IN THE NATIONAL COMPANY LAW TRIBUNAL,
NEW DELHI BENCH
COURT III

I.A. No. 1833/2021, I.A. No. 4904/2021 and I.A. No. 2871/2021 filed in IB-1022(ND)/2018

In the matter of

Gautam Mullick & Ors ...Financial Creditors

Versus

Rohtas Projects Limited ...Corporate Debtor

In I.A. No. 1833/2021

Anil Kalra & Anr ...Applicants

Versus

Mukesh Gupta ...Respondent

In I.A. No. 4904/2021

Ajay Roy & Anr. ...Applicants

Versus

Mukesh Gupta ...Respondent

In I.A. No. 2871/2021

Mr. Mukesh Gupta,
Resolution Professional
Rohtas Projects Limited ... *Applicant*

Order delivered on 13th December, 2021

CORAM:

Shri Bachu Venkat Balaram Das Hon'ble Member (Judicial)

Shri Narender Kumar Bhola Hon'ble Member (Technical)

For Resolution Professional: Mr. Arun Kathpalia, Sr. Adv with Mr. Abhishek Anand and Mr. Tanveer Oberoi (Advocates)

For Objector: Mr. Hemant Sharma and Mr. Palash Agarwal (Applicant in I.A. No. 1833/2021) and AS Juris (Applicant in I.A. No. 4904/2021) (Advocates)

ORDER

Per: NARENDER KUMAR BHOLA, MEMBER (TECHNICAL)

In I.A. No. 1833/2021

1. I.A. No. 1833/2021 has been filed by the applicants u/s 60(5) of IBC, 2016 r/w Rule 11 of National Company Law Tribunal Rules, 2016 seeking following reliefs:

   a. Implead the Applicants in the present captioned matter i.e., C.P No. (IB) 1022/ND/2018;

   b. Exclude the Rohtas Presidential Tower, Vibhuti Khand, Gomti Nagar, Lucknow from the Corporate Insolvency Resolution Process of the Rohtas Projects Limited;

   c. Execute the sale deed in the favour of the applicants allottees of their respective properties;

   d. Direct the Resolution Professional not to accept or act upon any representation of Rohtas

Presidential Tower Residential Welfare Association (RPT RWA), Lucknow;

e. Direct the Committee of Creditors to exclude the Rohtas Presidential Tower, Vibhuti Khand, Gomti Nagar, Lucknow from the Resolution Plan submitted by Wings Constructions and Developers Private Limited & Consortium of Antriksh Infradesign Private Limited.

2. The facts and circumstances that compelled the applicants to file the following application is as follows:

a. The Applicants are allottees, who are in possession of its Unit No. A-101situated in Rohtas Presidential Tower, Vibhuti Khand, Gomti Nagar, Lucknow. They are aggrieved by the inclusion of their project namely Rohtas Presidential tower in the resolution plan submitted by Wings Construction and Developers Private Limited and Consortium of Antriksh Infradesign Private Limited, which is not only against the dictum laid down by the Hon'ble National Company Appellate Law Tribunal, New Delhi in Flat Buyers Association Winter Hills 77, Gurgaon vs. Umang Realtech and Ors but also against the very object of the Insolvency and Bankruptcy Code, 2016 as the project does not require any resolution.

b. It is submitted that the applicants were allotted their respective unit vide allotment letter dated 28.08.2006 and after executing an agreement to

sell dated 28.06.2006 and after paying their dues were granted possession on 18.02.2014. After that vide order dated 30.09.2019, CIR Process of the Corporate Debtor was initiated. Pursuant to that the Resolution Plan was submitted by the Resolution Applicant.

c. It is further submitted that the above mentioned Resolution Plan submitted by the Resolution Applicant cannot include the Project of the Applicant in view of the specific judgment of the Hon'ble NCLAT and also in view of the fact that more than 42 allottees out of 173 allottees did not approve or provided consent to any change in plan of the project as provided in the Section 14 of The Real Estate (Regulation and Development) Act, 2016 and further no resolution is required for the project of the applicants as the allottees undertake to pool funds in order to complete the remaining work of the project, therefore Resolution Professional as well as the Resolution Applicant cannot be permitted to bypass the provisions of the law as well as judicial pronouncements.

d. It is averred that earlier some of the allottees of Rohtas Presidential Tower, Vibhuti Khand, Gomti Nagar, Lucknow had submitted a representation to the Resolution Professional under the subject "*Objections regarding any construction on the*

terrace of shopping arcade" against the proposal for construction on the terrace of shopping arcade and along with the said objections allottees have also submitted the proposal to complete the said Project, however, the same was not considered by the Resolution Professional. Hence prayed that the project of the Applicant may be kept out of the Resolution Plan of the Corporate Debtor and only the assets of the project namely Rohtas Crescent Farms in village Kashimpur Biruha, Sultanpur Road, Lucknow has to be maximized and also reiterated other prayers as well.

Reply of Resolution Professional to IA-1833/2021

3. The Resolution Professional has filed the reply to the said Application and questioned the maintainability of the application and further stated that voting share of the applicants are about 0.175% as on the date of the approval of the resolution plan. It is submitted that no locus standi of the Applicants to seek impleadment in the Captioned Petition and relief regarding exclusion of "Rohtas Presidential Tower" being an asset of the Corporate Debtor from CIR Process is untenable and contrary to the provision of the IBC, 2016 in the light Hon'ble Supreme Court in the matter of **Jaypee Kensington Boulevard Apartments Welfare Association & Ors v NBCC (India) Ltd, Civil Appeal No.3395/2020.** It was held that such homebuyers who are part of the "class of creditors" are bound by the

decision of the class in majority and has no locus to stand differently and to project his/own viewpoint or grievance by way of objections or by way of appeal. It is further stated that relief for execution of sale deed is not maintainable and no preference to the Applicants can be given during the CIR Process. It is also argued that the Application is barred by delay and latches as the applicants were part of CoC through AR and were aware about the fact that the CoC has approved the resolution plan in its 15th meeting held on 01.03.2021 and the present application is filed on 05.04.2021. Hence, the application may be dismissed in view of the above arguments.

In I.A. No. 4904/2021

4. The instant application has been filed by the u/s 60(5) of IBC, 2016 r/w Rule 11 of the NCLT Rules, 2016 and following relief has been sought by the Applicants:

   a. allow the instant application;
   b. dismiss the IA-2871/2021 filed by the Resolution Professional seeking approval of Resolution Plan submitted by Prospective Resolution Applicant since the Resolution Plan is in violation of the provisions of the Code and Regulations;
   c. direct the Respondent to execute the sale deed in favour of the applicants of their joint property;
   d. direct the Respondent and the CoC to reconsider the Resolution Plan of Prospective Resolution Applicant by specifically looking into the feasibility

and viability of resolution plan and also the aspect of maximizing the value of assets of the Corporate Debtor and further to balance the interest of all the stakeholders;

e. rescind the execution of any arrangement which involves any construction or modification(s) in Rohtas Presidential Tower Project of the Corporate Debtor;

f. exclude the Rohtas Presidential Tower Project of the Corporate Debtor situated at Vibhuti Khand, Gomti Nagar, Lucknow 226010 from the Corporate Insolvency Resolution Process of the Corporate Debtor thereby excluding the same from the Resolution Plan proposed by the Prospective Resolution Applicant;

5. The facts and circumstances that compelled the Applicants to file the instant application are quite similar to the contents of I.A. No. 1833/2021, hence, the same are not reiterated in details and only crux would be discussed. The Applicants have challenged the resolution plan on the basis that the CoC has not considered the feasibility and viability of the Resolution Plan and further questioned the decision of CoC as it has not adequately balanced the interest of all stakeholders. It is further stated that the going concern status not maintained by Respondent (Resolution Professional). Further submitted that the Resolution Plan is contrary to the Provision of Law. It is also

argued that the condition of getting certification by the Resolution Professional to verify that the units have not stood transferred to third party is impossible and not tenable in law.

6. During the proceedings it was submitted by the Resolution Professional that since, the application IA-1833/2021 and 4704/2021 involve the same issue, hence, prayed that the reply filed in 1833/2021 may be treated as reply to the 4704/2021 as well.

Conclusion in IA-1833/2021 & IA-4704/2021

7. We have gone through the pleadings and arguments advanced by both the parties in both IAs namely, IA-1833/2021 and 4704/2021. It is clear that the Applicants in both the IAs are aware about the CIR Proceeding of Corporate Debtor and they were also represented by Authorized representative during the CoC meetings. In case, they have any grievance with respect to inclusion of their project in the asset of Corporate Debtor, they could have raised the same at much earlier stage and not after the approval of resolution plan by CoC. It is also pertinent to mention that both these IAs namely, IA-1833/2021 and 4704/2021 were filed way after the approval of resolution plan by the CoC. Furthermore, the voting share of the Applicants in both IAs is much less than 1% of the total voting percentage and Resolution Plan is approved by the CoC with 99.12% voting in favour. The Hon'ble Supreme Court in **Jaypee Kensington**

Boulevard Apartments Welfare Association & Ors v NBCC (India) Ltd, Civil Appeal No.3395/2020 has also held that such homebuyers who are part of the "class of creditors" are bound by the decision of the class in majority and has no locus to stand differently and to project his/own viewpoint or grievance by way of objections or by way of appeal. Therefore, in view of the judgment of Hon'ble Supreme Court and in the light of above findings, this Adjudicating Authority is inclined to dismiss the Application. Hence, IA-1833/2021 and IA-4904/2021 in IB-1022(ND)/2018 stand **dismissed**.

IA-2871/2021 (Resolution Plan)

8. Resolution Professional has filed the instant application under section 30(6) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as "IBC") r/w Regulation 39 (4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations (hereinafter referred as "IBBI (CIRP) Regulations, 2016), in IA No. 2871/2021 for seeking approval of Resolution Plan under section 31(1) of IBC in the matter of Rohtas Projects Limited (hereinafter referred as "Corporate Debtor")

9. Mr. Mukesh Gupta ('Applicant') is the Resolution Professional for Rohtas Projects Limited, who has submitted the Resolution Plan duly approved by the

Committee of Creditors (hereinafter referred as "CoC") which is accompanied by the compliance certificate in the prescribed Form H.

10. It is submitted that Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor was admitted by this authority vide its order dated 30.09.2019 pursuant to the application filed by Financial Creditor i.e., Mr. Gautam Mullick and Ors. and Mr. Kamal Piyush was appointed as the Interim Resolution Professional (IRP) vide same order. However, due to non-availability of Mr. Kamal Piyush, the financial Creditor filed an application to appoint the applicant as IRP and vide order dated 15.10.2019, this authority appointed the applicant as IRP and directed him to make the compliance with the order dated 30.09.2019. It is stated that public announcement in compliance with section 13, 15 and other applicable sections of IB code read with regulation 6 of IBBI (CIRP) Regulations, 2016 was made by the Applicant in Financial Express, English edition and Jansatta, Hindi edition on 18.10.2019 for intimating the commencement of CIRP against CD and calling for claims. However, vide order dated 25.10.2019, the Hon'ble Appellate Authority stayed the admission order dated 30.09.2019 and vide order dated 2.12.2019, the appellate authority directed the Applicant to constitute

the CoC and proceed with the CIR Process as per the law.

11. It is submitted that vide order dated 12.12.2019, this adjudicating authority excluded the period of 56 days from initial period of 180 days of CIR Process and directed the applicant to issue fresh public announcement/notice within 3 days. Pursuant to that public announcement was issued in financial express (English) and Jansatta (Hindi) on 15.12.2019. In response to that the applicant had received claims from 5 banks/financial institutions and 1241 claims were received from allottees of real estate of corporate debtor. It is stated that after collation and verification of the claims as required under the provisions of the code, the applicant constituted the CoC on the 06.01.2020.

12. It is further submitted that after constitution of CoC on 14.01.2020 first CoC meeting was held and the applicant was appointed as RP in terms of section 22(2) of IB Code, 2016. Thereafter, the Applicant has proceeded as per the applicable laws and provisions. It is averred that during the third meeting of the CoC dated 05.03.2020, the agenda for invitation of Expression of Interest in the prescribed Form-G, Request for Resolution Plan and the eligibility criteria of the prospective resolution applicant was considered.

Upon discussions and deliberations, the members of the CoC approved the Form — G, Eligibility Criteria, Evaluation Matrix and the Request for Resolution Plan and decided to publish Form — G for invitation of expression of interest immediately. Furthermore, in terms of Regulation 27 of the CIRP Regulations, the Applicant appointed registered valuers i.e., Mr. Navin Khandelwal and Ms. Aashlesha for SFA, Mr. Sandeep Goel and Mr. Mukesh Kumar Sharma for L&B, Mr. Sandeep and Ms. Aaslesha being represented from the office of Crest Capital, as approved by the members of the CoC, to determine the fair and liquidation value in accordance with Regulation 35 of the CIRP Regulations

13. It is submitted that in terms of section 25(2)(h) of the Code and Regulation 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the Applicant as permitted by the Committee of Creditors had published invitation for expression of interest in FORM — G on 07.03.2020, in Financial Express (English) Edition and Jansatta (Hindi) Edition, each at Delhi and Lucknow locations, wherein the last date for submission of expression of interest was fixed on 22.03.2020 and last date for submission of Resolution Plans was 06.05.2020. In the meantime, due to Covid-19 pandemic, the Government declared nationwide lockdown and regulation 40C was inserted in CIRP

Regulation vide notification dated 29.03.2020 regarding exclusion of lockdown period. Timeline was extended after the discussion of CoC in 4th meeting in order to receive the best resolution plan.

14. It is further submitted by the applicant complied with the provisions of IBC, 2016 and relevant regulations. This adjudicating authority vide order dated 27.07.2020 extended the CIR Process by period of 90 days. It is also stated that last date of submission of resolution plan was revised from 06.05.2020 to 18.07.2020. The Applicant also submitted that list of creditor and constitution of CoC along with voting share were updated from time to time as per the law.

15. It is averred that pursuant to the publication of From-G, several Resolution plans were received from prospective resolution applicant (PRAs) and several discussions took place during CoC meetings. It is stated that Form-G was again issued on 31.08.2020 after the decision of CoC in its 7th meeting dated 21.08.2020 for the purpose of invitation of more prospective resolution applicants to maximize the value of stakeholders of the corporate debtor. Pursuant to that Expression of Interest (EoI) was submitted by 5 (PRAs). It is also pertinent to mention that this adjudicating authority vide order dated

26.10.2020 excluded 81 days and further extended CIR Process by 60 days and rectified the typographical errors the order vide order dated 26.10.2020.

16. It is further averred that in the 11th CoC dated 01.12.2020, the Applicant submitted the 3 Resolution Plans received by him to the CoC. After extensive deliberations on various Resolution Plans, it was deliberated by the Committee of Creditors that all the Resolution Plans were not satisfactory for maximization of interests of the Stakeholders and thereby it was resolved by the CoC that the Applicant be authorized to re-issue Request for Resolution Plans to all Prospective Resolution Applicants (published by RP dated 03.10.2020) giving them 30 days to submit the Revised Resolution plans on or before 13.01.2021, in conformity with the modified request for Resolution Plans dated 11.12.2020, after removing the defects and improving the Resolution Plans in terms of its offerings. Further, the Applicant apprised the members of the Committee of Creditors about the actions taken by the Applicant in respect of the property at Plot. No. 2, Sector 140, Noida, Uttar Pradesh.

17. It is further submitted that in 13th CoC meeting dated 04.02.2021 the Applicant presented the Resolution Plans received from the eligible prospective Resolution Applicant(s) i.e., Resolution Plans dated 13.01.2021 submitted by Mr. Raju Nagar and Resolution Plan dated 13.01.201 jointly submitted by M/s. Wing Constructions & Developers Pvt. Ltd and Consortium of Mr. Rajbir Goyat & M/s. Antriksh Infradesign Pvt. Ltd before the members of Committee of Creditors to deliberate/ negotiate/ finalize the proposals. The Committee of Creditors, including Banks/NBFC's and the Authorized representative of Class of Creditors — Real Estate Allottees deliberated and presented their views on both the resolution plans in detail and various observations on the resolution plan, including those received by the AR, Mr. Arvind Mittal, from various members of his Class.

18. It is submitted that the PRA's were invited in the CoC meeting and were requested to further improve the Resolution Plans and submit the Revised Resolution Plans on or before 12th February 2021. One of the PRA i.e., Mr. Raju Nagar was not available in the meeting on the 4th February 2021 and hence the meeting was deferred to 5th February 2021 wherein the representative of Mr. Raju Nagar was present who was requested to improve the

Resolution Plan and submit the Revised Resolution Plan or before the 12th February 2021. Further during the meeting, it was resolved that the performance security of Rs. 1,50,00,000 (One Crore Fitly Lakhs) to be submitted by the successful Resolution Applicant must be given in the name of Canara Bank (erstwhile Syndicate Bank) being the institutional Financial Creditors having the highest voting share. Further, the Applicant presented the status of various applications filed by him before the Adjudicating Authority, to the CoC.

19. It is averred that in the 14th CoC meeting, the Applicant placed revised resolution plans dated 15.02.2021, before the Committee of Creditors. In view thereof, the CoC discussed on various clauses pertaining to the Resolution Plan including but not limited to `Dissenting Financial Creditors', 'Adjustment of Principal', Release of Securities and other clauses of both the resolution plans. Thereafter, both the Prospective Resolution Applicants were invited in the meeting and were requested to submit their plans with the improvements before the Committee of Creditors within 2 working days.

20. It is submitted that the e-voting on the resolution for approval of resolution plan commenced at 14:00

hours on the 04th March, 2021 and was concluded at 13:00 hours on the 10th March, 2021. That the resolution plan submitted by M/s. Wing Constructions & Developers Private Limited and Consortium of Mr. Rajbir Goyat & M/s. Antriksh Infradesign Private Limited has been approved in accordance with Section 30(4) of the Insolvency and Bankruptcy Code, 2016 with 99.12% voting share whereas the resolution plan by Mr. Raju Nagar was rejected by 85.86% voting share. Since, the resolution plan submitted by Mr. Raju Nagar was rejected by 85.86% voting share there was no requirement for tie-breaker formula to decide the approved resolution plan. Accordingly, the resolution plans submitted by M/s. Wing Constructions & Developers Private Limited and Consortium of Mr. Rajbir Goyat & M/s. Antriksh Infradesign Private Limited (now GYGY Infradesign Private Limited) were approved by the CoC in its 15th meeting with 99.12% voting share.

21. The summary of the Resolution plan submitted by the Joint Resolution Applicant is as follows:

Liability of Joint Resolution Applicant No.1 (M/s Wing Construction & Developers Private Limited (JRA-1)

a. Complete CIRP Costs (Rs. 0.95 Cr.)

b. Financial Creditors in class – Real Estate Allottees of Lucknow Projects; (Lucknow Projects include Sultanpur Road Rohtas Crescent Farms Projects, Rae Bareili Savanna Project, Oasis Project, Icon Heights, KS Trident, Presidential Towers and Arcade Projects)

c. Total claims of Operational Creditors arising out of Lucknow Projects;

d. Total Claims of Workmen and Employees arising out of Lucknow Projects;

e. All the Statutory Liabilities dues of the Corporate Debtor attributable of Lucknow Projects;

f. Contingent Liabilities of the Corporate Debtor pertaining to Lucknow Projects;

g. Liabilities emanating out of the litigations of the Corporate Debtor attributable to Lucknow Projects

Liability of Joint Resolution Applicant No.2 (Consortium Sh. Rajbir Goyat and M/s Antriksh Infradesign Private Limited (Now GYGY Infradesign Private Limited) (JRA-2)

a. Financial Creditors – Banks and NBFC's: Claim admitted by the Resolution Professional amounting to Rs. 1,062,728,820/-; (Payment provided under Resolution Plan: Rs. 61,58,55,657/-)

b. Financial Creditors in Class – Real estate allottees, in so far is it pertains to claims

pertaining to project/assets at Sector 140, Noida, Uttar Pradesh or Project at Matrix Technosquare, Greater Noida;

c. Total Claims of Operational Creditors - in so far is it pertains to claims pertaining to project/assets at Sector 140, Noida, Uttar Pradesh or Project at Matrix Technosquare, Greater Noida as per the proposal given in the ensuing paragraphs;

d. Total Claims of Workmen and Employees - in so far is it pertains to claims pertaining to project/ asset at Sector 140, Noida, Uttar Pradesh or Project at Matrix Technosquare, Greater Noida as per the proposal given in the ensuing paragraphs;

e. All the Statutory Liabilities dues of the Corporate Debtor, in so far is it pertains to claims pertaining to project/ asset at Sector 140, Noida, Uttar Pradesh or Project at Matrix Technosquare, Greater Noida as per the proposal given in the ensuing paragraphs;

f. Contingent Liabilities of the Corporate Debtor, in so far is it pertains to claims pertaining to project/assets at Sector 140, Noida, Uttar Pradesh or Project at Matrix Technosquare, Greater Noida as per the proposal given in the ensuing paragraphs;

g. Liabilities emanating out of the litigations of the Corporate Debtor, in so far is it pertains to claims pertaining to project/assets at Sector 140, Noida,

Uttar Pradesh or Project at Matrix Technosquare, Greater Noida as per the proposal given in the ensuing paragraphs;

22. It is submitted that as per the terms of the request for resolution plan ("RFRP") the successful Resolution Applicants was to submit security for an amount of Rs. 1,50,00,000/- and same was submitted by the Successful Resolution Applicants as Performance Bank Guarantee as required by regulation 36B (4A) of IBBI (CIRP) Regulations, 2016 as evidence from the receipt annexed as Annexure-33.

23. It is further averred that in terms of provisions of regulation 39(4) of IBBI (CIRP) Regulation, the RP is required to submit the Resolution plan approved by the CoC along with a compliance certificate in form H of the schedule and the evidence of receipt of performance security required under sub-regulation (4A) of regulation 36B. The same is complied with.

24. **Appointment of monitoring agency--Approval**

For Liabilities of JRA-I

A committee consisting of a Resolution Professional (as the Monitoring Professional), 1 member of the real estate allottees and 2 members of the Joint Resolution Applicant-I.

For Liabilities of JRA-II

A committee consisting of a Resolution Professional (as the Monitoring Professional), 1 person from Financial Creditor and 2 members of the Joint Resolution Applicant-II.

25. The parameters for approval of resolution plan are set out in section 30 and 31 of the IBC, 2016 and IBBI (CIRP) Regulations, 2016. The Resolution Plan seems to have complied with such mandatory compliance, which are briefly set forth herein below:

JRA-I (M/s Wing Construction & Developers Private Limited)

Section/Regulation	Compliance made
Section 30(1) of the IBC, 2016	As per clause 17 JRA-I is eligible to file Resolution Plan
Section 30(2)(a) of the IBC, 2016 And Regulation 38(1A) of IBBI (Insolvency Process for Corporate Persons) Regulations, 2016	As per clause 14.1 and 18.1 of the Resolution Plan, payment of CIRP costs shall be paid by the JRA-I within 30 days. Clause 16.2 (in case of JRA-I) 42.2 and 52 of the Resolution Plan provides that the Resolution Plan has dealt with the interest of all stakeholders.
Section 30(2)(b) of the IBC, 2016	As per clause 14.2, 18.4, 18.7 (in case of JRA-I) and Clause 40.1.1, 44.12 and

And	44.14 (in case of JRA-II) of the Resolution plans provides for the payment of the debts of operational creditors in such manner as may be specified by the IBBI which shall not be less than the amount to be paid to the operational creditors in the event of liquidation of the company.
Regulation 38(2)(c) of IBBI (Insolvency Process for Corporate Persons) Regulations, 2016	Clause 16.4.3 (in case of JRA-I) and 42.4.3 (in case of JRA-II) of the Resolution Plan provides for management and control of the business of corporate debtor
Section 30(2)(c) of the IBC, 2016	Clause 14.3, 21 (in case of JRA-I) and clause 40.3 & 49.1 (in case of JRA-II) of the Resolution Plan provides management of the affairs of the Corporate Debtor
Section 30(2)(d) of the IBC, 2016 And	Clause 14.4, 25 (in case JRA-I) and clause 40.3 and 47 (in case of JRA-II) of the Resolution Plan provides implementation and supervision of the plan until the final payment.
Regulation 38(2)(a) of IBBI (Insolvency Process for Corporate Persons) Regulations, 2016	The implementation of plan as stated by the Resolution Applicant in the Resolution Plan is 4 years as per clause 16.4.1 (in case of JRA-I) and

	42.4.1 (in case of JRA-II) from the date of receipt of certified true copy of order for approval of Resolution Plan by Adjudicating Authority.
Section 30(2)(e) of the IBC, 2016	As per clause 14.5 (in case of JRA-I) and 40.4 (in case of JRA-II) of the Resolution Plan does not contravene any of the provisions of law for the time being in force.
Section 30(4) of the IBC, 2016	The Committee of Creditors, after considering the feasibility and viability of the Resolution Plan have approved the same by 99.125% voting share.

JRA-II (Consortium Sh. Rajbir Goyat and M/s Antriksh Infradesign Private Limited (Now GYGY Infradesign Private Limited)

Section/Regulation	Compliance made
Section 30(1) of the IBC, 2016	Clause 43, JRA-II is eligible to file Resolution Plan
Section 30(2)(a) of the IBC, 2016 And Regulation 38(1A) of IBBI (Insolvency Process for Corporate Persons) Regulations, 2016	As per clause 14.1 and 18.1 of the Resolution Plan, payment of CIRP costs shall be paid by the JRA-I within 30 days. Clause 16.2 (in case of JRA-I) 42.2 and 52 (in case of JRA-II) of the Resolution Plan provides that the Resolution Plan has dealt

	with the interest of all stakeholders.
Section 30(2)(b) of the IBC, 2016 And	As per clause 14.2, 18.4, 18.7 (in case of JRA-I) and Clause 40.1.1, 44.12 and 44.14 (in case of JRA-II) of the Resolution plans provides for the payment of the debts of operational creditors in such manner as may be specified by the IBBI which shall not be less than the amount to be paid to the operational creditors in the event of liquidation of the company.
Regulation 38(2)(c) of IBBI (Insolvency Process for Corporate Persons) Regulations, 2016	Clause 16.4.3 (in case of JRA-I) and 42.4.3 (in case of JRA-II) of the Resolution Plan provides for adequate means for supervising its implementation
Section 30(2)(c) of the IBC, 2016	Clause 14.3, 21 (in case of JRA-I) and clause 40.3 & 49.1 (in case of JRA-II) of the Resolution Plan provides management of the affairs of the Corporate Debtor
Section 30(2)(d) of the IBC, 2016 And	Clause 14.4, 25 (in case JRA-I) and clause 40.3 and 47 (in case of JRA-II) of the Resolution Plan provides implementation and supervision of the plan until the final payment.
Regulation 38(2)(a) of	The implementation of plan

IBBI (Insolvency Process for Corporate Persons) Regulations, 2016	as stated by the Resolution Applicant in the Resolution Plan is 4 years as per clause 16.4.1 (in case of JRA-I) and 42.4.1 (in case of JRA-II) from the date of receipt of certified true copy of order for approval of Resolution Plan by Adjudicating Authority.
Section 30(2)(e) of the IBC, 2016	As per clause 14.5 (in case of JRA-I) and 40.4 (in case of JRA-II) of the Resolution Plan does not contravene any of the provisions of law for the time being in force..
Section 30(4) of the IBC, 2016	The Committee of Creditors, after considering the feasibility and viability of the Resolution Plan have approved the same by 99.125% voting share.

26. Thus, the resolution plan filed with the Application meets the requirements of section 30 and 31 of IBC, 2016 and Regulation 37, 38, 38(1A) and 39(4) of the IBBI(CIRP) Regulations, 2016. The provisions of Section 29A of IBC are not attracted. The RP has also verified that the "Resolution Plan" approved by the CoC does not contravene any of the provisions of the law for the time being in force. The RP has filed compliance certificate in Form H as required under regulation 39(4) of the IBBI (CIRP) Regulations, 2016.

27. The Resolution Applicant has prayed for the reliefs as enumerated under the Resolution Plan approved by the CoC. From the plan approval date, all inquiries, investigation and proceedings, whether civil or criminal, suits, claims, disputes, interests and damages in connection with the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future in relation to any period prior to the plan approval date, or arising on account of implementation of this resolution plan shall stand withdrawn, satisfied and discharged. From the date of approval of the 'Resolution Plan', the Resolution Applicant shall be legally authorised to seek appropriate orders from respective authorities/courts/tribunals for renewal of licences/withdrawal/dismissal or abatement of the proceeding as the case may be.

28. The Corporate Debtor shall be entitled to carry forward all accumulated business losses and unabsorbed depreciation, if any, from the date of approval of the Resolution Plan, except as provided in the Resolution Plan, all the pending statutory dues including taxes/cess/interest/penalty and other liabilities due to the operational creditors shall stand satisfied/waived off. The reason for these waivers and abatement is that the Operational Creditors would not get more than that as provided in the

Resolution Plan, in the event of liquidation of the Corporate Debtor, as per the waterfall mechanism provided under Section 53 of the I&B Code, 2016. Moreover, this is with a view to implement the Resolution Plan successfully as approved by the CoC. It is also made clear any relief/concession prayed by the applicant, which is beyond the jurisdiction of this adjudicating authority shall be construed as rejected.

29. During the proceedings, Joint Resolution Applicant No. 2 was directed to file an affidavit giving clear schedule of payment along with the amount which is admitted to be given to Noida Authority by this Adjudicating Authority vide order dated 10.11.2021. In compliance of this order, the JRA-2 has filed an affidavit dated 15.11.2021 and the relevant paragraph of the affidavit is as follows:

"8. Thus, the deponent undertakes that Rs. 14,83,19,890 (as per the statement of dues submitted by NOIDA, to the RP on the 13/01/2021) shall be paid by the JRA-II, to the NOIDA Authority in 4 equal annual instalments, with first instalment to commence after 12 months from the cut-off date i.e., the date on which the resolution applicants will get control of the company after payment of unpaid CIRP costs, payment of workmen and employees and payment to Operational Creditor and after various allottees have exercised their choice amongst various options given in the resolution plan and after the necessary approval from various relevant authorities as may be required under the various laws for the time being in force. (Page 668 of IA 2871 of 2021)."

30. In view of the above, the "Resolution Plan" annexed with I.A. No. 2871/2021 filed in IB-1022(ND)/2018 is hereby **approved**, and it shall be binding on the corporate debtor and its employees, members, creditors, guarantors, other stakeholders including statutory authorities and the Resolution Applicant.

31. The Resolution Applicant or Monitoring Agency as the case may be is at liberty to approach this authority for seeking appropriate directions for effective implementation of the Resolution Plan.

32. The order of moratorium date 17.12.2020 passed by this adjudicating authority under section 14 of IBC shall cease to have effect from the date of this order.

33. The RP shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI, so that the Board may record the same on its data base.

34. The approved resolution plan shall become effective from the date of passing of this order.

35. The Resolution Professional shall forthwith send a copy of this order to the participants and the Resolution Applicant.

36. The Registry is directed to communicate this order to the Registrar of Companies concerned with which the Corporate Debtor is registered for updating the master data.

37. Accordingly, I.A. No. 2871/2021 filed in IB-1022(ND)/2018 stands **allowed.**

38. The order is pronounced by this adjudicating authority through virtual mode.

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(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)

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(NARENDER KUMAR BHOLA)
MEMBER (TECHNICAL)