



THE NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Through Hybrid Mode)

Item No.8

IA (IBC)/153/2025, IA (IBC)/99/2025, IA (IBC)/104/2025, IA
(IBC)/401/2022 & IA(IBC)/224/2022 IN CP(IB)/4/7/AMR/2021
(Liquidation Approved on 03.02.2023)

IN THE MATTER OF:

M/s. Indian Renewable Energy Development Agency Limited

.... Financial Creditor

Versus

M/s. Saradambika Power Plant Pvt. Ltd.

....Corporate Debtor

Under Section: 7, 60(5), 66 & 18 of IBC, 2016

Rule: 11 of NCLT Rules, 2016

Order delivered on 01.07.2025

CORAM:

SHRI UMESH KUMAR SHUKLA
HON'BLE MEMBER (TECHNICAL)

SHRI KISHORE VEMULAPALLI
HON'BLE MEMBER (JUDICIAL)

PRESENT:

In CP

For the Financial Creditor :
For the Corporate Debtor :
Liquidator : Mr. Charudutt Marathe, Liquidator

In IA

IA (IBC)/153/2025
For the Applicant : Mr. Venkat Challa, Adv
For the Respondent : Mr. Amir Bavani, Adv. &
Liquidator : Mr. Charudutt Marathe, Liquidator
IA (IBC)/99/2025
For the Applicant : Mr. Amir Bavani, Adv.
For the Respondent : Mr. Venkat Challa, Adv.
IA (IBC)/104/2025
For the Applicant : Mr. Amir Bavani, Adv.
For the Respondent :
IA (IBC)/401/2022
For the Applicant : Mr. Amir Bavani, Adv.
For the Respondent No.1, 2 &5 : Mr. Maharshi Viswaraj, Adv
IA(IBC)/224/2022
For the Applicant :
For the Respondent : Mr. Amir Bavani, Adv

ORDER

IA (IBC)/153/2025:


This Interlocutory application (IA) is filed by the Successful Bidder/Applicant, seeking the reliefs from this Adjudicating Authority, which are extracted below:



- a. Declare the action of the Respondent in not approaching this Hon'ble Court for sale confirmation without any plausible reason and thereby depriving the Applicant herein of the financial benefits, more specifically benefits that would have accrued in lieu of losses that were carried forward, depreciation, as illegal, arbitrary and contrary to the Regulation 44;
- b. Direct the cancellation of the proposed sale transaction and consequently direct the Respondent to refund the entire amount of INR 7.58 Crores paid by the Applicant towards the purchase of the Corporate Debtor as a going concern, along with interest at an appropriate rate to compensate for the undue delay, financial losses, and business disruption caused due to the Liquidator's failure to conclude the sale process.
- c. Direct the Respondent to conduct a fresh and transparent auction process for the Corporate Debtor within a fixed timeframe, ensuring that all necessary regulatory approvals, reliefs, and waivers are clarified and granted beforehand, thereby preventing further ambiguity, financial loss, and litigation.
- d. Direct the Insolvency and Bankruptcy Board of India (IBBI) to initiate necessary proceedings against the Liquidator for his failure to discharge his duties in a timely and efficient manner, resulting in financial harm to the Applicant and disruption of the liquidation process.
- e. To take stringent action against the Liquidator for his failure to discharge his duties in a timely and efficient manner in complete contravention to the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

2. The Counsel for the Applicant summarized the facts of the Case as below:

- (i) This Adjudicating Authority vide its order dated 18.04.2022 in Petition No. CP (IB)/4/7/AMR/2021 admitted the Saradambika Power Plant Private Limited (Corporate Debtor) into Corporate



Insolvency Resolution Process (CIRP) and appointed the Respondent No. 1 as the Resolution Professional.

- (ii) Subsequently, this Adjudicating Authority vide its order dated 03.02.2023 in IA (IBC)/340/2022 passed the liquidation order of the Corporate Debtor and appointed the Respondent No. 1 as the Liquidator.
- (iii) The Liquidator issued e-auction notice dated 30.11.2023 in respect of sale of Corporate Debtor as a going concern. Pursuant to the e-auction held on 30.12.2023, the Applicant was the Successful Bidder as per the e-mail dated 30.12.2023 of the Liquidator. In response to the Letter of Intent issued by the Liquidator vide his e-mail dated 30.12.2023, the Applicant vide its e-mail dated 01.01.2024 confirmed, accepted and acknowledged the Letter of Intent.
- (iv) The Liquidator vide its e-mail dated 04.01.2024, allowed the Applicant to make payment of 25% of the sale consideration till 08.01.2024. The Applicant made the payment on 08.01.2024 and informed the same vide its e-mail dated 08.01.2024 to the Liquidator, who vide his e-mail dated 11.01.2024, confirmed receipt of the same.
- (v) The Applicant vide its e-mail dated 22.01.2024, approached the Liquidator requesting it to consider certain reliefs, concessions and waivers, which are material and necessary to ensure that the status of the Corporate Debtor continues to remain as ongoing concern.
- (vi) The Applicant vide its e-mail dated 24.01.2024, requested the Liquidator to extend the time period for depositing the balance 75% sale consideration.
- (vii) The Applicant's request for extension of timeline for balance 75% sale consideration as well as reliefs, concessions and waivers sought by the Applicant were placed before the Stakeholders' Consultation Committee (SCC), which in its meeting held on



29.01.2024 allowed the Applicant to approach this Adjudicating Authority for reliefs, concessions and waivers.

- (viii) The Applicant vide its e-mail dated 02.02.2024, again requested the Liquidator for extending the period for depositing the balance 75% sale consideration by five months. However, the Liquidator vide his e-mail dated 07.03.2024 informed that extending the time for payment of balance 75% sale consideration had already been granted for 90 days from the date of auction i.e. 31.12.2023 and non-payment of the same within the timeline would result into cancellation of Letter of Credit and forfeiture of any monies paid.
- (ix) The Applicant's request for waiver of interest for balance sale consideration as well as request for other reliefs, concessions and waivers were placed before the SCC meeting held on 12.03.2024, which authorized the Liquidator to issue the Sale Certificate upon receipt of full amount of sale consideration as per E-auction Process Information Document and also allowed the Liquidator to approach this Adjudicating Authority for waiver, reliefs and concessions.
- (x) On 27.03.2024, the Applicant paid the balance 75% sale consideration and informed the same to the Liquidator vide its e-mail dated 27.03.2024.
- (xi) The Applicant vide its e-mail dated 27.03.2024, also requested the Liquidator for waiver of interest on payment of balance 75% sale consideration, which was discussed in SCC meeting held on 28.03.2024 and SCC took a view that the same will be put forth to the Competent Authority and outcome would be shared in due course of time.
- (xii) Subsequently, the Applicant vide its e-mails dated 15.05.2024, 30.05.2024, 17.06.2024, 29.06.2024, 23.07.2024, 06.08.2024, 22.08.2024, 06.09.2024, 25.09.2024, 22.10.2024, requested the Liquidator to approach this Adjudicating Authority by filing appropriate application for grant of reliefs, concessions and waivers sought by the Applicant.



(xiii) On 12.11.2024, the Applicant received e-mail from the Liquidator enclosing Minutes of the 8th SCC Meeting held on 21.02.2024 claiming that a sum of Rs.126.14 lakhs remained unpaid from the Applicant as on 29.03.2024, which comprises of Rs. 89.64 lakhs on account of GST, Rs. 7.02 lakhs on account of stamp duty on transfer of leased land and Rs. 16.46 lakhs towards interest on delayed payment.

(xiv) As per the Applicant, these claims are not payable in view of the following:

- a. Sale of Corporate Debtor as a going concern is exempt from levy of GST in terms of Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 (Entry No.2), which specifically exempts services by way of transfer of a going concern as a whole or an independent part thereof.
- b. As per the direction issued by the Hon'ble High Court of Telangana in the matter of M/s. Anirudh Agro Farms Pvt. Ltd. Vs. State of Telangana reported in 2023, no stamp duty shall be payable on Sale Certificate issued by the Liquidator.
- c. Applicant's request for waiver of interest has been kept under consideration by SCC and recorded in the Minutes of 7th Meeting of the SCC and the said request was never denied by the SCC.

(xv) The Applicant vide its e-mail dated 15.11.2024, informed the Liquidator that no GST registration fees, stamp duty, other charges are applicable in the present case and vide its e-mails dated 18.11.2024 and 26.11.2024, requested the Liquidator for clarification and vide its e-mail dated 04.12.2024 to expedite the pending issues.

(xvi) On 17.12.2024, the Applicant filed a complaint against the Liquidator before the Insolvency and Bankruptcy Board of India (IBBI) on account of continuous deliberate omissions causing grave prejudice and irreparable harm to the Applicant.



- (xvii) The Applicant vide its e-mail dated 22.01.2025, sent another reminder to the Liquidator to approach this Adjudicating Authority for filing appropriate application seeking grant of concessions, reliefs and waivers sought by the Applicant. The IREDA also sent e-mail dated 23.01.2025 to approach this Adjudicating Authority for filing appropriate application seeking grant of concessions, reliefs and waivers sought by the Applicant. The reliefs and concessions sought by the Applicant, as per Annexure A-38 of the Application, are as below:

S.N.	Reliefs and Concessions
1.	The date of issue of the sale certificate shall be deemed to be the date of acquisition (Acquisition Date) of the Corporate Debtor by the Successful Bidder and/or its nominees on a going concern basis.
2.	Liquidator to not make any changes, whatsoever, with the Business Operations of the Corporate Debtor from the date of auction till the Acquisition Date, without consulting the Successful Bidder, including but not limited to any change in the scope/nature/ activities of the Corporate Debtor's business, making any aggregate payments over and above Rs.10,00,000/-, entering into verifying, modifying, waiving or terminating any contract of the Corporate Debtor, any other transfer, change, transaction, which will affect the Corporate Debtor and its business operations.
3.	Upon payment of the entire sale consideration, the debts, claims, liabilities of all the Financial Creditors, Operational Creditors, Employees, Workmen, Statutory dues etc., shall stand extinguished and are deemed to be settled, as the said claims are satisfied in terms of Section 53 of the Code.
4.	The time consumed from the date of seeking exemptions till the date the exemptions are granted by this Adjudicating Authority is to be excluded from calculating the period of 90 days for the payment of balance consideration of 75% and therefore, the interest of 12% p.a. may also be waived off for the said period. Further, no penalty/disqualification be levied/considered for non-payment of balance 75% of the bid amount till the approval of the reliefs and concessions by this Adjudicating Authority.
5.	Upon payment of 100% of the Bid Amount and upon issuance of Sale Certificate by the Liquidator, the Corporate Debtor entity should be deemed to be a clean slate in the hands of the Successful Bidder.
6.	Power Purchase Agreement: The physical entity of the 10MW Biomass Based Renewable Energy Generation Power Plant working in conjunction with the Power Purchase Agreement ('PPA') becomes necessary for maximization of the value of



S.N.	Reliefs and Concessions
	<p>assets of the Corporate Debtor and to facilitate the sale of the Corporate Debtor, under Liquidation, as a going concern in accordance with the provisions of the Code. Hence, it is prayed that the Maharashtra State Electricity Distribution Company Limited (MSEDCL) be directed by this Adjudicating Authority to renew, from the Acquisition Date, the PPA entered into by MSEDCL and the Corporate Debtor on 25.09.2006, for a further period of 10 years whilst retaining the erstwhile tariff, terms and conditions, as it was the sole agreement of the Corporate Debtor and is essential for the running of the Corporate Debtor as a going concern. 'Events of Default' may be considered to be inoperable owing to the Corporate Debtor entity being sold as a going concern to the Successful Bidder and hence, the operation of the said clause be considered as null and void, thereby, the PPA be extended for the aforesaid period of 10 years from the Acquisition Date.</p> <p>It is further prayed that the Liquidator and relevant government officials and authorities extend necessary cooperation for the extension and implementation of the PPA.</p>
7.	<p>Carry Forward and Set Off of Losses- The company, upon 100% acquisition, can carry forward and set off accumulated business losses, unabsorbed appreciation, and capital losses under the Income Tax Act, 1961. This includes lapsed losses from the last five assessment years, for an additional eight assessment years. Within 6 months of the acquisition, the company can rectify non-compliances under the Income Tax Act, file pending ITRs, and claim carry forwards despite prior non-compliance until the acquisition date. Additionally, permit setting off losses and unabsorbed depreciation under section 115JB of the Income Tax Act, 1961, and exempt from tax liability. Allow filing returns for prior Assessment Years. Set off any MAT credit against the income tax liabilities. Further, waiver of any and all penalties, under various sections of the Income Tax Act, 1961, for the Corporate Debtor and its shareholders.</p>
8.	<p>Earlier non-compliances:</p> <p>Non-compliance prior to the Date of Acquisition shall be automatically regularized on the Acquisition Date.</p> <p>On the Acquisition Date:</p> <ol style="list-style-type: none"> 1. Any non-compliance with laws, rules, regulations, notifications, etc., prior to the Date of Acquisition is deemed extinguished or automatically regularized. 2. The Successful Bidder, its nominees, the Corporate Debtor, and their respective directors, officers, and employees as of the Acquisition Date are not liable for violations, penalties, fines, or liabilities related to the Corporate Debtor's lack of required licenses and approvals or non-compliance with applicable laws. Provided that the liabilities of the erstwhile Promoters/Directors of the Corporate Debtor shall not be extinguished and the same can be proceeded against in accordance with the laws in force.



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	<p>3. A reasonable period is allowed for rectifying non-compliances, and any such non-compliance is deemed extinguished or regularized automatically without imposing additional obligations.</p> <p>4. Non-compliances under the Companies Act, 1956, and/or Companies Act, 2013, and related notifications, circulars, rules, and regulations before the Acquisition Date are deemed compounded without penalties or fees.</p> <p>5. Statutory appointments, including statutory auditors and company secretary, will be complied with within 12 months from the Acquisition Date, and non-compliance within this period is waived off/condoned.</p> <p>6. Inquiries, investigations, assessments, notices, legal actions, claims, disputes, litigations, arbitrations, or other proceedings related to any period before the Acquisition Date or arising from the acquisition are deemed withdrawn or dismissed without any cost or financial injury to the Corporate Debtors or Successful Bidder.</p> <p>7. The Successful Bidder and the Corporate Debtor are not held responsible or liable for past liabilities in inquiries, investigations, assessments, notices, legal cases, disputes, litigations, arbitrations, or other proceedings related to the Corporate Debtor before the effective date.</p> <p>8. Upon full payment, all bonds, guarantees, powers of attorney, and undertakings issued by the Corporate Debtor before the Acquisition Date are cancelled and permanently revoked. As well as all the prior proceedings and orders are deemed to be withdrawn or dismissed. Including investigations, non-compliance issues, change of control-related charges, and contractual commitments, are fully written off and permanently extinguished.</p> <p>9. Any non-compliance with laws, rules, regulations, notifications, directions, circulars, guidelines, policies, licenses, approvals, consents, or permissions, including any suspension, cancellation, revocation, or termination before the Date of Acquisition, shall be considered automatically extinguished and/or regularized on the Acquisition Date, as applicable.</p> <p>10. The Successful Bidder, Corporate Debtor, and their personnel are not liable for non-compliance, violations, or penalties. Existing non-compliance is deemed extinguished or automatically regularized, with a reasonable period for rectification and no additional obligations on the Corporate Debtor.</p> <p>11. Any non-compliance of the Corporate Debtor under the Companies Act, 1956, and/or Companies Act, 2013, and related notifications, circulars, rules, and regulations before the Acquisition Date shall be compounded without imposing any penalty or fees.</p> <p>12. Irrecoverable assets must be written down in financial statements filed with regulators.</p> <p>13. No Financial or Operational Creditor can make claims or institute proceedings against the Corporate Debtor.</p>



S.N.	Reliefs and Concessions
	<p>14. Liabilities written back or down by the Corporate Debtor won't be considered taxable income under the Income Tax Act, 1961. Any write-offs will be allowed as a tax deduction in the year of write-off.</p> <p>In effect, the successful bidder is not liable under Section 32A of IBC, 2016, and all recovery proceedings against the Corporate Debtor are dismissed and extinguished.</p>
9.	<p>Exemptions and waivers relating to Tax and other Authorities:</p> <p>The Corporate Debtor will approach the Appropriate Authority for necessary directions and instructions to the CBDT, Central Board of Indirect Taxes and Customs & Central Excises and State & Central GST authorities to exempt income/gain/profits, if any, arising as a result of giving effect to the Acquisition and from being subjected to income tax in the hands of the Corporate Debtor or the Bidder under the provisions of value added Tax, customs, octroi, excise duty, service tax, goods & services Tax, Income Tax Act including but not limited to any income tax and Minimum Alternate Tax (MAT) liability arising on capital reduction in Corporate Debtor, consolidation of share capital of Corporate Debtor, write off/write down of current amounts due to employees, vendors, Operational Creditors, Financial Creditors, value of assets, value of inventories, etc. without any impact on brought forward tax and book loss/depreciation; and waive all liabilities whether crystallized or not in respect of Taxes (including interest and penalty) arising in respect of periods up to the Acquisition Date.</p>
10.	<p>Specific Waivers/Exemptions/Reliefs under the Income Tax Act, 1961-</p> <p>Request for waiver/exemption under Sec 281 of the Income Tax Act, 1961 from the selling shareholders regarding No Objection Certificate.</p> <p>The Successful Bidder seeks exemption from any Income Tax liability arising from Capital Reduction.</p> <p>Additionally, the Successful Bidder also prays the Income Tax Department to treat transactions as void under Section 281, relieving from claims related to tax or any other sum by selling shareholders. The waiver should cover liabilities, including those of Financial Creditors, Workmen, Employees, Operational Creditors, Other Creditors, and impairment of assets, without impacting carried forward losses. Further, a waiver for all crystallized or non-crystallized tax liabilities (including interest and penalty) preceding the Acquirer's control over the Corporate Debtor ('Closing Date') is also prayed for.</p> <p>Extend the exemption under section 79 of the Income Tax Act to the Successful Bidder and Corporate Debtor, ensuring that changes in shareholding do not lead to the lapse of tax losses or avoidance under Section 81 of the Central Goods and Service Tax Act, 2017, with no imposition of successor liability by the concerned authority.</p>



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	<p>Liabilities written back or down by the Corporate Debtor won't be considered taxable income under the Income Tax Act, 1961. Any write-offs will be allowed as a tax deduction in the year of write-off.</p> <p>Requirement and applicability permission of under section 281 of the Income-tax Act, 1961 and provisions of taking over its predecessor's tax liability under section 170 of the Income Tax Act, 1961 shall be deemed to have been waived on the Acquisition Date.</p> <p>Permit setting off losses and unabsorbed depreciation under section 115JB of the Income Tax Act, 1961, and exempt from tax liability. Allow filing returns for prior Assessment Years, and waive income-tax and MAT liabilities, including penalties, under various sections of the Income Tax Act, 1961, for the Corporate Debtor and its shareholders.</p> <p>The aforesaid reliefs shall include but not be limited to liabilities if any under Section 28, Section 41, Section 56, Section 43, Section 28, Section 115JB, Section 79, Section 45, Section 269SS, Section 269T and Section 271E of the Income-Tax Act, 1961 including, without limitation.</p>
11.	<p>Assets, Rights, Titles etc. – All rights, titles, and interests, including intellectual property rights, remain with the Corporate Debtor. Additionally, the assets, rights, titles, and interests of the Corporate Debtor are freed from charges, security interests, claims, and counterclaims. Each asset, including properties on freehold, leasehold, or license basis, becomes the unencumbered property of the Corporate Debtor from the Acquisition Date.</p> <p>All assets of the Corporate Debtor, including properties, are vested free and clear of encumbrances from the Acquisition Date, and the Liquidator or the concerned Authorities, as the case may be, shall extend full cooperation, without obligation, to ensure that the rights, titles, and interests of all the Assets of the Corporate Debtor, whether tangible or intangible, vests with the Successful Bidder/Corporate Debtor on and after the Acquisition date, free of all encumbrances.</p> <p>Leasehold Land of MIDC:</p> <p>In the E-Auction Process Document and the Additional Information provided to the successful bidder by the Liquidator, the building, plant and machinery and all other assets of the Corporate Debtor are situated at Plot No. B1, Chimur Mini Industrial Area, MIDC Area, Chimur, Dist: Chandrapur, Maharashtra State, India 442903 and the said land is owned by the Maharashtra Industrial Area Development Authority, i.e. Maharashtra Industrial Development Corporation ('MIDC') and was given on lease to the Company for 95 years with effect from 01.02.2006 vide the Final Lease Deed dated 07.03.2006, registered at ChaMaRa -00249 2006, at the office of the Hon'ble Sub Registrar Chimur, District Chandrapur, Maharashtra. The said lease will expire on 31.01.2101.</p> <p>As the entirety of the 10MW Biomass Based Renewable Energy Generation Power Project/Plant is situated on the leasehold land of MIDC, it is humbly prayed that this Hon'ble Tribunal directs MIDC to not take any coercive actions with respect to and/or terminate the lease deed dated 07.03.2006,</p>



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	<p>until it expires due to an efflux of time and MIDC shall cooperate with the Corporate Debtor or the Successful Bidder, as the case may be, to regularize any non-compliances in this regard. Further, any interest, penalties, levies etc. arising out of the statutory dues payable, on or before the Acquisition Date, to MIDC shall stand extinguished upon payment as envisaged under Section 53 of the Code. The Successful Bidder shall only be liable for the amount of claim of MIDC so admitted by the RP. Further, the lease to continue in favor of the Corporate Debtor for the remaining period as per the lease deed/agreement and the same rights and title be continued for the bidder as that to a lessee in the said agreement including but not limited to seeking extension.</p>
12.	<p>Licenses, Approvals, Permits, etc.- All existing consents, permits, licenses, approvals, rights, copyrights, entitlements, trademarks, benefits, and privileges, whether legally, contractually, or statutorily granted, will remain with the Corporate Debtor for a period of twelve months from the Acquisition Date or until renewed by the relevant authorities, whichever occurs later.</p> <p>The Corporate Debtor or the Successful Bidder, as the case may be, shall be deemed to be granted the following, from the Acquisition Date, that shall include but not be limited to:</p> <ul style="list-style-type: none"> (a) Labour Licenses (b) ESIC & PF Registrations (c) Employee Welfare Registration. (d) Grid Synchronization Approvals (e) NOC from MREDA (f) Factory Licenses from Health and Safety Department along with other statutory clearances. (g) Approval from Boiler department (h) Approval from Weights and Measures department. <p>Also, such licenses and approvals as mentioned in the e-auction process document and additional information for e-auction documents as shared by the Liquidator, which are imperative to keep the Company as a going concern.</p> <p>The Corporate Debtor is considered eligible to receive all consents, licenses, exemptions, approvals, rights, entitlements, extensions, waivers, benefits, and privileges, whether based on law, contracts, leases, or licenses. This includes, but is not limited to, permissions for changes in land use by Governmental and/or Regulatory Authorities.</p> <p>The following shall be ensured by the Liquidator, without obligation:</p> <ul style="list-style-type: none"> a. Central/State Government Departments/Local Bodies shall renew/issue fresh licenses/permissions/approvals within 30 days of the Corporate Debtor's application. b. Temporary licenses for Business/Factory Operations shall be granted within 7 days of application for the interim period if needed.



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	<p>c. Any liabilities arising from unfulfilled export obligations will not be borne by the reconstituted Company and will be considered extinguished.</p> <p>Reliefs and waivers with respect to the United Nations Framework Convention on Climate Change (UNFCCC) Clean Development Mechanism (CDM):</p> <p>It has come to our notice that the Corporate Debtor has been registered under the UNFCCC's CDM project. It is prayed that the Hon'ble Tribunal directs the concerned authorities, departments and officials to ensure that the Corporate Debtor's status under the CDM project remains in vogue and any earlier non-compliance, including but not limited to emission reductions, threatening its status and benefits under the scheme be deemed to be regularized on and from the Acquisition Date.</p> <p>Further, it is prayed that for the period preceding the Acquisition Date, the Corporate Debtor be granted certified emission reduction (CER) credits as if the Corporate Debtor was a going concern, under the CDM scheme, for the entire period of CIRP and Liquidation under the Code.</p>
13.	<p>Sectoral Regulatory Compliance and related waivers:</p> <p>The Corporate Debtor is considered eligible to receive all consents, licenses, exemptions, approvals, rights, entitlements, extensions, waivers, benefits, and privileges, whether based on law, contracts, leases, or licenses. This includes, but is not limited to the sectoral regulators of the Corporate Debtor such as the Ministry of Power, Ministry of New & Renewable Energy, Ministry of Non-Conventional Energy Sources, Central Electricity Authority of India, Maharashtra Energy Development Agency, Central Electricity Regulatory Commission, Maharashtra Electricity Regulatory Commission, Maharashtra State Electricity Distribution Company Limited and Maharashtra State Electricity Transmission Company Limited, and other bodies of the Maharashtra Electricity Board.</p> <p>Without any prejudice to the foregoing, the Maharashtra Pollution Control Board may be directed to grant a consent order to operate, in Favor of the Corporate Debtor herein, effective retrospectively from 31.08.2018/effective from the Acquisition Date with respect to renewal of licenses/permits under the Water (Prevention and Control of Pollution) Act, 1974 and The Air (Prevention and Control of Pollution) Act, 1981, respectively, and without charging any fee, cost, interest, penalty, fine, or any other amount in the same nature pertaining to the relevant period therefrom.</p> <p>Without any prejudice to the fore-going, consent from MSEDCL, and Maharashtra State Electricity Transmission Company Limited for redemption of evacuation scheme for evacuation of power generated by the 10MW Biomass Based Renewable Energy Generation Power Project/Plant shall be deemed to be received on the Acquisition Date.</p>
14.	<p>Charges registered with ROC/MCA- The charges registered with the concerned Registrar of Companies (RoC) regarding encumbrances over the Corporate Debtor's assets are deemed satisfied and vacated. Secured</p>



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	<p>creditors are instructed to return all title deeds and documents, and financing documents are considered terminated, releasing the security, on the Acquisition Date.</p> <p>To formalize the satisfaction of charges on secured assets in the records of RoC and other statutory and regulatory authorities, if any, from the effective date, the successful auction bidder is obligated to undertake necessary filings and comply with procedural formalities. This should be done in accordance with the provisions of the Companies Act, 2013, or any other relevant statutes applicable.</p> <p>Change the Corporate Debtor's status in the Registrar of Companies' records from 'liquidation' to 'active'.</p> <p>The Successful Bidder is at liberty to amend and/or change the constitutional documents of the Corporate Debtor.</p>
15.	Property tax, Lease rents etc.: Waiver of any property tax, lease rent (if any)
16.	<p>Electricity Connection and related waivers:</p> <p>Directions may be issued for Power/Electricity Connection to be provided by MSEDCL, without any reconnection charges and issue directions to the MSEDCL, directing it not to charge any fee, cost, interest, penalty, fine, or any other amount in the same nature pertaining to the period prior to the Acquisition Date.</p>
17.	<p>Water Allocation and related waivers:</p> <p>It is humbly prayed that this Hon'ble Tribunal direct the Maharashtra Water Resources Regulatory Authority to execute and/or resume supply and allocation of water to the Corporate Debtor effectively from the Acquisition Date without charging any fee, cost, interest, penalty, fine, or any other amount in the same nature pertaining to the relevant period therefrom.</p>
18.	<p>Suppliers and Maintenance Service Providers:</p> <p>All and any contracts and agreements with any OEM, Suppliers and/or Maintenance Service Providers of the Corporate Debtor shall be deemed to be extended for a period of 12 months from the Acquisition Date. Further, the Corporate Debtor or the Successful Bidder, as the case may be, shall not be liable to pay any such additional fees/penalties/ levies/interest on account of the contractual lapses, if any, that may have been incurred before the Acquisition Date.</p>
19.	<p>Restructuring: The auction purchaser/CD or its associates/ nominees shall have the liberty to restructure/ re align/relocate/ merge/ demerge/amalgamate the business operations/ units of the Corporate Debtor.</p>
20.	<p>Participation in Tenders- For a period of three years from the Acquisition Date, the Corporate Debtor is granted permission to participate in auction sales, tenders, offers, and proposals with various departments, authorities, and public sector undertakings. During this period, the Corporate Debtor</p>



S.N.	Reliefs and Concessions
	<p>is exempted from the requirement to submit details on past revenue, past performance, profitability records, net worth, and similar criteria.</p> <p>The Corporate Debtor can participate in auctions, tenders, offers, and proposals for three years from the Acquisition Date without submitting details on past revenue, performance, profitability, or net worth.</p>
21.	<p>Accounts- The Successful Bidder is required to record the transaction in their accounting books to reflect the sale of the Corporate Debtor as a going concern. The Bidder has the freedom to make essential accounting entries to facilitate the seamless transition, clear the balance sheet, and file the return of income or revised return of income for Assessment Years preceding the Acquisition Date. All accounts of the Corporate Debtor are considered regularized, and their asset classifications are designated as "standard."</p> <p>Authorize the Liquidator to handle accounting entries, balance sheet clearing, and file income tax returns, including revised ones, for Assessment Years preceding the Acquisition Date.</p>
22.	<p>Contracts & Agreements: The right to review and terminate any pre-acquisition contract without penalty is granted, except for those terminated by the Corporate Debtor/ Successful Bidder and its nominees. All other contracts will remain in effect on the same terms.</p>
23.	<p>Outstanding Claims of Corporate Debtor against Third Parties- Claims of the Corporate Debtor against third parties and its related parties shall remain outstanding and recoverable in accordance with their respective terms. The Corporate Debtor or successful bidder has the right to recover from the party, whose account is recoverable on the Effective Date.</p>
24.	<p>Relaxation of Interest on Delayed Payments by the Successful Bidder:</p> <p>The Successful Bidder humbly prays this Adjudicating Authority to grant relaxation and waiver of interest on Delayed Payments of balance 75% consideration of the Bid Amount by the Successful Bidder, delay for which is not wanton and/or deliberate and cannot be attributable to the Successful Bidder herein.</p>
25.	<p>Power of Attorneys: All previous powers of attorney and authorities by the Corporate Debtor will be cancelled and any bonds, sureties, guarantees, undertakings, or powers of attorney issued by the Corporate Debtor before the Acquisition Date will be permanently cancelled and revoked.</p>
26.	<p>Binding on all stakeholders: The sale of the Corporate Debtor as a going concern is binding on all stakeholders, including utility providers, who must continue to supply utilities for the survival of the company.</p>
27.	<p>Reconstitution of Board-The Liquidator is requested to reconstitute the Board of Directors by removing the previous directors and appointing the directors nominated by the Applicant. The Liquidator is further requested to file the necessary forms and documents with the Registrar of Companies to formalize these changes.</p>



S.N.	Reliefs and Concessions
28.	Reorganization of Workforce: The successful auction bidder has the liberty to rationalize the employee strength of the Corporate Debtor as a going concern. They can reorganize staff, employees, and workers without any burden from pre-acquisition operations and design their own employment model, including contractual, fixed-term, consultants, probationary, or regular basis from anywhere without any regional reservation.
29.	Rating Agencies: The rating agencies must be informed by the Auction purchaser to delete all negative ratings for the Corporate Debtor and not to consider them as defaulters.
30.	Liquidators Support: The Liquidator will provide support to the successful auction bidder for the smooth implementation of the sale of the Corporate Debtor as a going concern, in the interest of stakeholders. The Liquidator, without obligation, may execute additional documents upon request from the Auction purchaser to complete the sale, to the extent permissible.
31.	Requesting a waiver of procedural requirements under Sections 66, 42, and 62(1)(c) of the Companies Act, 2013, and the Company (Procedure for Reduction of Share Capital) Rules, 2016. Also seeking to dispense with adding "and reduced" in the Corporate Debtor's name during capital reduction.
32.	Extinguishment of Existing Shares- Extinguish all existing shares of the Corporate Debtor, along with any share application money received, without consideration, and instruct the Liquidator to record the extinguishment in the Register of Members as per the Companies Act. No approval or consent is required under any agreement, corporate documents, or applicable law for the acts mentioned, including the cancellation of existing share capital and issuance of new equity shares in accordance with the Companies Act, 2013, and other relevant laws.
33.	Issue of Fresh Equity Shares- The Liquidator is mandated to facilitate the Corporate Debtor in issuing new equity shares to Applicant and/or its nominees, in accordance with the details provided by Applicant. Subsequently, the Liquidator is required to file the essential forms with the Registrar of Companies to formalize this equity share issuance.
34.	No Financial Creditor and Operational Creditor can make any claim or institute any proceedings against Corporate Debtor, after the Acquisition Date.
35.	The sale of Corporate Debtor's assets is binding on all stakeholders, including utility providers, who must continue supplying essential utilities for the Corporate Debtor's survival.
36.	Extinguishment of Pre-existing Contract: Existing contracts with current Promoters/ Directors and Related Parties of the Corporate Debtor stand terminated from the Acquisition Date.



S.N.	Reliefs and Concessions
	The right to terminate pre-Acquisition Date contracts without penalties, except for those terminated by the Corporate Debtor/Successful Bidder, with the rest remaining in effect on the same terms.
37.	The Corporate Debtor is deemed eligible to receive all necessary consents, licenses, exemptions, approvals, and privileges, including change of land use permission, as required from Governmental and/or Regulatory Authorities.
38.	The Liquidator shall write back the Corporate Debtor's liabilities; (ii) write down unrecoverable assets to realizable value; and (iii) file financial statements with regulators.
39.	It is deemed that the Liquidator has disbursed the required sums in accordance with the provisions of the Insolvency and Bankruptcy Code and the E-Auction Process Information Documents. Consequently, all liabilities related to employees, whether in full-time employment or contractual, including dues for salaries, wages, Employee State Insurance, Provident Fund, Gratuity, etc., shall be deemed extinguished on the acquisition date. Applicant and/or its nominees will not bear the liabilities of the Corporate Debtor in this regard.
40.	Upon full payment, all bonds, guarantees, powers of attorney, and undertakings issued by the Corporate Debtor before the Acquisition Date are cancelled and permanently revoked. As well as all the prior proceedings and orders are deemed to be withdrawn or dismissed, including investigations, non-compliance issues, change of control related charges, and contractual commitments, are fully written off and permanently extinguished. Provided that the personal guarantees provided by the erstwhile Promoters/Directors of the Corporate Debtor remain unextinguished and the Financial Creditors/ Operational Creditors/other Creditors can proceed against them in accordance with the laws in force.
41.	Upon the full payment of the sale consideration to the Liquidator, all inquiries, investigations, assessments, notices, causes of action, suits, claims, disputes, litigations, arbitration, or other judicial, regulatory, or administrative proceedings related to any period before the Acquisition Date or arising from the acquisition, whether Civil or Criminal, shall be considered withdrawn or dismissed without any financial or other injury to the Corporate Debtors, Successful Bidder, or its nominees. Any interim orders passed during such proceedings are deemed immediately vacated.
42.	Statutory appointments, such as auditors and company secretary, for the Corporate Debtor will be completed within 12 months from the Acquisition Date, and any non-compliance within this period is deemed waived off or condoned.
43.	The Corporate Debtor is allowed to rationalize its employee strength to maintain its status as a going concern.
44.	Request the Liquidator to communicate and conclude all pending cases that are currently outstanding against the Corporate Debtor.



S.N.	Reliefs and Concessions
45.	The Successful Bidder is to be considered exempted for the purposes of stamp duty, registration charges, filing fees and other monies payable to the Government in relation to the acquisition of the Corporate Debtor entity by the Successful Bidder for the purposes of implementation in accordance with the provisions of the Code,
46.	The Successful Bidder may be permitted to continue the business of the Corporate Debtor entity in its own name or through a Special Purpose Vehicle (SPV).
47.	Approval from Maharashtra State Renewable Development Agency be granted and continuation of the NoC qua the Corporate Debtor entity be considered for the establishment and operation of the 10MW Biomass Power Plant of the Corporate Debtor in the hands of the Successful Bidder.
48.	The avoidance transaction Application as pending before the Hon'ble Adjudicating Authority be pursued by the Liquidator for the benefit of the stakeholder banks, at its own cost and consequences, and the Successful Bidder may have no liability whatsoever.

(xviii) The Liquidator vide his e-mail dated 20.03.2025 and 21.03.2025, informed the Applicant of filing the Applications before this Adjudicating Authority for extension of the liquidation period and seeking confirmation of the sale respectively, however, the application seeking reliefs, waiver and concessions have not been filed.

(xix) The Applicant vide its e-mail dated 12.04.2025, requested the Liquidator to refund the purchase consideration in view of lackadaisical approach adopted by making the procurement of the Corporate Debtor unfeasible.

(xx) The inordinate and unjustified delay on the part of the Liquidator in seeking confirmation of sale and granting necessary reliefs has cost significant depreciation in the Assets of the Corporate Debtor, eroding its commercial value and impairing its operational viability as a going concern. The delay has resulted in (i) substantial opportunity cost loss (ii) loss of lease tenure (iii) reducing the remaining utility and commercial viability of leased assets and (iv) unjustified increase in liquidation costs and carrying cost further diminishing the potential economic value available to the Applicant.



The continued delay is causing irreversible financial harm and defeating the purpose of the Insolvency and Bankruptcy Code, 2016, which aims to ensure value maximization and timely resolution.

3. The Counsel of the Liquidator submitted the following arguments during the course of hearing:

GST and Stamp Duty

(i) The Liquidator obtained the legal opinion from Advocate Haresh Kesharia on 25.06.2025.

(ii) The GST and Stamp Duty is applicable in the sale of the Corporate Debtor as a going concern in view of the following:

a. The Notification No.12/2017 exempt certain services from levy of GST, while the Corporate Person being sold as a going concern constitutes goods and movable/immovable/intangible assets along with its claims and receivables. The Hon'ble NCLAT in the matter of **Visisth Services Limited Vs. Shri S.V. Ramani & Others (Company Appeal (AT) (Insolvency) No.896 of 2020)** has also observed that sale of a Company as a going concern means sale of both of its Assets and Liabilities if it is stated on 'As is where is basis', as such it is supply of goods and not merely services.

b. The Clause 7 of e-auction process document states as under:

"2. The Liquidator proposes Sale of the Assets as mentioned in Clause 3 – Table 2 in accordance with the provisions of IBC and Liquidation Process Regulations on "AS IS WHERE IS BASIS", "AS IS WHAT IS BASIS", "WHATEVER THERE IS BASIS" and "NO RECOURSE" basis and the proposed sale as specified above does not entail transfer of any title, except the title which the corporate debtor has on the assets as on date of the transfer. All local taxes/ maintenance fee/ electricity/ water charges/ annual lease rentals/ unearned income in case of leasehold assets, etc., outstanding as on date or yet to fall due in respect of the relevant asset should be ascertained by the Bidder and would be borne by the Successful Bidder."



c. The business of the Corporate Debtor is power generation and an essential requirement for successful bidder to continue such business as a going concern is to have a valid subsisting and enforceable Power Purchase Agreement (PPA). The Corporate Debtor had entered into a PPA with Maharashtra State Electricity Distribution Company Limited (MSEDCL) on 25.09.2006, which has expired in June 2021. In view of the above, Corporate Debtor was not a live/functional/running business at the time of auction and subsequent sale transpiring lack of clarity with respect to the ability of the Applicant (Successful Bidder) to continue with business of the Corporate Debtor after effecting such transfer. Therefore, the Applicant is not eligible for exemption under the GST.

(iii) The relevant clauses / paras of e-auction process document states as below:

“Clause 10: Key Timelines – the Table 4 – Sl. No.16, states that various dues to be paid within 90 days of the e-auction date and that the said completion of payment is an important aspect before execution of the Sale Certificate.

Clause 16: Completion of Sale – the applicable GST or any other transaction costs or regulatory payments apart from the Sale Consideration must be made in order to proceed for execution of the Sale Certificate.

Clause 18: Costs, Expenses and Tax Implications – sub-clause 4 specifically mentioned that all applicable taxes whether Direct and/or Indirect Taxes and/or duties and/or penalties and/or interest (including stamp duty implication and registration charges) on sale of assets, as the case may be, would be borne by the Successful Bidder. It further goes on state that the Successful Bidder / Applicant herein, will have to make the payment of statutory / non-statutory dues, taxes, rates, assessments, charges, fees, cess or other applicable tax i.e., GST, TDS etc.”

Interest on delayed payment

(iv) The Applicant was supposed to pay 25% of sale consideration by 04.01.2024, however, the same was paid on 08.01.2024, therefore, 12% interest for the delayed period works out to Rs. 0.20 lakh. Further, there was delay of 87 days in payment of 75% balance sale



consideration, therefore, 12% interest for the delayed period works out to Rs. 16.26 lakhs. Thus, the total interest for delayed period amounts to Rs. 16.46 lakhs. The Applicant request for waiver of interest on delayed payment was placed before the 7th SCC Meeting held on 28.03.2024, wherein, the SCC opined to place the same before the Competent Authority, however, the remark of SCC is still awaited.

4. The Counsel for the Liquidator also submitted that if there is a default in payment of balance sale consideration and any applicable GST or other terms, duty or fees on 100% of the bid sum by the successful bidder, the same will result in disqualification of the successful bidder including forfeiture of the entire sums paid by the bidder. It is evident that Applicant has not only made delayed payments, but has also failed to take steps/ pay any other applicable dues i.e., GST, Stamp Duty and Interest on delayed payment. Therefore, Applicant cannot seek cancellation of sale and refund of the amount paid by it, when the Applicant itself is at fault and had violated the terms of the e-process document.

5. During the course of hearing, the Applicant pressed only prayer (ii) regarding cancellation of the proposed sale transaction and refund of the entire amount of Rs.7.58 crore paid by the Applicant. At this juncture, a specific query was posed to the Counsel for the Applicant as to whether the Applicant is willing to clear the outstanding dues. However, the Counsel for the Applicant submitted that the Applicant is not inclined to make any further payment and instead seeks only the refund of the amounts paid.

6. Before proceeding in the matter, we consider it appropriate to refer to the sale notice/ e-auction process document.

- (i) As per the Annexure A-2 to the IA, the sale notice in the present case was issued on 30.11.2023 in Hyderabad edition of Business Standard, the relevant extract of which is reproduced below:



E-Auction Sale Notice under IBC, 2016				
Sale Notice under IBC, 2016				
Saradambika Power Plant Private Limited (in Liquidation) , CIN U40100AP2004PTC050048				
Regd. Off (as per MCA records): Plot No. 15, Radha Krishna Nagar Colony, Near Konna Street, Opp. PSNMH School, Srikakulam, AP 532001 IN.				
Liquidator's Office: Gomed, 915, Khare Town, Dharampeth, Nagpur - 440010 MS IN				
Contact Person: Sachin Mishra, Mobile No. 9175516744, Date of e-auction: 30 th Dec, 2023				
Sale of assets of Saradambika Power Plant Private Limited (in Liquidation) forming part of Liquidation Estate by the liquidator appointed by the Hon'ble National Company Law Tribunal, Amaravati Bench vide order dated 03.02.2023 in C.P. (IB)-4/7/AMR/2021. The sale will be done by the undersigned through the e-auction platform https://www.eauctions.co.in/ of Linkstar Infosys Private Limited.				
Description	Date and Time of E- Auction	Reserve Price (INR)	Submission of EMD Amount	Bid Incremental Value
Sale of Saradambika Power Plant Private Limited - in Liquidation, as a Going Concern	30-12-2023 (11.30 A.M. to 12.30 P.M.) with an unlimited extension of 5 min each.	₹7,58,00,000/-	₹37,90,000/- on or before 28-12-2023	₹10,00,000/-
<ol style="list-style-type: none"> 1. Date of Inspection: 30th Nov, 2023 to 25th Dec, 2023 (from 10.00 A.M. to 5.00 P.M.) with prior intimation to the Liquidator. EMD Submission last date: 28th Dec, 2023. 2. EMD shall be deposited on or before 28th Dec, 2023 through Demand Draft/ NEFT/RTGS/Cheque in the below- mentioned Bank account: Account Number: 42141314458, Beneficiary Name: SARADAMBIKA POWER PLANT PRVTE LIMITED IN LIQUIDATION, IFSC Code: SBIN0004872 Bank Name: State Bank of India Branch: Dharampeth Branch, Nagpur. 3. Detailed terms and conditions are available in the e-auction process document which will be uploaded on the e-auction agency's website on 30th Nov, 2023. 4. Last date for submission of Expression of Interest - 15th Dec, 2023. 5. Declaration of Qualified Bidders- 16th Dec, 2023. 6. Preference will be given to the successful bidders based on the objective of maximizing the value of assets. In the event of secure successful bids in the auction, the Liquidator's decision shall be final, taking into account the aforementioned objectives of the Insolvency and Bankruptcy Code 2016. 7. This Sale Notice shall be read in conjunction with the complete E-Auction Process Document containing details of the assets, online e-auction bid form, declaration and undertaking forms, general terms and conditions of the e-auction Sale, which is available on the website: https://www.eauctions.co.in/. 				
You may please contact Mr. Sachin Mishra Mobile No. 9175516744 and Email ID: admin@eauctions.co.in for any support and assistance if required. Charudutt Marathe Liquidator Saradambika Power Plant Private Limited (in Liquidation) IBBI Registration No.: IBBI/PA-001/IP-P00350/2017-18/10651.				
Date: 29-11-2023	Address: Gomed, 915, Khare Town, Dharampeth, Nagpur - 440010 MS IN			
Place: Nagpur	Email ID: liquidator.saradambika@gmail.com , charuduttm@angelpro.co.in			

- (ii) Further, as per the e-auction process document annexed at Annexure A-3 to the Counter, the important clauses are as under:



- (a) The document should be read together with the provisions of the IBC and the Liquidation Regulations and in the event of a conflict between this E-Auction Process Information Document and the IBC or the Liquidation Regulations, the provisions of the IBC or the Liquidation Regulations would apply, as per clause 2.2 reproduced below:

2. All information provided in this E-Auction Process Information Document should be read together with the provisions of the IBC and the Liquidation Regulations. In the event of a conflict between this E-Auction Process Information Document and the IBC or the Liquidation Regulations, the provisions of the IBC or the Liquidation Regulations.

- (b) The following assets is proposed for sale as per clause 3.11 reproduced below:

11. The Liquidator has proposed to sell the Assets forming part of the Liquidation Estate formed under IBC and the Liquidation Process Regulations. Accordingly, the sale is proposed in the following manner:

Table 2 : Assets Under Sale

Block No.	Asset	Description
A	Sale of Corporate Debtor on a Going Concern Basis, with all its assets.	Sale of Corporate Debtor, on a Going Concern Basis, with all its Assets, including Land & Building, Construction and Civil Structures, Plant and Non-plant Buildings of permanent character, Plant & Machinery, and other Fixed and Financial Assets, located at Plot no. B1, Chimur Mini Industrial Area, MIDC Area, Chimur, Dist : Chandrapur - 442903 MS IN.

The Sale of Block A is meant to be as a Sale of the Corporate Debtor on a Going Concern Basis, with all its Assets.

- (c) The objective of the sale of the assets is maximizing their value as per clause 3.12 reproduced below:

12. It is the endeavour of the Liquidator to conduct the Sale of the Assets maximizing their value in accordance with the provisions of IBC and the Liquidation Process Regulations through E-Auction, read with any other Applicable Law(s) in the manner specified in this E-Auction Process Information Document.

- (d) The sale is on 'As is where is basis', 'As is what is basis', 'Whatever there is basis', and 'No recourse basis' and the liquidator does not give any assurance to the physical condition of the assets or their suitability to the purpose envisaged by the bidders any as per clauses 7.2 and 7.3 reproduced below:



2. The Liquidator proposes Sale of the Assets as mentioned in **Clause 3 - Table 2** in accordance with the provisions of IBC and Liquidation Process Regulations on "AS IS WHERE IS BASIS", "AS IS WHAT IS BASIS", "WHATEVER THERE IS BASIS" and "NO RECOURSE" basis and the proposed sale as specified above does not entail transfer of any title, except the title which the corporate debtor has on the assets as on date of the transfer. All local taxes / maintenance fee / electricity / water charges/ annual lease rentals / unearned income in case of leasehold assets, etc., outstanding as on date or yet to fall due in respect of the relevant asset should be ascertained by the Bidder and would be borne by the Successful Bidder.
3. It must also be noted that the Liquidator does not give any assurance or warranty of the physical condition of the assets and their suitability for any sort of operation or purpose that the Bidder envisages.

(e) As per clauses 10 (sl.no. 14 and 16 of the Table 4 along with notes thereto), the due date of payment for sale consideration is as under:

14	Payment up to 25% of total sale consideration by successful bidder (within 5 days of the announcement of successful bidder)	04/01/2024
16	Payment of balance consideration including GST/ applicable taxes, duties and fees etc., as may be applicable, by successful bidder.	For the Sale of the Assets of the Corporate Debtor, the payment made after 30 days from the date of demand shall attract 12% interest and the sale shall stand cancelled if the payment is not received within 90 days from the date of demand.

Notes:

1. In case the final sale consideration is not paid within the specified timeline of 90 days from the date of demand, the sale shall stand cancelled and amount already paid shall stand forfeited.
2. The Liquidation reserves the right to reject all or any of the Bidders or their Bid(s) without assigning any reason whatsoever, for the assets forming part of the Liquidation Estate. The successful bidder shall deposit 25% of the sale price, within 5 days of the announcement of successful bidder.
3. The Successful Bidder agrees that, it shall be bound to pay the balance sale consideration for consummation of Sale of the assets within the time frame/s stipulated in this Process information document. It is clarified that any necessary approvals, consents, reliefs that may be required to be obtained by the Successful Bidder with respect to Sale of the Assets as contemplated in this E-Auction Process Information Document have to be obtained by the Successful Bidder without any deviation from the time frame for payment of balance sale consideration as stipulated under this Process information document. Any failure to obtain such necessary approvals, consents, reliefs that may be required by the Successful Bidder in respect of the Sale of the Assets shall not affect the E-Auction Process or Sale of the Assets as contemplated under this E-Auction Process Information Document. On payment of the full amount, the Sale of the Assets shall stand completed and the Liquidator shall execute a certificate of sale or sale deed or such other document to consummate the sale transaction as may be required under the applicable laws.

(f) The sale shall stand completed on payment of the full amount of sale consideration, and default in payment of the balance sale



consideration and any applicable GST or other terms, duty or fees, if any, will result in forfeiture of the entire sums paid by the bidder as per clauses 16.1 and 16.2 reproduced below:

1. On payment of the full amount of sale consideration, and any applicable GST (if any), the sale shall stand completed, and the Liquidator shall execute Certificate of Sale or Sale deed as the case may be and the possession of the Assets shall be given to the Successful Bidder in the manner specified in terms of sale. The Certificate of Sale or Sale Deed will be issued and /or transaction / sale documents will be executed in the name of the Successful Bidder only and will not be issued in any other name(s). It is expressly stipulated that there are no implied obligations on the part of the Liquidator to do all acts, things and deeds whatsoever for the completion of the sale.
2. Default in payment of the balance sale consideration and any applicable GST or other terms, duty or fees, if any, (including, as elaborated in Clause 18 and Clause 19, here-in-below), on 100% of the bid sum by the Successful Bidder, will result in disqualification of the Successful Bidder including forfeiture of the entire sums paid by the bidder.

(g) The bidder is liable to pay all applicable direct and indirect taxes, duties, penalties, interest, stamp duty, registration charges etc. as per clauses 18.4 reproduced below:

4. It is to be noted that all applicable taxes whether Direct and / or Indirect taxes and / or duties and / or penalties and / or interest (including stamp duty implications and registration charges) on Sale of the Assets; as the case may be would be borne by the Successful Bidder. Some of the costs and charges for the sale transaction may include inter-alia the following:
 - (i) The Sale of the Assets may attract the stamp duty, registration charges etc. as per relevant Applicable Law(s);
 - (ii) The Successful Bidder shall bear all the necessary expenses like applicable stamp duties additional stamp duty / transfer charges, fees, etc. for transfer of the assets thereof in its name; and
 - (iii) The payment of all statutory / non-statutory dues, taxes, rates, assessments, charges, fees, cess or other applicable tax i.e., GST, TDS etc.

7. We observe that the bidders, once participated in the bidding process in response to the bidding notice/documents, are presumed to have accepted all these terms binding on them. Therefore, we are of the considered view that the Successful Bidder is governed by the terms and conditions of the sale notice/ e-auction process information document and therefore cannot seek the reliefs, waivers and concessions, which are not covered in the sale notice/ / e-auction process document.



8. The first ground argued by the Applicant for cancellation of sale is that the Liquidator has failed to file the Application before this Adjudicating Authority for reliefs, waivers and concessions as prayed by the Applicant. We observe that the objective of maximisation of value of its assets can be achieved only when the relief and concessions to be awarded are part of the bidding document/ sale notice/ e-auction process information document in a transparent manner in the public domain, so that the prospective bidders can take a conscious decision, whether to participate in the e-auction and bid considering the reliefs, waiver and concessions, available to them. This would not only ensure more participation of the prospective bidders, but would also result into higher amount of bid. Thus, the reliefs and concessions sought by the Successful Bidder subsequently is against the principles of maximisation of value of assets of the Corporate Debtor. We also observe that the providing the reliefs and concessions, after the bid is over, would be against the financial discipline and therefore, is not desirable, as it would amount to giving the undue financial benefits to the Successful Bidder in an unethical manner. Further, a person, who voluntarily participates in e-auction in a liquidation sale and successfully acquires an asset subject to the disclaimers “as is where is,” “as is what is,” “as is how is,” “whatever there is,” and “on a no recourse basis,” cannot seek any reliefs, waivers and concessions, or post-sale modifications. Such a party is estopped from challenging the terms of the sale or seeking recourse, thereafter and must abide by the outcome of the commercial transaction entered into with full knowledge and acceptance of the attendant risks. The Hon’ble Supreme Court in its judgment in the matter of **KC Ninan vs. Kerala State Electricity Board & Ors., Civil Appeal Nos. 2109-2110 of 2024** has concluded as below

“141. To conclude, all prospective auction purchasers are put on notice of the liability to pay the pending dues when an appropriate “as is where is” clause is incorporated in the auction sale agreement. It is for the intending auction purchaser to satisfy themselves in all respects about circumstances such as title, encumbrances and pending statutory dues in respect of the property they propose to purchase. In a public auction sale, auction purchasers have the opportunity to inspect the premises and ascertain the facilities available, including whether electricity is supplied to the premises. Information about the



disconnection of power is easily discoverable with due diligence, which puts a prudent auction purchaser on a reasonable enquiry about the reasons for the disconnection. When electricity supply to a premises has been disconnected, it would be implausible for the purchaser to assert that they were oblivious of the existence of outstanding electricity dues.

142. In terms of the legal doctrine of caveat emptor, it becomes the duty of the buyer to exercise due diligence. A seller is not under an obligation to disclose patent defects of which a buyer has actual or constructive notice in terms of Section 3 of the Transfer of Property act, 1882. However, in terms of Section 55(1)(a), in the absence of a contract to the contrary, the seller is under an obligation to disclose material defects in the property or in the seller's title thereto of which he is aware and which a buyer could not with ordinary care discover for himself.

143. While examining the effect of an "as is where is" clause, the facts and circumstances of each case individually, along with the terminology of the clauses governing the auction sales must be taken into consideration, to arrive at an equitable decision.

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328. The conclusions are summarised below:

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"i. the implication of the expression "as is where is" basis is that every intending bidder is put on notice that the seller does not undertake responsibility in respect of the property offered for sale with regard to any liability for the payment of dues, like service charges, electricity dues for power connection, and taxes of the local authorities."

In view of the above, we are not inclined to consider the arguments of the Applicant to cancel the sale on this ground that the Applicant has not filed the Application before this Adjudicating Authority for reliefs, waivers and concessions sought by the Applicant.

9. The second ground argued by the Applicant for cancellation of sale is that the Liquidator has failed to file the Application before this Adjudicating Authority for completion of sale. We observe that clause 16.2 of the e-auction process document unequivocally stipulate that sale shall stand completed on payment of the full amount of sale consideration, and default in payment of the balance sale consideration and any applicable GST or other terms, duty or fees, if any, will result in forfeiture of the entire sums paid by the bidder. Thus, the Successful Bidder is required to make full payment of the sale consideration, which includes not only the bid amount, but also any interest



on delayed payments, along with all applicable statutory dues such as GST, income tax (if any), and stamp duties. It is only upon receipt of the complete sale consideration including interest, GST, stamp duty or other charges as per the terms of the e-auction process information document, the Liquidator is vested with the authority to execute and issue the Sale Certificate in favour of the successful bidder. In the instant case, it is an admitted position that the Applicant/Successful Bidder has not remitted the full sale consideration, as the dues towards interest on delayed payment, GST, stamp duties etc. remain unpaid. Therefore, the liquidator has rightly forfeited the amount deposited by the Successful Bidder. Accordingly, on this ground also, we are not inclined to interfere with the decision taken by the Liquidator and pass any order to cancel the sale and direct the Liquidator to refund the amount deposited by the Applicant.

10. As a sequel to the foregoing discussions, IA(IBC)/153/2025 is dismissed and stands disposed of.

IA(IBC)/99/2025:

This Interlocutory Application is filed by the Applicant/Liquidator seeking directions for waiver of interest on the delayed payment of the sale consideration. However, in view of the order passed in IA(IBC)/153/2025, this application has become infructuous. **Accordingly, IA(IBC)/99/2025 is disposed of as infructuous.**

IA(IBC)/104/2025:

This Interlocutory Application is filed by the Applicant/Liquidator at the request of the Successful Bidder, with the approval of the Stakeholders' Consultation Committee (SCC), seeking certain reliefs, concessions, and waivers in favour of the Successful Bidder. However, in light of the order passed in **IA(IBC)/153/2025**, this application also stands rendered infructuous.

Accordingly, IA(IBC)/104/2025 is disposed of as infructuous.

**IA (IBC)/401/2022:**

Both the Counsels sought two weeks' time to comply with the order dated 04.06.2025. Time as prayed for is granted. List the matter on 06.08.2025, along with IA(IBC)/224/2022.

Sd/-
(UMESH KUMAR SHUKLA)
MEMBER (TECHNICAL)

Sd/-
(KISHORE VEMULAPALLI)
MEMBER (JUDICIAL)