guna, Daloda, Gadarwara, Mumbai and Kandla. The exclusive security in favour of the DBS is said to be undisputed.

51. The DBS has stated that it has addressed a letter on 12.04.2019 to the CoC stating that its claim was secured by an exclusive first charge over defined assets of the Corporate Debtor, which security structure is superior compared to that of other financial creditors. Equitably, the differently placed classes of creditors (such as creditors who are secured by significantly different assets) ought to be treated differently. Further, the letter stated that the Resolution Plan distinguished between an unsecured and secured creditor, but not between a superior first charge holder and sub servient second charge holder. The said letter is annexed with the Application.

52. The same issue was raised by DBS in the CoC meeting held on 23.04.2019 wherein it submitted that recovery for lender under a Resolution Plan ought not to be less than what it would have recovered from the sale of debtor's assets in liquidation, where such under-recovery would benefit other lenders who would recover more

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than the liquidation value of their security assets. During the meeting, when the Resolution Professional called for a vote by show of hands on this proposal of the DBS, no one responded affirmatively, and the CoC opined that was within their commercial wisdom to approve of a Resolution Plan in compliance with the law and accordingly approved pari passu distribution amongst all secured Financial Creditors. The Resolution Plan was approved on 30.04.2019 by 96.95% vote share of CoC.

53. The DBS submitted that the availability and terms of credit are influenced by several factors, including the quality and value of the security. The facility was extended among other things, on the consideration that the Applicant would be granted an exclusive charge over Fixed Assets of considerable value. It is contended that creditors with different security interests having different values are distinctly placed and not similarly placed. Thus, it is submitted that if differently placed creditors within secured creditors are treated same, then it would deter the lender from offering credit as the value of security would have no meaning in case of Insolvency. This in DBS's submission, would defeat the objective of IBC.

54. The DBS has submitted a comparative chart showing the recovery to individual Financial Creditors in the scenario of liquidation vis-à-vis under CIRP. It shows that DBS would recover 90% of its admitted claim in case of liquidation as compared to 48.39% of its admitted claim in case of CIRP. Interestingly, every creditor other than DBS is shown to have recovered Nil to 47% of their admitted claims in case of liquidation due to inferior security held by them. The DBS emphasises that with the unjust pari passu distribution proposed, all the Financial Creditors would each receive approximately 49% of their admitted claim allegedly at the cost of DBS.

55. The DBS has further stated that the present issue to be determined before this Tribunal is sub-judice before the National Company Law Appellate Tribunal **(NCLAT)** in the matter of *Standard Chartered Bank vs. Satish Kumar Gupta, R.P. of Essar Steel Ltd. & Ors. in Company Appeal No. (AT) (Ins) – 242 of 2019.* It is stated that the

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NCLAT is considering the question of percentage of debt allowed to different categories of Secured Financial creditors and scheduled to hear the Insolvency and Bankruptcy Board of India's opinion in this regard. The Essar Appeal inter alia considers whether the distribution mechanism proposed can be objected to on the basis that Standard Chartered Bank, a Secured Financial Creditor with significantly inferior security (having nominal liquidation value), was proposed to be distributed only 1.7% of its admitted claim amount as opposed to other secured creditors receiving 92% of their admitted claim (but these lenders have significantly superior security). This decision would be key to assist in determining whether the value of security ought to be related to the proportion of recovery amongst creditors.

56. The DBS submits that its case would be covered by the decision of NCLAT in Essar Appeal (*supra.*). If NCLAT comes to a conclusion that secured lenders with differently valued security inherently not equal and therefore should be treated differently then the DBS herein would be entitled to recovery of 90%. It is stated that the pay-out to the lenders should be restrained because if the amounts are already distributed amongst all lenders, then the DBS would not be able to recover its rightful amounts which are wrongfully distributed to the lenders.

57. The DBS, vide its written submission dated 14.05.2019, has also placed on record an order of Ld. NCLT, Hyderabad Bench in IDBI Bank vs. Mamta Binani and Ors. in CP (IB) No. 41/7/HDB/2017 dated 09.05.2019 wherein the Ld. Tribunal has held that the creditors may be given a different proportion of their debt from the resolution fund based upon the value of assets held by each creditor. The relevant portion upon which the DBS has sought to place reliance is reproduced below:

> "... *Financial Creditor holding the security interest over the assets of Corporate Debtor were given higher amount from out of the Resolution Fund than those who are not holding the security interest or holding security interest which is lower in value. This grouping of Financial Creditors does not amount to any discrimination. The*

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creditors who are having valuable assets are to be given higher percentage from out of the Resolution Fund than those who are holding less value of the assets... it cannot be said there is discrimination ... and the same is done basing on the value of security."

58. The Resolution Professional, in his reply, has submitted that the Resolution Plan approved by CoC, meets all requirements of the Code and the Regulations thereunder and is not in violation of any law. It is submitted that DBS had filed proof of claim for ₹242,96,42,713/- and claimed security by way of sole first charge on Plant & Machinery and Land and Building at Guna, Baran, Gadarwara, Dalauda Factories and mortgage of an office. The claim has been verified and admitted by the Resolution Professional.

59. The Resolution Professional has submitted that he is not a proper party in this Application filed by DBS as the real issue pertains to dispute inter se the members of the CoC concerning the manner of distribution of the proceeds proposed to be realised under the Resolution Plan. The Resolution Professional has relied on the order dated 14.11.2018 of the Hon'ble NCLAT in Binani Industries Ltd. v/s. Bank of Baroda to state that the approval of the Resolution Plan is in the domain of the CoC and not that of the Resolution Professional, and therefore, if the Resolution plan provides for the mandatory contents and is in accordance with the I&B Code then the Resolution Professional cannot be blamed in the event where Resolution Plan does not provide for satisfaction of claim.

60. The Resolution Professional has further placed reliance on the Judgement of Hon'ble Supreme Court dated 4.10.2018, in *Arcelor Mittal v/s Satish Kumar Gupta, Civil Appeal Nos. 9402-9405 Of 2018* emphasizing the portion where it is stated that Resolution Professional is not empowered to decide but only to ensure that the Resolution Plan submitted are complete in all respect before they are placed before the CoC. The decision making power to approve or reject a Resolution Plan vests with CoC who in the present case has

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approved the Resolution Plan with 96.95%. The relevant portion of the judgment of the Hon'ble Supreme Court in Arcelor (*supra.*):

> *"A conspectus of all these provisions would show that the Resolution Professional is required to examine that the resolution plan submitted by various applicants is complete in all respects, before submitting it to the Committee of Creditors. The Resolution Professional is not required to take any decision, but merely to ensure that the resolution plans submitted are complete in all respects before they are placed before the Committee of Creditors, who may or may not approve it. The fact that the Resolution Professional is also to confirm that a resolution plan does not contravene any of the provisions of law for the time-being in force, including Section 29A of the Code, only means that his prima facie opinion is to be given to the Committee of Creditors that a law has or has not been contravened. Section 30(2)(e) does not empower the Resolution Professional to "decide" whether the resolution plan does or does not contravene the provisions of law."*

61. It is further submitted by the Resolution Professional that the waterfall of distribution under section 53 for Financial Creditors only sets out the distinction between 'debts owed to Secured Creditors' and 'Financial debt owed to Unsecured Creditors'. Section 53 or the definition of 'Secured Creditors' in the Code does not set out any distinction among the secured creditors based on priority of their charge/ranking of security over the assets of the Corporate Debtor. It is stated that the proposed distribution is uniform to all secured Financial Creditors that is recovery proportionate to 48.39% (approx.) of their admitted debt and the same is without discrimination among the secured Financial Creditors of the Corporate Debtor.

62. The Resolution Professional has placed reliance on the order dated 19.03.2019 in ***Ashutosh Koul and 814 other employees of Jyoti Structures Ltd. v/s. DBS Bank Ltd. and Others, Company Appeal (AT) (Insol.) Nos. 461, 464 and 548 2018.*** To support

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the above contention. The relevant portion on which the Resolution Professional has placed reliance is re-produced below:-

"19. 'DBS Bank Ltd.' while opposed the appeal, learned counsel submitted that its claims of Rs. 53.77 Crores with the 'Corporate Debtor' has the first charge over certain assets of the 'Corporate Debtor'. It is also submitted that the liquidation value of the assets charged to 'DBS Bank Ltd.' is more than three times of its exposure. The 'Resolution Plan' having not recognised the difference between the first charge holder and the second charge holder but has distinguished between the secured and unsecured creditor; the Bank has raised grievances against the 'Resolution Plan'.

...

22. However, the submissions above cannot be accepted as at the 'Resolution Process', 'Financial Creditor' claims are decided as per provision of the 'I&B Code'. All the 'Financial Creditors' are treated to be similar if similarly situated."

63. The Resolution Professional has also placed reliance on the following part of the order of the Hon'ble NCLAT dated 13.12.2018 in ***Srei Equipment Finance Limited v. Sree Metaliks Limited Company Appeal (AT) (insol.) No.289 of 2017 :***

"9. Clause (b) and (c) of Regulation 38(1) being inconsistent with the provisions of I&B Code, and the legislators having not made any discrimination between the same set of group such as 'Financial Creditor' or 'Operational Creditor', Board by its Regulation cannot mandate that the Resolution Plan should provide liquidation value to the 'OperationalCreditors' (clause (b) of regulation 38(1)) or liquidation value to the dissenting Financial Creditors (clause (c) of regulation 38(1)). Such regulation being against Section 240(1) cannot be taken into consideration and any Resolution Plan which provides liquidation value to the 'Operational Creditor(s)' or liquidation value to the dissenting 'Financial Creditor(s)' in view of clause (b) and (c) of Regulation 38(1), without any other reason to discriminate between two set

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of creditors similarly situated such as 'Financial Creditors' or the 'Operational Creditors' cannot be approved being illegal."

64. The Resolution Professional has submitted that the decision in Essar Steel Ltd. (*supra.*) will not affect the order of approval of Resolution Plan passed in the present matter as a prospective declaration of law binds the sub-ordinate forums to apply dictum to cases which would arise in future only and where decision opposed to the said principles has been taken prior to such declaration of law then such matters cannot be interfered with on the basis of such prospective declaration of law.

65. To support the above contention that the decision in **Essar Steel Ltd. (*supra.*)** will not affect the order of approval of Resolution Plan passed in the present matter, the Resolution Professional has sought reliance on Judgements of Hon'ble Supreme Court in ***Baburam v/s. C.C. Jacob & Ors. (AIR 1999 SC 1845) and Madras Bar Association v/s. Union of India (AIR 2015 SC 1571)***.

66. The CoC has stated that during the 22nd meeting held on 23.4.2019, DBS had raised the contention that distribution to the lenders should be commensurate with the value of assets charge to the lenders. Against this contention, each of the members of the CoC other than DBS voted for 'equal/pari passu distribution' among all secured creditors.

67. The CoC has stated that DBS has raised exact contention in the Jyoti Structures matter (*supra.*) that it held the first charge over certain assets of the Corporate Debtor, the liquidation value of which was three times of its exposure and the Resolution Plan failed to recognize this priority charge over the assets of the Corporate Debtor. It is submitted that the Hon'ble NCLAT has rejected the same contention and upheld the distribution of Resolution Plan amounts between secured creditors irrespective any priority of security as being valid distribution. The further appeal before the Hon'ble Supreme Court against the said order of the NCLAT was also dismissed as being short

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of any merit in DBS Bank Ltd. Singapore vs Sharad Sanghi & Ors., Civil Appeal Nos. 3434-3436 of 2019 order dated 15.04.2019.

68. As against the contention of DBS that the pari passu distribution opted for by the CoC is hit by section 48 of Transfer of Property Act, the CoC has stated that this contention is misplaced and runs contrary to the Insolvency Resolution process envisaged under the I&B Code.

69. The CoC has placed the reliance upon the judgement of the Hon'ble Supreme Court's Order dated 25.1.2019 in the matter of Swiss Ribbons Pvt Ltd vs. Union of India, Writ Petition (Civil) No.99/2018 to emphasise that the primary objective of the I & B Code is to ensure revival and continuation of the Corporate Debtor by protecting the Corporate Debtor from its management and a corporate death by liquidation.

70. The CoC has further referred to the order of Hon'ble NCLAT dated 14.11.2018 in the matter of Binani Cement Ltd, wherein it has held that the Code is not a statute for recovery. The CoC has asserted that since these proceedings are not recovery proceedings, the provisions of Section 48 of Transfer of Property Act would not apply here as this provision would apply solely at the time of enforcement or distribution at the time of liquidation.

71. It is further stated that priority in payment is provided for at the time of liquidation under Section 53 of the Code. However, the Code does not provide for the creation of such distinction at the time of accepting a resolution plan submitted for the Corporate Debtor.

72. The CoC has also submitted that the distribution of funds in the resolution plan is approved by all financial creditors other than DBS in exercise of their commercial wisdom. The majority decision to distribute the amounts in a pari passu manner is said to be a commercial decision of the CoC made in line with the decision of Hon'ble NCLAT in Jyoti Structures case (supra). The appeal against Jyoti Structures case (supra) has been dismissed by the Hon'ble Supreme Court. Further, the CoC has submitted that in the light of

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the judgement of Hon'ble Supreme Court, dated 5.2.2019, in the matter of K. Sashidhar vs. Indian Overseas Bank, Civil appeal No.10673/2018, there is no provision in the I & B Code that empower the Resolution Professional, the Adjudicating Authority or even the Appellate Authority to reverse the "commercial decision" of the CoC.

73. We have heard the arguments of both sides in the MA 1746/2019 and perused the records. The DBS has sought differential treatment of financial creditors based on the quality of charge held by each creditor over the collateral security and its respective liquidation value. The same contention is said to have been raised by the DBS before the Hon'ble NCLAT in ***Ashutosh Koul and 814 other employees of Jyoti Structures Ltd. v/s. DBS Bank Ltd. and Others, Company Appeal (AT) (Insol.) Nos. 461, 464 and 548 2018*** and vide its order dated 19.03.2019 the Hon'ble NCLAT has rejected the contention of the DBS stating that the claims of the Financial Creditors is decided as per the provisions of the I&B Code and all the Financial Creditors are to be treated similarly if similarly situated.

74. As regards the submission of the DBS that its case would be covered by the decision of NCLAT in Essar Appeal (*supra.*). The apprehension of the DBS that, if NCLAT comes to a conclusion that secured lenders with differently valued security inherently not equal and therefore should be treated differently than the DBS herein would be entitled to recovery of 90%, has also come to an end now as the Hon'ble NCLAT has pronounced its judgment in the said matter and has held that there shall be no discrimination amongst the similarly situated Financial Creditors.

75. In the present case, the DBS has sought a differential treatment inter se the secured financial creditors which cannot be allowed in light of the decision of the Hon'ble NCLAT in Jyoti Structures Ltd. (*supra.*). Therefore, we at this moment, following the decision of the Hon'ble NCLAT hereby reject this MA 1746/2019 as not maintainable.

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76. The ICICI Bank Limited (**ICICI**), a financial creditor of the Corporate Debtor, has filed an application being MA 1816/2019 on 10.05.2019 being aggrieved by the refusal of the CoC to set aside/deposit the differential amount to be paid to the ICICI in case of its increased claim, in view of the on-going proceedings before the Hon'ble NCLAT in relation to an allegation of preferential transactions by it. The ICICI in its application has prayed *among other things*, for directions to set aside the decision of RP and CoC of not accepting the revised claim amount of the ICICI and refusal to set aside the differential amount to be paid to it in case of its increased claim.

77. The Resolution Professional had filed an application against the ICICI under Section 43(1) of the I&B Code, seeking reversal of transactions amounting Rs.65.98 crores from the ICICI, about transactions about certain Letters of Credit. The said application was allowed by order of this Bench dated 12.03.2019 wherein; *inter alia*, it was directed to the ICICI to reverse the amount Rs.65.98 crores debited from the current account of the Corporate Debtor about the LCs. This Bench also directed the CoC to decide on the appropriation of Rs.65.98 crores.

78. The ICICI challenged the order of this Bench dated 12.03.2019, before the Hon'ble NCLAT by way of Company Appeal (AT) (Insolvency) No.370 of 2019 which remains pending at the moment with directions not to force the ICICI to return the amount as per this Bench's order.

79. The ICICI addressed its concern to the RP and CoC that in case it is required to refund the amounts, the claim of the ICICI against the Corporate Debtor would stand increased to the extent of the refund. In the 22nd CoC meeting, the members of the CoC are said to have decided that the distribution of proceeds was required to be finalised based on the admitted claims before voting and the same cannot be changed subsequently. The Resolution Professional informed the CoC in its 23rd meeting that he cannot admit the additional claim of the ICICI since the underlying money has not been refunded to the Corporate Debtor and the additional amount claimed is subject to the

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appeal pending before the Hon'ble NCLAT. In the meantime, the resolution plan of the Patanjali Ayurveda Limited is approved by CoC and filed before this Tribunal for approval.

80. The ICICI has submitted that it had debited the account of the Corporate Debtor for an aggregate sum of Rs.65.98 crores for the payments under the maturing letters of credit issued by the ICICI on behalf of the Corporate Debtor. Since the payments were made on behalf of the Corporate Debtor, and in the event the ICICI is required to reverse the said Rs.65.98 crores to the Corporate Debtor, the same would be a financial debt owed to ICICI by the Corporate Debtor which it would be entitled to recover from the Corporate Debtor in the present corporate insolvency resolution process. However, the refusal of the RP and CoC to admit the increased claim of the ICICI in case it has to reverse the said Rs.65.98 crores, the ICICI would not be in a position to receive its share from the resolution plan proceeds.

81. The ICICI has submitted that as per the present admitted claim of Rs.513.27 crores, it is recovering 45.86%, aggregating to Rs.235.37 crores under the Resolution Plan of Patanjali. In case, the ICICI has to return Rs.65.98 crores then its claim would be increased and considering recovery of approximately 45.79%, the ICICI would recover Rs.265.18 crores, i.e. an increased recovery of Rs 29.81 crores from what it is getting at present.

82. It is noted that, in the resolution plan of Patanjali it is specifically stated that the resolution plan is "*submitted after considering and evaluating several factors such as including the assets, liabilities, future cash flows of the business, tracking of developments taking place post CIRP Date etc. and not alone the amount of claims made by the creditors of a company under insolvency*". Referring to the decision of this Tribunal directing repayment of the Rs.65.98 crores, it is stated that the resolution plan was submitted after considering the said amount. Therefore, it follows that the resolution applicant has appropriated this Rs.65.98 crore in its resolution plan in case it is reversed and repaid to the Corporate Debtor. Since the CoC has

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approved the resolution plan with a 96.95% majority; it can be safely presumed that CoC considered, evaluated and approved every clause of the resolution plan individually as well as the resolution plan as a whole in its entirety. Therefore, the appropriation of the said Rs.68.98 crores by the resolution applicant is approved by the CoC and can be taken as the decision of the CoC upon the said amount as per our order dated 12.03.2019.

83. The Resolution Professional has filed its written submissions on 15.05.2019 opposing the Application filed by the ICICI. The Resolution Professional has referred to Regulation 13 of CIRP Regulations to state that it has to admit claims of Creditors as on the Insolvency Commencement Date. The relevant portion of Regulation 13 relied upon by the Resolution Professional is reproduced below:

> *"The interim resolution professional or the resolution professional, as the case may be, shall verify every claim, as on the insolvency commencement date, within seven days from the last date of the receipt of the claims, and thereupon maintain a list of creditors containing names of creditors along with the amount claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims, and update it."*

84. As per the Resolution Professional, the ICICI has field its proof of claim as on the Insolvency commencement date after deducting the said amount of ₹65.98 crores and the same was duly admitted. It is stated that RP has maintained an updated list of creditors containing names of creditors along with the amount claimed by them and the number of their claims admitted by Section 25(2)(e) of I&B Code. Further, the Resolution Professional has also retained a note in the updated list of creditors to reflect the current position about the admitted claim of the ICICI.

85. It is further stated that under Section 43 if the Adjudicating Authority finds that a property is transferred by the Corporate Debtor to a creditor in preference to its other creditors, then, the Adjudicating

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Authority may order such creditor to transfer back to the Corporate Debtor the property so transferred in preference. However, such re-vesting of the property to the Corporate Debtor does not automatically entitle the creditor to file a proof of claim with the Resolution Professional for the debt that was discharged. Further, the discretion to allow the creditor to file a revised claim, in such circumstances, is left with the Adjudicating Authority under section 44(1)(g) of the I&B Code. It is submitted that neither the Tribunal nor the Hon'ble NCLAT has given any such liberty to file a revised claim to the ICICI. In the absence of any directions from this Tribunal or the Hon'ble Appellate Tribunal, it is submitted that the RP could not have admitted the additional claim that arose after Insolvency Commencement Date as also it would be determining a matter which is *sub judice* before the Hon'ble Appellate Tribunal. The Resolution Professional has relied on Swiss Ribbons case (*supra*.) to emphasise that the Resolution Professional is only given administrative powers as oppose to quasi-judicial powers.

86. The Resolution Professional has also given a note on information regarding recovery of the ICICI in both the scenarios where the additional claim is allowed and rejected. The current total admitted claim of the ICICI of ₹513.27 crores is split into secured portion of ₹483.63 crores and unsecured portion of ₹29.64 crores. The additional claim is proposed to be added to the secured claims and the effect is provided in the following note :

Admission of additional claim is allowed			
Admitted Claim as revised	Total recovery in amount and percentage if the Appeal is allowed (i.e. the Applicant retains the entire	Total recovery in amount and percentage if the Appeal is not allowed	The percentage recovery of other Secured Financial Creditors.

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	Impugned Amount)		
Original admitted claim secured portion amount ₹483.63 crores + Additional Claim ₹65.83 crores = ₹549.46 crores.	Currently proposed recovery for the secured portion is ₹234.20 crores + the Impugned Amount ₹65.98 crores: ₹300.18 crores. Percentage recovery for the secured portion will be 54.63%	The secured portion of the claim will be ₹549.46 crores and proposed for that portion will be ₹234.20 crores. Percentage recovery on the secured portion is 42.6%	The proposed recovery for the secured portion of the claim of all other financial creditors is 48.4%
Admission of additional claim is not allowed			
Admitted Claim	Total recovery in amount and percentage if the Appeal is allowed (i.e. the Applicant retains the entire Impugned Amount)	Total recovery in amount and percentage if the Appeal is not allowed	The percentage recovery of other Secured Financial Creditors.
The secured portion of the original admitted	Currently proposed recovery for the secured	The total secured portion of the admitted claim will remain ₹483.63	The proposed recovery for the secured portion of the

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claim ₹483.63 crores	portion is ₹234.20 crores + the Impugned Amount ₹65.98 crores: ₹300.18 crores. Percentage recovery for the secured portion will be 62.06%	crores, and proposed recovery will be ₹234.20 crores. Percentage recovery on the secured portion is 48.4%	claim of all other financial creditors is 48.4%

87. With regard to the relief sought by ICICI in its MA 1816/2019, it is noted that this Bench has vide its order under section 43 dated 12.03.2019 has declared certain transaction to be reversed and money to be returned to the Corporate Debtor. The ICICI has appealed against the said order of this Bench and the appeal is pending before the Hon'ble NCLAT. If the appeal is decided against the ICICI then it would have to return the said amount to the Corporate Debtor. In such a scenario, the ICICI has sought direction from this Bench to the RP and the CoC to admit its increased claim and take measures to safeguard its interest. However, since the same subject matter is pending in appeal before the Hon'ble NCLAT, we are not inclined to make any observations at this moment in this regard. The MA 1816/2019 filed by ICICI is rejected and disposed of as per the above observations.

88. It is pertinent to not that while the order for approval/rejection of the resolution plan was pending pronouncement, the judgment of Hon'ble NCLAT was pronounced on 04.07.2019 in ***Standard Chartered Bank vs. Satish Kumar Gupta, R.P. of Essar Steel Ltd. & Ors. in Company Appeal No. (AT) (Ins) – 242 of 2019*** dealing with manner of distribution of funds in the resolution plan, we sought submission of the Resolution Professional to explain the effect of the said judgment in the present matter.

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89. Accordingly, the Resolution Professional has submitted that an appeal has been preferred against the judgment of the Hon'ble NCLAT before the Hon'ble Supreme Court that has passed an order of stay over the judgment and for maintaining status quo. Thus, it is submitted that the judgment of the Hon'ble NCLAT is sub-judice. Further, it is submitted that a bill to amend the I&B Code has been approved by the Cabinet which, *among other things*, seeks to bring amendment for 'inclusion of commercial consideration in the manner of distribution proposed in a resolution plan, within the powers of the Committee of Creditors'.

90. In addition to the above submissions, the Resolution Professional has cited the judgment of Hon'ble Supreme Court in the case of ***Managing Director, ECIL, Hyderabad and Ors vs B. Karunakar and Ors. (1993) 4 Supreme Court Cases 727***, wherein the Five Judge Bench of the Hon'ble Supreme Court has held that while a court of law promulgates a new principle, its application is made prospective. The relevant paragraph in the said judgment on which the Resolution Professional has relied is reproduced below:

> *"It would, thus, be clear that the Supreme Court of the United States of America has consistently, while overruling previous law or laying a new principle, made its operation prospective and given the relief to the party succeeding and in some cases given retrospectively and denied the relief in other cases. As a matter of constitutional law, retrospective operation of an overruling decision is neither required nor prohibited by the Constitution but is one of judicial attitude depending on the facts and circumstances in each case, the nature and purpose of the particular overruling decision seek to serve. The court would look into the justifiable reliance on the overruled case by the administration; ability to effectuate the new rule adopted in the overruling case without doing an injustice; the likelihood of its operation whether substantially burdens the administration of justice or retard the purpose. All these factors are to be taken into account while overruling the earlier decision or laying down a new principle. The benefit of the decision must be*

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given to the parties before the Court even though applied to future cases from that date prospectively would not be extended to the parties whose adjudication either had become final or matters are pending trial or in appeal. The crucial cut off date for giving prospective operation is the date of the judgment and not the date of the cause of action of a particular litigation given rise to the principle culminated in the overruling decision. There is no distinction between civil and criminal litigation. Equally no distinction could be made between claims involving constitutional right, statutory right or common law right. It also emerges that the new rule would not be applied to ex post facto laws nor acceded to plea of denial of equality. This Court would adopt retroactive or non-retroactive effect of a decision not as a matter of constitutional compulsion but a matter of judicial policy determined in each case after evaluating the merits and demerits of the particular case by looking to the prior history of the rule in question, its purpose and effect and whether retroactive operation will accelerate or retard its operation. The reliance on the old rule and the cost of the burden of the administration are equally germane and be taken into account in deciding to give effect to prospective or retrospective operation."

91. It is pertinent to note that in the case before Hon'ble NCLAT in Essar Steel (*Supra.*) the operational creditors were being given NIL or 0% of their debt amount. Also, there were numerous operational creditors who opposed the approved resolution plan. In contrast, the approved resolution plan submitted before us for approval has allotted Rs. 90 crores for payment to the unrelated operational creditors, which amounts to 6.28% of their total verified claim. This is notably higher than the proposed payment of Rs. 40 crores offered to unsecured financial creditors amounting to 3.97% of their total verified claim. Also, there is no opposition filed against this approved resolution plan by any of the operational creditors as of now. We think that the decision of the Hon'ble NCLAT in the Essar Steel case (*supra.*) and that of the Hon'ble Supreme Court in an appeal against

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the same would not have any adverse bearing upon the approval of the present case before us.

92. In light of the above decision of the Hon'ble Supreme Court and adhering to the objective of the I&B Code, we do not wish to keep the approval of this resolution plan in abeyance till the final judgment of the Hon'ble Supreme Court against the decision of the Hon'ble NCLAT in Essar Steel case (*supra.*) is delivered.

93. Given the above observations, we approve the resolution plan with modifications, as mentioned above, which shall be binding on the Corporate Debtor and its employees, members, creditors, guarantors, Resolution Applicant and other stakeholders involved in the resolution plan.

94. The resolution professional shall forward all records relating to the conduct of the corporate insolvency resolution process and the resolution plan to the IBBI to be recorded on its database.

95. Upon perusal of the CA certificates issued in favour of the consortium members, it is noted that in the case of the **Patanjali Ayurved Limited (PAL)**, the Auditor has certified that PAL is in the capacity to spare a sum of ₹75 crore for investment in acquisition of business of Ruchi Soya Industries Limited on the basis of assessment of funds/liquid assets available in the Books of Accounts of PAL as certified vide certificate dated 08.04.2019 and ₹65 crore in the case of **Divya Pharmacy** as certified vide CA certificate dated 10.04.2019. As per the balance confirmation as on 10.04.2019, **Patanjali Parivahan Private Limited** has a sum of ₹2.26 crore in its 7 Bank accounts & in the case of **Patanjali Gramudyog Nyas** as per the Bank statement it has credit balance of ₹2 crore. Thus, the aggregate amount available for investment including some other individual accounts is about ₹145 crore as against the proposed ₹600 crore provided in the Resolution Plan. Even during the hearings, the Bench had sought exact/detailed source of funds for the resolution plan, inspite of the same, the information submitted is short of source of funds & there is a wide gap between the source of funds

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mentioned in the Plan and the actual available funds as per the records submitted. Therefore, we direct the Resolution Professional/Resolution Applicant to bridge the gap in information and provide the exact source of funds for the stated ₹600 crores that forms a part of the Resolution Plan before the next date of listing.

96. Further, the Resolution Professional has not mentioned the actual CIRP cost. The Resolution Professional is directed to submit detailed breakup of the CIRP Cost before the next date of listing. The Resolution Professional or the Resolution Applicant to submit the details of remuneration to be paid to Mr. Shailendra Ajmera for discharging duties as monitoring agent.

97. List on 1.8.2019 for filing additional affidavit of Resoution applicant regarding accepetence of the modifications in the Resolution Plan and submitting the other informations as per directions above.

98. The Resolution Plan is at this moment approved, subject to the submission of additional affidavit for accepetence of the modifications in the Resolution Plan and other informations as per directions above, under section 31(1) of IBC with observations above. The MA 1721/2019 is accordingly allowed and disposed of.

Sd/-
RAVIKUMAR DURAISAMY
Member (Technical)

Sd/-
V.P. SINGH
Member (Judicial)

24th July, 2019

Certified True Copy
Copy Issued "free of cost"
On 19.8.19
Assistant Registrar
National Company Law Tribunal Mumbai Bench

CP. (IB)-1371& 1372/MB/2017
MA 2842/2019, MA 2848/2019,
MA 989/2018, MA 1572/2018,
MA 2395/2019,

CORAM:

SHRI V. P. SINGH
MEMBER (J)
SHRI RAJESH SHARMA
MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 4.9.2019

NAME OF THE PARTIES: Standard Chartered Bank
V/s
Ruchi Soya Industries Limited
DBS Bank Limited.

V/s
Ruchi Soya Industries Limited

Section 7 of the Bankruptcy and Insolvency Act, 2016

ORDER

143. MA 2842/2019, MA 2848/2019, MA 989/2018, MA 1572/2018, MA 2395/2019, IN CP. (IB)-1371& 1372/MB/2017

By order dated 24.7.2019, this Bench has approved the resolution plan submitted by the Resolution Applicant Patanjali Ayurved Ltd, subject to the submission of additional affidavit for acceptance of the modification in the resolution plan and other information as per the directions given in the order. Further, in compliance of such guidelines, the Resolution Applicant has submitted the details regarding source of funds which was accepted by order of this Bench and after getting the details of source of funds, we passed an order that Resolution Applicant has provided the information as required and this Bench is satisfied with the information provided by the

with our earlier order dated 24.7.2019. The Resolution Applicant was directed to submit additional affidavit for acceptance of the modification in the resolution plan on 27.8.2019. On 27.8.2019 when the case was taken up, affidavit was not filed regarding acceptance of the resolution plan. Counsel for the Resolution Applicant was present in the court and emphasized on affidavit dated 26.8.2019

In Para 1 of the affidavit, Resolution Applicant has stated that the Resolution Applicants was approved by an overwhelming majority of 96.95% of the members of CoC.

In para 2 of the affidavit, it is stated that the approval of the resolution plan was conditional upon the Resolution Applicants filing an additional affidavit.

In Para 3 of the affidavit, Resolution Applicant has stated regarding part of our order dated 24.7.2019.

In Para 4 of the affidavit, Resolution Applicant has stated that resolution applicant has prepared the resolution plan on the basis of the liabilities described/identified in the Information memorandum and further information provided by the RP in the virtual data room (as set up by the RP) and other information gathered by the Resolution Applicants during the due diligence process. In the resolution plan filed before this Tribunal, the Resolution Applicant proposed extinguishment of identified liabilities and claims against the Corporate Debtor. It was on this basis that the resolution plan was submitted.

By mentioning Para 4, Resolution Applicant has tried to justify the resolution plan submitted by it and in Para 5 also, Resolution Applicant has stated that identified liabilities and claims against the Corporate Debtor shall stand extinguished.

After mentionings of those things, in para 6 of the affidavit, Resolution Applicant has stated that this additional affidavit is being filed in

14.8.2019 for accepting the modifications in the resolution plan.

The Resolution Applicant in its affidavit dated 26.8.2019 filed by Shri Kumar Rajesh, the Authorised Representative of the Resolution Applicants; Patanjali Ayurved Ltd., Divya Yog Mandir Trust, Pantanjali Parivahan Private Ltd and Patanjali Gramudyog Nyas have stated in Para 5 and 6 that:

> *"5. The Resolution Applicants understand the order dated July 24, 2019 read with the order dated August 14, 2019 to mean that the identified liabilities and claims against the Corporate Debtor shall stand extinguished as per the approved resolution plan.*
>
> *6. It is on this basis that, the Resolution Applicants are filing this Additional Affidavit in compliance of the order dated July 24, 2019 read with the order dated August 14, 2019, for accepting the modifications in the Resolution Plan."*

By stating the above, the Resolution Applicants have accepted the terms of the modified resolution plan as has been approved by this Bench.

It is further clarified that in our order dated 28.8.2019, we have stated that *"if the Resolution Applicant is agreed with the modified resolution plan than he has to accept the resolution plan."*

Ld. Counsel representing the Resolution Applicants today have emphasized that in its affidavit dated 26.8.2019, there is acceptance of the modified resolution plan. On perusal of the same, we are also satisfied that in para 5 and 6 of the affidavit filed by Shri Kumar Rajesh, the Authorised Representative of the Resolution Applicants; the Resolution Applicants have accepted the modified approved resolution plan. Therefore, there is no need of taking another affidavit in this regard. However, the CoC has filed another MA 2980/2019 wherein CoC has sought *to grant reduction of amounts and consequent extinguishment of the claims/liabilities specifically identified by the Resolution Applicant before the Coc. Further relief has been sought for*

the modified resolution plan."

This MA 2980/2019 is misconceived. CoC has no locus to file this application, seeking any relief to the Resolution Applicants. The modified resolution plan as approved by us by our order dated 24.7.2019 is finally approved on the basis of Para 5 and 6 of the affidavit filed by the Resolution Applicants dated 26.8.2019, with immediate effect.

It is to be clarified that the Resolution Applicant has sought substitution of Para 38 of the Resolution Plan which is given as under:

> *"38. Any relief sought for in the Resolution Plan, where the contract/agreement/ understanding/proceedings/actions/notice etc is not specifically identified or is for future and contingent liability, is at this moment rejected."*

The Resolution Applicant seeks to substitute the above Paragraph 38 of the said order as under:

> *"All claims that were either not filed or not admitted during CIRP in terms of the provisions of the Insolvency and Bankruptcy Code, 2016 shall stand extinguished. Further, claims admitted/verified by the Resolution Professional shall stand settled and extinguished as per the Resolution Plan."*

It is to be clarified that no party has any right to dictate the terms of order. There is no need to substitute Para 38 with the proposed para as mentioned in the application. However, it is to be made clear that while approving the resolution plan, we have dealt with every aspect of the resolution plan in details and all the claims which have been admitted during CIRP are being dealt with by us in terms of the resolution plan. Anyone who has not filed its claim then he will not have any right to agitate the same after the approval of the resolution plan.

It is also to be clarified that every eventuality has been discussed in the approved resolution plan and in implementation of the resolution plan

Monitoring agency for effective implementation of the plan. In the circumstances, we hereby approve the resolution plan.

Designated Registrar is directed to immediately communicate this order to the Resolution Professional, Resolution Applicant, Corporate Debtor and IBBI for information.

RAJESH SHARMA
Member (Technical)

V. P. SINGH
Member (Judicial)

Certified True Copy
Copy issued "free of cost"
On 16/9/19

Assistant Registrar
National Company Law Tribunal Mumbai Bench