

NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

2. IA(PLAN)/37/2025 C.P. (IB)/252(MB)2024

IN THE MATTER OF

Silveroak Home Appliances Private Limited
Vs
Indian Refrigerator Company Limited

U/s 9 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 19.12.2025

CORAM:

SH. NILESH SHARMA
MEMBER (J)

SH. CHARANJEET SINGH GULATI
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Applicant:

For the Respondent:

ORDER

IA(PLAN)/37/2025 - The above IA is listed for pronouncement of order. The same is pronounced in open court, vide a separate order.

Sd/-

CHARANJEET SINGH GULATI
Member (Technical)

Sd/-

NILESH SHARMA
Member (Judicial)

//Rahul//

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT – V

I.A. 37/2024
IN
C.P. NO. 252(IB)/MB/2024

Under Section 30(6) of the Insolvency and
Bankruptcy Code, 2016

Neha Agarwal
(Resolution Professional of Indian
Refrigerator Company Ltd)
Flat No. B - 3, Kalyani Gurumukh Heights,
Osmanpura, Near Engineering College,
Peer Baazar Road, Aurangabad,
Maharashtra, 431001

.... Applicant/ Resolution Professional

IN THE MATTER OF:

Silveroak Home Appliances Private Limited
.... Petitioner/ Financial Creditor

VERSUS

Indian Refrigerator Company Limited
.... Corporate Debtor/Respondent

Order Pronounced on: 19.12.2025

Coram:

Hon'ble Sh. Nilesh Sharma, Member (Judicial)

Hon'ble Sh. Charanjeet Singh Gulati, Member (Technical)

Appearances:

For Petitioner : Adv. Amir Arsiwala a/w Adv. Shubham Shinde

For Respondent :

ORDER

I.A.(IB)/37/MB/2024

1. This I.A. is filed by, Neha Agarwal, Resolution Professional of M/s Indian Refrigerator Company Limited (**'the Applicant'**) under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (**'the Code'**), with following prayers:

- a) *That this Hon'ble Tribunal be pleased to admit the present application.*
- b) *That this Hon'ble Tribunal be pleased to allow the present application to approve the Resolution Plan (annexed as Exhibit M" hereto) of KLASSIC WHEELS LIMITED ("SRA") as approved by the Committee of Creditor's in their 6th Committee of Creditor's meeting held on 01st MARCH, 2025 in the matter of CIRP of INDIAN REFRIGERATOR COMPANY LIMITED ("CD").*
- c) *That this Hon'ble Tribunal may be pleased to declare that Resolution Plan as approved by the Committee of Creditor's in their 6th Committee of Creditor's meeting held on 01st MARCH, 2025 is in compliance of the Insolvency and Bankruptcy Code, 2016;*
- d) *That this Hon'ble Tribunal may be pleased to pass appropriate orders and/or directions under section 31(1) of the Insolvency and Bankruptcy code, 2016;*

- e) *That this Hon'ble Tribunal may order the constitution of the monitoring committee / agency as per the resolution plan and the present applicaiton.*
- f) *That this Hon'ble Tribunal may condone the reasonable delay if any in filing of the present application.*
- g) *Any other orders/directions as deemed fit and necessary by this Hon'ble Tribunal in the interest of justice and equity.*

Brief Facts as per the Application:

2. The Corporate Insolvency Resolution Process (**'CIRP'**) of Indian Refrigerator Company Ltd (**'Corporate Debtor'**) was initiated by this Tribunal vide order dated 14.08.2024 under Section 9 of the Code (**'said order'**). The said Corporate Debtor is a Non-Government Company incorporated on 18.04.1994 under the provisions of the Companies Act, 1956 and registered with the Registrar of Companies, Mumbai. Its registered office is presently at Auto Cars Compound, Adalat Road, Aurangabad, Maharashtra, India, 431005. The Corporate Debtor is in the business of manufacturing electronic consumer goods such as color television, washing machines, refrigerators, mixer grinders, compressors and parts thereof. Pursuant to the said order, the Applicant was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor.
3. Subsequent to the admission of the petition for CIRP, a Public Announcement inviting claims from creditors was made by the IRP on 17th August 2024 in Free Press Journal (English) and Navashakti (Marathi) in accordance with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process of Corporate Persons) Regulations, 2016 (**'IBBI (CIRP) Regulations, 2016'**). The last date of submission of claims was 28.08.2024.

4. Following the Public Announcement, the IRP received claims from the stakeholders/creditors and collated them as under:

(Amount in Rupees)

Sr no	Category of Creditors	Amount Claimed	Amount Admitted
1.	Secured Financial Creditors	Nil	Nil
2.	Unsecured Financial Creditors	16,39,56,164.38	16,39,56,164.38
3.	Operational Creditors		
	- Government Dues	6,28,00,475.00	6,28,00,475.00
	- Workmen	Nil	Nil
	- Employees	Nil	Nil
4.	Operational creditors (Other than Employees/Workmen dues and Government dues)	1,73,83,22,911.01	1,73,83,22,911.01
5.	Other Dues and Debts	Nil	Nil

5. The Applicant submits that after verification of the claims as received from the creditor, the Committee of Creditor ("COC") was constituted on 05.09.2024 in accordance with section 21 of the Code, comprising of one unsecured financial creditor viz. **M/s. KBS Realtors Private Limited**. The Applicant states and submits that following table depicts summary of COC:

Sr no.	Details of the Creditor	Type of Creditor	Voting share (in %)
1	KBS Realtors Private Limited	Unsecured Financial Creditor	100%

6. After the constitution of CoC, in their 1st CoC meeting convened on 12.09.2024, the IRP was appointed as the Resolution Professional ('RP').

7. For the purpose of determining Fair Value and Liquidation Value of Assets of the corporate debtor, Registered valuers were appointed in compliance with Regulation 27 of the said IBBI (CIRP) Regulations, 2016, by the applicant on 15.10.2024 in pursuance of the resolution passed in the 2nd CoC meeting.
8. The present application was listed for hearing on 05.05.2025, wherein it was observed by this Tribunal that the copy of the 2nd valuation report for land and building which is issued by the IBBI registered valuer Mr. Raseek Bhagat was not annexed to the IA, though mentioned in the averments of this application. Therefore, this Tribunal directed the applicant to place on record the said valuation report. In compliance thereof, the Applicant via Additional Affidavit dated 25.07.2025 submitted the said 2nd valuation report dated 28.02.2025 for land and building. The summary of the valuations provided by each valuer as appointed by the RP is as given below:

(Amount in Rupees)

Name of the Valuer	Asset Category	Fair Value (INR)	Liquidation Value (INR)
Mr.Rajan Sahdev	Financial Assets	49,75,937/-	49,75,937/ -
Mr.Mahesh Mandowara	Financial Assets	65,30,190/-	58,91,530/-
Average Value of Financial Assets		<u>57,53,064/-</u>	<u>54,33,734/-</u>
Mr. Laxmikant Mohanrao	Land & Building	16,37,31,489/-	13,91,71,766/-
Mr. Raseek Bhagat	Land & Building	18,60,00,000/-	13,95,00,000/-
Average value of Land & Building		<u>17,48,65,745/-</u>	<u>13,93,35,883/-</u>

9. The Applicant submits that through the 2nd CoC meeting dated 10.10.2024 in compliance to Regulation 36 A of IBBI, Form G was published on 17th October, 2024 in Free Press Journal (English) and in Navshakti (Marathi) Newspapers. The last date for submission of Expression of Interest (**'EOI'**) was 31.10.2024. The Applicant states that in response to the Form G published, 2 parties showed interest and took the details.
10. Both the Prospective Resolution Applicant (**'PRA'**) viz M/s. Klassic Wheels Limited and Consortium of Resurgent Property Ventures Private Limited and Sanjay Lodha submitted the Expression of Interest along with required documents and a deposit of Rs.10,00,000/- (Rupees Ten Lacs only) before the Last date for receipt of expression of interest which was 31.10.2024.
11. The Applicant states and submits that the Final List of Prospective Resolution Applicant was issued to the members of CoC on 29.11.2024. List of the final PRA is as follows:

1	Klassic Wheels Limited
2	Consortium of Resurgent Property Ventures Private Limited and Mr. Sanjay Lodha

12. The Applicant submits that thereafter the RP has issued the Information Memorandum (**'IM'**) and Request For Resolution Plan (**'RFRP'**) on 10.12.2024 and asked the Final PRAs to submit Resolution Plan before 10.01.2025.
13. The Resolution Plan from M/s. Klassic Wheels Limited was received on 09.01.2025. After due discussion in the 4th CoC meeting dated 15.01.2025, CoC perused the Resolution Plan since M/s. Klassic Wheels Limited was the only Resolution Applicant who submitted the plan along with Earnest Money deposit of Rs.2,00,00,000/-. The other PRA did not submit the Resolution Plan.

14. In the 4th COC meeting held on 15.01.2025, the representative of M/s. Klassic Wheels Limited explained the financials and the resolution plan to the COC members. For consideration and discussion, The Applicant shared the resolution plan with the COC members via email. Few discussions were held between the sole PRA and the COC members, and the COC members requested the sole PRA to revise the amount as offered in the resolution plan on higher side.
15. Further, the Applicant has filed an application I.A. no. 136 of 2025, after receiving the consent of the CoC in the 5th CoC meeting dated 24.01.2025, for seeking extension of CIRP Period of 90 days beyond 180 days from 14.08.2024 to 10.02.2025. The said extension of 90 days was allowed by this Tribunal via Order dated 10.03.2025.
16. The resolution plan was revised as per the suggestions of the COC and submitted on 22.02.2025. Accordingly, the revised Resolution Plan (**the said "Resolution Plan"**) submitted by the PRA M/s. Klassic Wheels Limited was put for voting in the 6th CoC meeting held on 01st March, 2025. **After due discussion and deliberation, the CoC constituting of only one member, approved the said Resolution Plan by 100% voting share under Section 30(4) of IBC.**
17. The Applicant submits that it has issued the Letter of Intent dated 02.03.2025 (as per the requirement under clause 4 of the RFRP) to the M/s. Klassic Wheels Limited, the Successful Resolution Applicant ("**SRA**"). It is further submitted that Performance Bank Guarantee dated 06.03.2025 of Rs.1,61,00,000 i.e 10% of the said Resolution Plan amount has been submitted by the SRA as performance security.
18. The Applicant submits that the Resolution Plan makes available to the CoC a proposal to infuse Rs. 16,10,00,000/- (Rupees Sixteen Crore ten lakh only) consisting of amount payable to the creditors and amount for CIRP

Cost from effective date till closing date. The entire amount of the said Resolution Plan is to be infused by the SRA from its own funds.

19. The Applicant states that the said Resolution Plan has been examined by the Applicant and that it complies with the provisions of the Code and the CIRP Regulations and the RFRP document. The Applicant states that the said Resolution Plan does not contravene any of the provisions of the law for the time being in force.
20. The Applicant submits that the said Resolution Plan provides for the payment of debts of the operational creditors which is not less than the amount to be paid to the operational creditors in the event of liquidation of the corporate debtor under Section 53 of the Code.
21. The Applicant also states that the Resolution Plan provides for the payment of Insolvency resolution process costs in priority to the payment of other debts of the Corporate Debtor. The CoC has passed a resolution at its 6th meeting dated 01.03.2024 approving the CIRP cost from the date of commencement of the CIRP amounting to Rs. 25,00,000/- (Rupees Twenty-Five Lacs Only).
22. The Applicant has submitted that the Resolution Applicant has submitted an Affidavit as mandated under Section 29A of the IBC 2016 in terms of its eligibility to submit a Resolution Plan.

Brief background of the SRA - M/s. Klassic Wheels Limited.

23. It is submitted that, **M/s. Klassic Wheels Limited** (“SRA”) is a public limited company incorporated on 09.08.1994 under the Companies Act 1956 and having its registered office at Hirlesh, Near Keshar Gulab Mangal Karyalaya, Behind ADCC Bank, Station Road, Ahmednagar, Maharashtra, India, 414001. The SRA is among India’s largest wheel manufacturers, producing high-quality steel and alloy wheels, sheet-metal parts, and related components for two-, three-, and four-wheelers across

both ICE and EV segments. Established in 1994, it operates advanced manufacturing facilities with an annual capacity of over 12 million steel and 3 million alloy wheels, supported by a workforce of 500+ employees. It holds a strong national market presence and supplies major automotive OEMs, including Honda, Suzuki, Yamaha, Mahindra, Bajaj Auto, Royal Enfield, TVS, Ola, Ather, Piaggio, and others.

CIRP Cost:

24. The SRA in the said Resolution Plan states that the CIRP costs incurred, are paid by the Applicant from the operations of the Corporate Debtor and amount contributed by Committee of Creditors. In the event of any unpaid CIRP cost, the SRA shall make full payment for such total unpaid CIRP cost. The SRA proposes to set aside a sum of Rs. 25,00,000/- (Rupees Twenty-Five Lacs only) for payment of pending CIRP Cost which will be paid upon Resolution Plan becoming effective in terms of Section 30(2)(a) of the Code and Regulation 38(1)(a) of the CIRP Regulations. However, if CIRP cost duly approved by CoC exceeds Rs. 25 Lacs, then any such shortfall amount will be additionally paid by SRA. The SRA will infuse additional funds (if needed), by way of equity or any other appropriate means, to meet the pending CIRP Costs. If unpaid CIRP cost is less than Rs. 25 Lacs, SRA shall pay such lesser amount to meet the CIRP cost. CIRP cost already paid through the revenue of the Business during CIRP, shall not be paid by the SRA. Only pending CIRP cost shall be paid by the Resolution Applicant. The said CIRP cost shall be paid against the GST invoice in the name of Corporate debtor received from vendors so that Input Tax Credit of amount paid on the said invoices can be availed by the Company in future.
25. In accordance with Regulation 38(1-A) of the IBBI Rules, 2016, the statement showing the treatment given to the stakeholders as given below:

(Amount in Rs)

Sr no	Particulars	Amount Admitted (in Rs)	Amount proposed in the Plan (in Rs)	Payout as % of claimed amount	Terms of Payment	Tim elin e
A	Financial Creditors					
I	Secured Financial Creditors	NA	NA	NA	NA	NA
II	Unsecured Financial Creditors					
1.	KBS Realtors Pvt Ltd	16,39,56,164.38	14,00,00,000	85.39%	Against the admitted debt, the SRA shall make payment of Rs. 14 Cr from the total outlay as full and final settlement of dues.	0-30 days
A	Sub Total(A)	16,39,56,164.38	14,00,00,000			
B	Operational Creditors				The SRA proposes to pay the proposed dues to all the Operational Creditor as full & final	

					settlement of their dues within 30 days from the effective date on priority.	
1.	Force Appliances Pvt Ltd	13,73,910	13739.10	1%		0-30 days
2.	Silveroak Home Appliances Pvt Ltd	3,03,09,574	3,03,095.74	1%		0-30 days
3.	Vyom Tele Infrastructure Pvt Ltd	50,88,488	50,884.88	1%		0-30 days
4.	Solitaire Appliances Pvt Ltd	9,00,00,000	9,00,000	1%		0-30 days
5.	Nippon Investment & Finance Company Pvt Ltd	80,32,88,482	80,32,884.82	1%		0-30 days
6.	KBS Realtors Pvt Ltd	51,00,00,000	51,00,000	1%		0-30 days
7.	Silvercon Realty Pvt Ltd	29,80,00,000	29,80,000	1%		0-30 days

8.	National Securities Depository Ltd	2,62,457.01	2,624.57.	1%		0-30 days
B	Sub Total (B)	1,73,83,22,911.01	1,73,83,229.11			
C	Other Operational Creditor (Statutory dues)					
1.	Income Tax Officer Ward 3(2)(1), Mumbai	6,28,00,475	6,28,004.75	1%	Proposed amount to be paid as full and final settlement within 30 days from the effective date.	0-30 days
	Sub- Total- (C)	6,28,00,475	6,28,004.75			
D	Contingency Fund	-	4,88,766.14		The amount has been set aside for any contingent liabilities pertaining to period prior to effective date subject to a maximum of Rs.50,000 per case on issue of full	0-30 days

					& Final settlement	
	Sub-Total-(D)	-	4,88,766.14			
E	CIRP Cost	-	25,00,000	100%	CIRP Cost shall be paid at actuals. However, if the amount for CIRP Cost exceeds the above amount, the same shall be further brought in by the Resolution Applicant.	0-30 days
	Sub-Total-(E)		25,00,000			
	Sub-Total	1,96,50,79,550.39	16,10,00,000			

Earnest Money Deposit (EMD):

26. At the time of submission of the Expression of Interest (EoI), the SRA has also deposited an amount of Rs.10,00,000/- (Rupees ten lacs only). Further at the stage of submission of the Resolution Plan for the said corporate debtor, the SRA has submitted an amount of Rs. 2,00,00,000/- (Rupees Two Crores) as EMD dated 04.01.2025.

27. It is submitted by the SRA that within 10 days of the approval of the plan, the amount of Rs.10,00,000/- and the amount of Rs.2,00,00,000/-

deposited as EMD shall get converted to performance security and the SRA shall bring in additional balance amount towards Performance Security.

28. Further, as per the said Resolution Plan, the said Performance Security shall be returned to the SRA, after completion of the payment to all the stakeholders as per the approved Resolution Plan.

Performance Bank Guarantee:

29. The SRA has submitted the Performance Bank Guarantee dated 06.03.2025 of Rs.1,61,00,000/- (Rs. One Crore Sixty-One Lakhs only), that is 10% of the total resolution plan amount, after the receipt of Letter of Intent is provided as per the requirement under clause 4 of the RFRP. As per the Performance Bank Guarantee (attached at Pg no.123 of this Application), the Bank of the SRA agrees that the guarantee herein contained shall remain in full force and effect for a period of 6 months from the date hereof i.e. unto 02.09.2025. The SRA shall be entitled to invoke this Performance Bank Guarantee up to 30 days from the last date of the validity of this Performance Bank Guarantee i.e claim expiry-date 02.10.2025. Further, the Guarantor bank shall not be discharged or released from liability by reason of any variation, extension in any terms of the RFRP, forbearance, or any act or omission which, but for this provision, might otherwise discharge a surety under law.

Supervision of the Resolution Plan from the NCLT Approval Date:

30. A Monitoring Committee would be formed on the approval of resolution plan by this Tribunal to oversee day-to-day affairs and management of the Corporate Debtor and implementation of the Resolution Plan till the completion date.
31. The said Committee shall be formed within 15 days from the effective date. The Composition of the Monitoring Committee is described as follows:

- a) The Unsecured Financial Creditor (Sole Member of CoC)
- b) The Successful Resolution Applicant
- c) The Resolution Professional.

32. The Remuneration of the Resolution Professional shall be Rs.50,000/- per month and the said remuneration shall be borne by the SRA. The Monitoring Committee shall function until the payments as proposed in the said Resolution Plan (Implementation period) are completed.

Management and Control of the Business of the Corporate Debtor from the effective date until the closing date:

33. On and from the Effective Date and until the payments as proposed in the Resolution Plan are completed (upto 30 days from the effective date), a Committee ("Monitoring Committee") comprising of : a) The Unsecured Financial Creditor (Sole Member of CoC), b) The Successful Resolution Applicant, and c) The Resolution Professional shall be constituted. The said Committee shall be formed within 15 days from the effective date. The chairman of the Monitoring Committee will be the erstwhile Resolution Professional/ Insolvency Professional.
34. The Monitoring Committee would be formed on the approval of resolution plan by this Tribunal to oversee day-to-day affairs and management of the Corporate Debtor and implementation of the Resolution Plan till the completion date.
35. The Resolution Plan implementation period is 30 days from the effective date, during which full and final settlement of all the agreed liabilities would be made for Rs.16,10,00,000/- only. However, the SRA will resume operations from the date of approval of the said Resolution plan by this Tribunal.

36. It is stated in the Resolution Plan that from the effective date, the erstwhile Board of Directors and Key Managerial Personnel (**KMP**) of the Corporate Debtor will cease to continue and new Management will be appointed with their roles and responsibilities. New Board of Directors shall be constituted by indicating the members proposed in Section 5 (B) of the said Resolution Plan. The appointment of KMPs will take place, if required. Further, the SRA shall appoint statutory and internal auditors of their choice, subject to applicable regulations.

37. The SRA submits that it intends to continue the operations of the Corporate Debtor post approval of the Resolution Plan as “*a going concern*”. The Management of affairs of the Company after approval of the said Resolution plan would be done as follows:

a) Composition of the Board of Directors and the Key Managerial Personnel:

DIN/PAN	NAME	DESIGNATION
00496601	Sunil Shantilal Munot	Director
00513642	Mohan Nemichand Munot	Director
00496568	Neeraj Amrutlal Munot	Director
01957548	Sagar Ramesh Munot	Director

38. The said Resolution Plan provides that while the implementation of the proposed plan and the settlement of the stakeholders happen concurrently, the board shall take up the responsibilities of the day-to-day affairs of the Company.

Treatment of Shares

39. The interests of existing shareholders have been altered by the Resolution plan as under:

Sr.	Category of share holder	No. of shares held before CIRP	No. of shares held after CIRP	Voting share % held before CIRP	Voting share % held after CIRP
1	Equity	10,00,000	Nil	100%	Nil
2	Preference	NA	NA	NA	NA

Issuance of Equity Shares

40. The existing shares shall stand cancelled and new shares of Rs.1,00,00,000/- (Rupees One Crores) shall be issued and allotted at face value of Rs. 10/- each through fresh issue of 10,00,000 equity shares within 30 days from the Effective Date to the SRA.

Compliance Certificate in Form- H

41. Pursuant to Regulation 39(4) of the IBBI (CIRP) Regulations, 2016, the Applicant had prepared a Compliance Certificate in Form H dated 12.03.2025 which is annexed to the Application. This Tribunal made certain observations in its order dated 10.06.2025, and thereby directed the Applicant to file an Additional Affidavit. It was noted that in the Additional Affidavit dated 25.07.2025, revised Form H was attached. However, it was observed that in this revised form H neither the estimated cost nor the actual CIRP cost till date has been mentioned. Further through the order dated 16.09.2025, this Tribunal made certain observations:

“...In respect of such revised Form H, following two observations are made:

1. As per the plan, the CIRP cost has been indicated at Rs. 25,00,000/- and in case the CIRP cost exceeds this amount, the

SRA undertakes to contribute the same. However, we note that though the revised Form H in the new format has been filed along with the Additional Affidavit on 25.07.2025, but neither the estimated nor the actual CIRP cost till date has been mentioned therein anywhere. The Applicant may accordingly file the amount of CIRP cost spent in the process.

2. In the revised Form H at point no. 10, the details of income tax losses carry forward under section 79(2)(c) of Income Tax Act, 1961 has been detailed. From there it is noted that, there are accumulated business losses from Assessment Year 2016-17 to Assessment Year 2022-23 totaling to Rs. 3,02,00,60,275/-, Long Term Capital Loss of Rs. 1,10,92,486/- and Unabsorbed Depreciation of Rs. 5,40,82,379/-

....

We have considered the facts of the case as also the Judgement relied upon by the Counsel of Hon'ble NCLAT, in Company Appeal No. 732 of 2025 in the case of "Vashishth Builders and Engineers Ltd Vs Trishul Dream Homes Ltd".

*We are making it clear that the Adjudicating Authority is not going into the issues of valuation which have been the subject matter of the valuation by the valuers. **Here it is a case that there are huge accumulated losses in the case of the Corporate Debtor, they have been duly reflected in the Form H (revised) and such accumulated losses being not reflected in the Balance Sheet would not give any opportunity to the valuers to value them.** Further, Ld. Counsel for the Applicant has not been able to take us to any portion of the valuation reports wherein any opinion in respect of such accumulated losses have been given by the valuer. It is further mentioned here that these accumulated losses, though are subject to utilization and benefit of the Successful Resolution Applicant in accordance with the provisions of Income Tax Act, however, they do have a significant impact in*

respect of the profitability of the Corporate Debtor going forward and commensurating tax outgo by the Corporate Debtor (SRA) in future resulting into sizeable benefits to the Successful Applicant. Accordingly, it is our considered view that, such losses should be valued and taken into consideration. **It is further mentioned here that in the recent guidelines issued by the IBBI circular dated 17.03.2025, numbered IBBI/CIRP/83/2025 with the subject: "Disclosure of information related to carry forward of losses in Information Memorandum.", while the Form H has been revised, the losses in the hands of the Corporate Debtor have also been mandated to be disclosed in the Information Memorandum and accordingly requires to be valued.** In the Judgement of Hon'ble NCLAT, in the case of **"Vashishth Builders and Engineers Limited vs Trishul Dream Homes Limited."** (supra) there is no reference to the said Circular and it is nowhere discussed therein that despite such mandate of disclosing the losses in the Information Memorandum and consequent requirement of its valuation, its valuation is not to be done.

Under such facts and circumstances, we deem it appropriate to the Applicant herein, to look into the matter and take appropriate action so that the significant amount of losses which can have the result of significant eventual benefit to the Successful Resolution Applicant should be taken into account"

42. In response to the above observation of this Tribunal, the Applicant filed an Additional Affidavit dated 26.09.2025 stating :

“ 5. It is submitted that clarification and required submissions are being submitted herewith in order to respond to the specific

observations of the BENCH as per the NCL T order dated 16th September as follows;-

A. That on 17th March, 2025, the IBBI issued Circular No. IBBI/CIRP/83/2025 - Disclosure of information relating to carry forward of losses in Information Memorandum - directing all Insolvency Professionals to include in the Information Memorandum:

- a. the quantum of carry forward losses available to the corporate debtor;
- b. a breakdown of these losses under specific heads as per the Income Tax Act, 1961.
- c. the applicable time limits for utilization of these losses; and
- d. if there are no carry forward losses, an explicit statement to that effect.

It is submitted that the **COC had approved the resolution plan on 1st March 2025. Although the IBBI Circular dated 17th March 2025 (IBBI Circular) was issued after the CoC had already approved the resolution plan on 1st March, 2025 and after valuation reports were obtained even before 15th March 2025, notwithstanding that, as an abundant caution by the RP for best the practices, have already included full disclosure of carry forward losses / accumulated losses of the Corporate Debtor in the Expression of Interest ("EOI") document dated 17th October, 2024 and Information Memorandum ("IM") document dated 10th December, 2024, as follows;**

- i. The EOI included the quantum of carry forward losses at page No. 9 of the EOI; Copy of EOI dated 17th October, 2024 is annexed as ANNEXURE 4.
- ii. The IM dated 10th December, 2024 has already included the details of accumulated losses at page No. 16 of the IM; Copy of IM dated 10th December, 2024 is annexed as ANNEXURE 5.
- iii. Thus, the disclosure as per the said IBBI Circular was effectively complied with by the RP even prior to issuance of the said IBBI

Circular though the said circular may not be applicable to the present case since the plan was already approved by the CoC on 1st March 2025.

C. That the resolution plan submitted by Klassic Wheels Limited, the Successful Resolution Applicant, was approved by 100% voting share of the Committee of Creditors (CoC) on 1st March, 2025.

.....

6. Valuation reports from the registered valuers were obtained by the RP and duly presented before the COC prior to the plan approval date i.e 1st March 2025. Further, all the Valuation Reports are already filed on record along with IA for plan approval. Since, the accumulated losses are not the real asset of the company but the deferred tax asset of the company, hence the specific valuation of the said losses in the valuation report is not reflected. Further, if the valuation of loss to be considered for any appropriate matter, then the same can be taken as per the book value of the loss and no separate valuation can be obtained for the same.

7. It is submitted that the IBBI CIRCULAR dated 17th March 2025 has directed to disclose the accumulated loss in IM & consequently in the FORM H. The said IBBI circular has rightly and thoughtfully not prescribed anything about the valuation of the accumulated losses as the accumulated loss is not the real asset of the company though it reflects on the asset side of the balance sheet as deferred tax asset having debit balance in nature.

8. The book value is already disclosed in the EOI & IM and the SRA is already aware of the same as evident from the records. Therefore, it is not the situation where the SRA has not taken the informed decision while filing the plan.

9. It is submitted that the initially the CIRP cost was estimated at INR 25 LAKHS and the SRA is willing to pay the additional CIRP cost if any as more than the estimated CIRP cost. Further, the actual CIRP cost as on the date of filing if this affidavit amounts to INR 42,08,595/-. Further, in case of any increase in the CIRP COST the

same shall be paid by the SRA after the plan is approved by the NCLT.”

43. Further the Applicant has in its submission stated that this Hon'ble Tribunal lacks jurisdiction to examine the Corporate Debtor's accumulated losses while considering approval of the Resolution Plan. Such matters relate solely to the Successful Resolution Applicant's prospective tax treatment under the Income Tax Act and fall within the exclusive domain of the jurisdictional Income Tax Authorities.
44. Further Applicant submits the Hon'ble Supreme Court in ***Pratap Technocrats (P) Ltd. v. Reliance Infratel Ltd., (2021) 10 SCC 623***, has categorically held that the Adjudicating Authority's role under Sections 30(2) and 31 of the IBC is confined to verifying compliance with Section 30(2) and that it cannot examine the commercial wisdom of the CoC. Evaluating the future profitability of the Corporate Debtor or its potential tax outgo lies outside this statutory mandate. The NCLAT in ***GMSRA Infracon Pvt. Ltd. v. Shreebhav Polyweaves Pvt. Ltd.*** has also affirmed that issues concerning benefits under Section 79(2) of the Income Tax Act fall exclusively within the Income Tax Department's jurisdiction. Therefore, any inquiry by this Tribunal into the Corporate Debtor's future profitability or tax consequences would be contrary to the above binding precedents.
45. Regarding the IBBI Circular dated 17.03.2025 (IBBI/CIRP/83/2025), the Applicant submits that it merely mandates disclosure of accumulated losses in the Information Memorandum. It does not require valuation of such losses. This is supported by the plain meaning rule affirmed in ***Commr. of Customs v. Dilip Kumar & Co., (2018) 9 SCC 1***, and by the principle that courts cannot add words to a statute or circular, as reiterated in ***Satheedevi v. Prasanna, (2010) 5 SCC 622***. The accumulated losses were duly disclosed in the Information Memorandum and noted in Form H.

46. It is also submitted that the attempt to distinguish the binding NCLAT judgment by this Tribunal in ***Vashishth Builders & Engineers Ltd. v. Trishul Dream Homes Ltd.*** on the ground that the Circular was not considered is impermissible in view of *Director of Settlements v. M.R. Apparao*, which holds that a judgment cannot be disregarded because certain aspects were not argued or considered, unless overruled by a competent court.
47. Additionally, the Applicant asserts that, (i) the Resolution Plan was approved by the CoC with 100% voting share after full disclosure of losses; (ii) the ability to carry forward losses depends on timely filing of tax returns, which is absent in all years except AY 2017-18; (iii) the benefit of accumulated losses is subject to the Income Tax Department's scrutiny and cannot be presumed; and (iv) the Circular in any case was issued after CoC approval and is therefore inapplicable.
48. Accordingly, the Applicant submits that the Tribunal's examination of valuation of accumulated losses exceeds the scope of Section 30(2)(f) of the IBC and conflicts with binding judicial precedent.
49. **Compliance of mandatory requirements under the Insolvency & Bankruptcy Code, 2016:**

<u>Sr no</u>	<u>Particulars</u>	<u>Compliance</u>
<u>1</u>	<u>Section 25(2)(h):</u> Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the Said corporate debtor?	<u>Yes</u> - Provided along with EoI on Page no.03 to 106.
<u>2</u>	<u>Section 29A:</u>	<u>Yes</u>

	Whether Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	- Provided as annexure with the resolution plan.
3	<u>Section 30:</u> (1) Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	<u>Yes</u> Provided as Annexure 'L' page no.225-229
	(2)(a) Whether the Resolution Plan provides for payment of insolvency resolution process costs? (2)(b) Whether the Resolution Plan provides for the payment of the debts of operational creditors? (2)(c) Whether the Resolution Plan provides for the payment to the financial creditors who did not vote in favor of the resolution plan? (2)(d) Whether the Resolution Plan provides for the management of the affairs of the Said corporate debtor? (2)(e) Whether the Resolution Plan provides for implementation and supervision of the resolution plan? (2)(f) Whether the resolution plan contravenes any of the provisions of the law for the time being in force?	<u>Yes</u> The Resolution Plan is in compliance with section 30(2) of the code. - Section 4, Page no.43 & 44
	(4)(a) Whether the Resolution Plan is feasible and viable, according to the CoC?	<u>Yes</u> The Resolution Plan (a) is feasible and viable, according to the CoC

	(4)(b) Whether the Resolution Plan has been approved by the CoC with 66% voting share?	(b) has been approved by the CoC with 66% voting share. - Page no.68
4	<u>Section 31(1):</u> Whether the Resolution Plan has provisions for its effective implementation Plan, according to CoC	<u>Yes</u> The Resolution Plan has provisions for its effective implementation, according to the CoC - Page no.68

50. **Compliance under mandatory requirements under IBBI (Insolvency Resolution Process of Corporate Debtor) Regulations, 2016**

<u>Regulation 38</u>		
<u>1</u>	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	<u>Yes.</u> - Page no.68
<u>1A</u>	Whether the resolution plan includes a statement as to how it has dealt with the interest of all stakeholders?	<u>Yes</u> - Page no.68
<u>1B</u>	i) Whether the Resolution Applicant or any of its related parties has failed to implement or contribute to the failure of implementation of any resolution plan approved under the Code? ii) If so, whether Resolution Applicant has submitted the statement giving details of such non-implementation?	<u>Yes</u> Neither the Resolution Applicant nor any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan

		approved under the Code. - Page no.68
<u>2(a)</u>	Whether the Resolution Plan provides the term of the plan and its implementation schedule?	<u>Yes</u> - Page no.68
<u>2(b)</u>	Whether the Resolution Plan provides for the management and control of the business of the said corporate debtor during its term?3	<u>Yes</u> - Page no.68
<u>2(c)</u>	Whether the Resolution Plan provides adequate means for supervising its implementation?	<u>Yes</u> - Page no.68
<u>3</u>	Whether the Resolution Plan demonstrates that – (a) It addresses the cause of default? (b) Is it feasible and viable? (c) It has provisions for its effective implementation? (d) It has provisions for approvals required and the time for the same? (e) The Resolution Applicant has the capacity to implement the Resolution Plan?	<u>Yes</u> - Page no.68
<u>Regulation 39</u>		
<u>2</u>	Whether the RP has filed applications in respect of transactions observed, found or determined by him?	<u>No</u>
<u>4</u>	Provide details of performance security received as referred to in sub-regulation (4A) of Regulation 36	<u>Yes</u> - Attached as Annexure 'J'

51. **The CIRP has been conducted as per the timeline indicated as under:**

Provision (Section / Regulation)	Description Of Activity	Latest Timeline under Regulation 40A	Dates according to Regulation 40A	Actual Date
Section 16(1)	Commencement of CIRP and Appointment of IRP	T+0	14.08.2024	14.08.2024
Regulation 6(1)	Publication of Public Announcement	T+3	17.08.2024	17.08.2024
Section 15(1)(c)/ Regulation	Submission of claims	T+14	28.08.2024	28.08.2024
Regulation 13(1)	Verification of claims	T+21	04.09.2024	04.09.2024
Regulation 17(1)	Filing of Report certifying Constitution of CoC	T+23	06.09.2024	06.09.2024
Section 22(1) and Regulation 17(2)	First CoC meeting	T+30	13.09.2024	12.09.2024
Regulation 27	Appointment of two registered Valuers	T+47	30.09.2024	15.10.2024
Regulation 35A	Determination of fraudulent and other transactions	T+115	07.12.2024	05.02.2025
Regulation 36(1)	Submission of Information Memorandum (IM) to the CoC	T+95	17.11.2024	10.12.2024
Regulation 36A	Publication of Form G (Invitation for EoI)	T+60	13-10-2024	17-10-2024

	Final list of PRAs	T+100	22-11-2024	29-11-2024
Regulation 36B	Issue of RFRP (incl. evaluation matrix & IM)	T+105	27-11-2024	10-12-2024
Section 30(6)/ Regulation 39(4)	Submission of CoC approved Resolution Plan	T+165	26.01.2025	24.03.2025
Section 31(1)	Approval of Resolution Plan by NCLT	T+ 180	10.02.2025	

52. On perusal of Form-H, it is seen that the Resolution Plan is in compliance with the mandatory compliances as stipulated under Section 30(2) of the Code. The Resolution Plan also meets the requirements of Regulations 37, 38, 38(1A) and 39 (4) of the IBBI Regulations, 2016. The SRA has submitted an Affidavit dated 07.01.2025 in Annexure- 'L' of the application stating that Successful Resolution Applicant nor any other person who is a connected person (as defined under the IBC) is ineligible under Section 29 A of the IBC. The Resolution Plan is not in contravention of any of the provisions of Section 30(2) of the Code and is in accordance with law and applicable regulations.
53. The Applicant identifies that there are no avoidance transaction applications pending before this Tribunal, and that, that there are no transactions falling under section 43, 45, 50, and 66 of the Code.
54. In ***K Sashidhar v. Indian Overseas Bank & Others (2019) 12 SCC 150***, the Hon'ble Apex Court held that if the CoC had approved the Resolution Plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the Resolution Professional to submit the same to the Adjudicating Authority (NCLT). On receipt of such a proposal, the Adjudicating Authority is required to satisfy itself that the Resolution Plan, as approved by CoC, meets the requirements specified in Section 30(2). The Hon'ble Apex Court further observed that the role of the NCLT is 'no more and no less'. The Hon'ble Apex Court further held that

the discretion of the Adjudicating Authority is circumscribed by Section 31 and is limited to scrutiny of the Resolution Plan “as approved” by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the Adjudicating Authority can reject the Resolution Plan is in reference to matters specified in Section 30(2) when the Resolution Plan does not conform to the stated requirements.

55. In view of the law laid down by Hon’ble Supreme Court, the commercial wisdom of the COC is to be given paramount importance for approval/rejection of the resolution plan. As the Resolution Plan meets the requirements of the Code and the IBBI (CIRP) Regulations, 2016 the same needs to be approved. Accordingly, the Resolution Plan is approved with the following directions:

- i. The Resolution Plan submitted by the Applicant which is approved by the CoC, is hereby approved. It shall become effective from the date of this approval and shall form part of this order. It shall be binding on the Said corporate debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.
- ii. No person will be entitled to initiate or continue any proceedings in respect of a claim related to the period prior to the effective date, whether the same is part of the Resolution Plan or not.
- iii. The Monitoring Committee shall supervise the implementation of the Resolution Plan and shall review operational performance of the Said corporate debtor.
- iv. The Resolution Professional is further directed to handover all records, premises / documents to the SRA to finalise further line of action required for starting of the operation as contemplated under

the Resolution Plan. The SRA shall have access to all the records premises/documents through Resolution Professional to finalise further line of action required for starting of the operations.

- v. As per the Resolution Plan, extinguishment of existing shares of the said corporate debtor, allotment of shares to the SRA and to New Investor do not require the consent of shareholders as required under the Companies Act or any other authority for implementation of the Resolution Plan.
- vi. The aspect of reliefs and concessions are dealt herein under:
 - a) Approval of the Resolution Plan shall not be a ground for termination of any existing consents, approvals, licenses, concessions, authorizations, permits or the like that has been granted to the Said corporate debtor or for which the Said corporate debtor has made an application for renewal, grant permissions, sanctions, consents, approvals, allowances, exemptions etc.
 - b) Any exemption as sought for in relation to the payment of registration charges, stamp duty, taxes and fees arising out of the implementation of the Resolution Plan is not granted but the SRA is at liberty to approach Competent Authorities for the exemptions if permitted under the law.
 - c) For past non-compliances of the Said corporate debtor under applicable laws the SRA shall not be liable for any liabilities and offences committed prior to the commencement of CIRP, as stipulated under Section 32A of IBC, 2016.
 - d) It is hereby clarified that in terms of the Judgement of Hon'ble Supreme Court in the matter of ***Ghanshyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited***, on the date of approval of the Resolution Plan by the

Adjudicating Authority, all such claims which are not a part of Resolution Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect of a claim which is not a part of the Resolution Plan.

- e) With regard to other concessions and reliefs, most of them are subsumed in the reliefs granted above. The relief which is not expressly granted above, shall not be construed as granted. The exemptions if any sought in violation of any law in force, it is hereby clarified that such exemptions shall be construed as not granted. It is further clarified that the reliefs and concessions sought which are beyond the scope of provisions of Section 31(1) and Section 32A of the Code cannot be granted and are as such deemed to have not been granted.
- f) It is also clarified that, if this Resolution Plan stipulates or provides for any benefit flowing through any other law, then the same may be deemed as not allowed/approved and would be open to action by the concerned authority in accordance with law.
- g) Any amount out of the action taken against other persons for Preferential/ Fraudulent Transactions u/s. 43 and 66 of the IBC, 2016 as found in the Audit Report and also Unauthorized Transaction post CIRP order, shall be appropriated towards the unsatisfied claims of the Financial Creditors.
- h) The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the concerned Registrar of Companies (RoC), for information and record. The SRA, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.

- i) The moratorium under Section 14 of the Code shall cease to have effect from this date.
 - j) The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this Order for information.
 - k) The Applicant shall forthwith send a certified copy of this Order to the CoC and the SRA, respectively for necessary compliance.
52. Accordingly, the Resolution Plan submitted by Ms. Neha Agarwal (RP of the Corporate Debtor), the Applicant herein, is hereby **approved**, and I.A. No. 37 of 2024 is allowed and disposed off.

Sd/-

Charanjeet Singh Gulati
Member (Technical)

(Rashmi, LRA)

Sd/-

Nilesh Sharma
Member (Judicial)