

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

I.A. NO. 4317 of 2023

IN

C.P. (IB) No. 1123/MB/2021

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

Bhrugesh Amin, Resolution Professional
... **Applicant**

In the matter of

C.P. (IB) No. 1123/MB/2021

Yes Bank Limited

...**Petitioner**

v/s.

Radius Infra Holdings Pvt. Ltd.

...**Respondent**

Order Pronounced on: 29.04.2024

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Applicant / RP : Ms. Khooshoo Shah Rajani *a/w*
Mr. Ayush Rajani *i/b* AKR
Advisors LLP, Ld. Counsel for the
Applicant.

For the Resolution Applicant : Mr. Rohit Gupta, Ld. Counsel for
the Resolution Applicant.

ORDER

1. This instant application has been filed on 08.09.2023 by **Mr. Bhrugesh Amin**, the Applicant Resolution Professional (“RP”) of **Radius Infra Holdings Pvt. Ltd.** (“Corporate Debtor”), *u/s.* 30(6) of the Insolvency and Bankruptcy Code, 2016 (“IBC, 2016”) on behalf of its Committee of Creditors, seeking approval of the Resolution Plan submitted by **Shree Naman Developers Private Limited** (“Successful Resolution Applicant / SRA”) and consequently approved by 100% (One-hundred percent) of the voting share of the members of the Committee of Creditors (“CoC”) of the Corporate Debtor.

2. The brief facts of the Application are as follows:

2.1 This Tribunal was pleased to initiate the Corporate Insolvency Resolution Process (“CIRP”) of the Corporate Debtor herein *vide* Order dated 09.05.2022 in the captioned petition bearing C.P.(IB) No. 1123/MB/2021, on an application filed by **Yes Bank Limited** (“Financial Creditor”) *u/s.* 7 of the IBC, 2016. Pursuant thereto, **Mr. Bhrugesh Amin** was appointed as Interim Resolution Professional (“IRP”). The said IRP caused a public announcement to be made on 12.05.2022, informing the commencement of CIRP of the Corporate Debtor, and thereby invited claims from stakeholders of the Corporate Debtor, and the CoC was constituted accordingly.

Pursuant to constitution of the members of CoC by the erstwhile IRP, the first meeting of CoC was held on 10.06.2022, whereby the said IRP was confirmed as the Resolution Professional (“RP”) *viz.* the Applicant herein. The Applicant RP submits that a total of thirteen (13) CoC meetings were held during the CIRP period. During the same, the Applicant RP sought approval of the CoC for the publication of FORM-G *i.e.* Notice inviting Expression of Interest (“EOI”) for submission of

Resolution Plan for the Corporate Debtor, and the eligibility criteria for the Proposed Resolution Applicants (“PRA”) were subsequently finalised during the second CoC meeting *dated* 22.07.2022. Pursuant thereto, the said FORM-G was published on 11.08.2022, and two modified EOIs were subsequently issued on 05.09.2022 and 29.09.2022. Two Resolution Plans were received from the two PRAs *viz.* Shree Krishna Structures Private Limited and Shree Naman Developers Private Limited. The former, however, withdrew from the process.

- 2.3** Accordingly, the Applicant RP called for the thirteenth meeting of CoC *dated* 17.07.2023, whereby the Resolution Plan submitted by Shree Naman Developers Private Limited was approved with a voting percentage of 100%. Resultantly, **Shree Naman Developers Private Limited** was declared as the Successful Resolution Applicant (“SRA”) for the Corporate Debtor.
- 2.4** The Applicant RP submits that several Applications were filed for Extension(s) during the CIRP period, and the same have been duly tabulated herein-under:

S. No.	I.A. No.	Filed by	Relief Sought	Status
01	I.A. 2878/2022	RP	Extension of 90 days	Allowed <i>vide</i> Order dt. 11.10.2022
02	I.A. 447/2023	RP	Extension of 60 days beyond 270 days	Allowed <i>vide</i> Order dt. 08.02.2023
03	I.A. 1310/2023	RP	Extension of 60 days beyond 330 days	Allowed <i>vide</i> Order dt. 11.04.2023

04	I.A. 2350/2023	RP	Extension of 45 days beyond 390 days	Allowed <i>vide</i> Order dt. 08.06.2023
05	I.A. 5623/2023	RP	Extension of 60 days beyond 435 days	Allowed <i>vide</i> Order dt. 19.01.2024

3. The Applicant RP further submits that the Resolution Plan approved by the CoC is in compliance with the legal requirements mandated under IBC, 2016, *viz.* Sections 30(1), 30(2)(a), 30(2)(b), 30(2)(c), 30(2)(d), 30(2)(e), 30(2)(f) of IBC, 2016, along-with Regulation(s) 37 and 38 of CIRP Regulations.
4. The Resolution Applicant *viz.* Shree Naman Developers Private Limited has confirmed that it is eligible to submit Resolution Plan as per Section 29A of Insolvency and Bankruptcy Code, 2016, and has duly filed an affidavit to the same effect.
5. As per the Applicant RP, two registered valuers *viz.* AAA Valuation Professionals LLP and Kakode & Associates, were appointed to determine the Fair Value and Liquidation Value of the Corporate Debtor. As per the valuation reports of the the said valuers, the average values (in Crores) of the Fair Value and Liquidation Value are as follows:

Fair Value: INR 151.14 Crores

Liquidation Value: INR 110.83 Crores
6. The key features of the Resolution Plan for Corporate Debtor submitted by the SRA *viz.* Shree Naman Developers Private Limited is summarized below:

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Sl. No.	Claim Type	Claim Admitted	Treatment Proposed	Terms
	Corporate Insolvency Resolution Process Cost	1.98	1.98	CIRP cost is proposed to be paid Upfront and as per actuals and in full in priority to payment over other debts of the Corporate Debtor and further includes contingent fund.
	Secured Financial Creditors	197.80	160.54	Payment by way of allotment of Units admeasuring saleable area of 22,143 Sq. Ft. out of the Total Saleable Area and is proposed to be allotted within 90 days from Approval Date.
	Unsecured Financial Creditors	850.06	17.00	Payment by way of allotment of Units admeasuring saleable area of 2,345 Sq. Ft. out of the Total Saleable Area and is proposed to be allotted within 90 days from Approval Date.
	Operational Creditors (Workmen & Employees)	0.00	0.00	Not Applicable
	Operational Creditors (Government Dues) and Operational Creditors (Other than Workmen & Employees and Government Dues) & Other Creditors	1.26	0.25	Upfront payment in priority as per the provisions of the Code
	Sub-Total (A)	1051.1	179.77	

7	Infusion for working capital and capex purpose	NIL	Up to 50.00	As per the requirement and on need basis
	Total (B)	1051.1		

Furthermore, per Part-III of the Resolution Plan, the SRA has proposed the treatment to the creditors of the Corporate Debtor in the following manner

Sr. No.	Application of Funds	Rs. In Crores
1.	Upfront Payment towards Insolvency Resolution Process Costs on actual basis (“IRP Cost”) and Operational Creditors (Government Dues) & Operational Creditor (other than Workmen & Employees and Government Dues) as mentioned herein below in Resolution Plan	2.24
2.	Treatment to Unsecured Financial Creditor as mentioned herein below in Resolution Plan #	17.00
3.	Treatment against the claims of Secured FCs as mentioned herein below in Resolution Plan #	160.54
4.	Funds for construction of the project to be utilised in line with the business plan for construction*, in accordance with the Resolution Plan and on need basis	Up to 50.00
	Total	229.78

7. The Learned Counsel for the Applicant Resolution Professional has annexed a certificate of the Form-H to the Application, under Regulation 39(4) of the CIRP Regulations, 2016 to certify that the Resolution Plan has approved by the CoC meets all the requirements of the IBC and its Regulations.

7.1. This Bench notes that the matter-at-hand was listed for clarification on account of discrepancies noticed in FORM-H hereto, and was

resultantly de-reserved on 12.03.2024. The Applicant RP herein sought to file the amended FORM-H *via* Additional Affidavit *dated* 18.03.2024. The same has been duly taken on record, and has been extracted herein-under:

**AMENDED FORM H
COMPLIANCE CERTIFICATE**

(Under Regulation 39)4(of the Insolvency and Bankruptcy Board of India)Insolvency Resolution Process for Corporate Persons(Regulations, 2016

I, Bhruqesh Amin, an insolvency professional enrolled with IBBI and registered with the Board with registration number IBBI/IPA-002/IP-N00353/2017-18/11003, am the resolution professional for the corporate insolvency resolution process)CIRP(of Radius Infra Holdings Private Limited.

2. The details of the CIRP are as under:

SN	Particulars	Description
1	Name of the CD	Radius Infra Holdings Private Limited
2	Date of Initiation of CIRP	May 09, 2022
3	Date of Appointment of IRP	May 09, 2022
4	Date of Publication of Public Announcement	May 12, 2022
5	Date of Constitution of CoC	June 03, 2022
6	Date of First Meeting of CoC	June 10, 2022
7	Date of Appointment of RP	June 29, 2022
8	Date of Appointment of Registered Valuers	Valuer 1: June 25, 2022 Valuer 2: July 01, 2022
9	Date of Issue of Invitation for EoI	Original Form G: August 11, 2022 Modified Form G: September 05, 2022 Fresh Form G: September 29, 2022
10	Date of Final List of Eligible Prospective Resolution Applicants	November 08, 2022
11	Date of Invitation of Resolution Plan	November 13, 2022
12	Last Date of Submission of Resolution Plan	December 13, 2022 1 st Extension: January 12, 2023 2 nd Extension: February 02, 2023 3 rd Extension: February 16, 2023 4 th Extension: February 24, 2023
13	Date of Approval of Resolution Plan by CoC	August 03, 2023

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14	Date of Filing of Resolution Plan with Adjudicating Authority	August 05, 2023
15	Date of Expiry of 180 days of CIRP	Original: November 05, 2022
16	Date of Order extending the period of CIRP	90 Days Extension: October 11, 2022 60 Days Extension beyond 270 days: February 08, 2023 60 Days extension beyond 330 days: April 11, 2023 45 Days extension beyond 390 days: June 08, 2023 21 Days extension beyond 435 days:
17	Date of Expiry of Extended Period of CIRP	September 06, 2023
18	Fair Value	INR 151.14 Crores
19	Liquidation value	INR 110.83 Crores
20	Number of Meetings of CoC held	13

3. I have examined the Resolution Plan received from Resolution Applicant Shree Naman Developers Private Limited and approved by Committee of Creditors)CoC(of Radius Infra Holdings Private Limited.
4. I hereby certify that-

)i(the said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code 2016)Code(, the Insolvency and Bankruptcy Board of India)Insolvency Resolution Process for Corporate Persons(Regulations, 2016)CIRP Regulations(and does not contravene any of the provisions of the law for the time being in force.

)ii(the Resolution Applicant Shree Naman Developers Private Limited has submitted an affidavit pursuant to section30)1(of the Code confirming its eligibility under section 29A of the Code to submit resolution plan. The contents of the said affidavit are in order.

)iii(the said Resolution Plan has been approved by the CoC in accordance with the provisions of the Code and the CIRP Regulations made thereunder. The Resolution Plan has been approved by 100 % of voting share of financial creditors after considering its feasibility and viability and other requirements specified by the CIRP Regulations.

)iv(The voting was held in the meeting of the CoC on July 17, 2023 where all the members of the CoC were present.

or

I sought vote of members of the CoC by electronic voting system which was kept open at least for 24 hours as per the regulation 26.

5. The list of financial creditors of the CD, Radius Infra Holdings Private Limited, being members of the CoC and distribution of voting share among them is as under:

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SN	Name of Creditor	Voting Share)%(Voting for Resolution Plan)Voted for / Dissented / Abstained(
1	JC Flowers Asset Reconstruction Private Limited (Erstwhile Yes Bank Limited)	81.12%	Voted for the Resolution Plan of Shree Naman Developers Private Limited
2	Suraksha ARC Limited	18.88%	Voted for the Resolution Plan of Shree Naman Developers Private Limited
	Total	100%	

6. The Resolution Plan includes a statement under regulation 38)1A(of the CIRP Regulations as to how it has dealt with the interests of all stakeholders in compliance with the Code and regulations made thereunder.

7. The amounts provided for the stakeholders under the Resolution Plan is as under:

SN	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	-	-	-s	-
		(b) Other than (a) above: (i) who did not vote in favour of the resolution Plan	197.80	197.80	160.54	81.16%

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SN	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
		(ii) who voted in favour of the resolution plan				
		Total[(a) + (b)]	197.80	197.80	160.54	81.16%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21				
		(b) Other than (a) above:				
		(i) who did not vote in favour of the resolution Plan	-	-	-	-
		(ii) who voted in favor of the resolution plan	850.06	850.06	17.00	2.00%
		Total[(a) + (b)]	850.06	850.06	17.00	2.00%
3	Operational Creditors	(a) Related Party of Corporate Debtor	-	-	-	-
		(b) Government Dues	3.77	1.10	0.22	20.00%
		(c) Employees & workmen	-	-	-	-

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SN	Category of Stakeholder*	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
		(d) Other than workmen & Employees & Government Dues	0.68	0.15	0.03	20.00%
		Total[(a)+(b)+(c)+(d)]	4.45	1.25	0.25	20.00%
4	Other debts and dues		-	-	-	-
Grand Total - INR			1052.30	1049.10	177.79	16.95%

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

SN	Category of Share Holder	No. of Shares held before CIRP	No. of Shares held after the CIRP	Voting Share)%(held before CIRP	Voting Share)%(held after CIRP
1	Equity	1,00,000	NIL	100%	0.00%
2	Preference	-	-	-	-

9. The compliance of the Resolution Plan is as under:

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance)Yes / No(
25)2)h(	Whether the Resolution Applicant meets the criteria approved by the CoC having regard to the complexity and scale of operations of business of the CD?	-	Based on the evaluation of the criteria as led under the Section 25(2)(h), it is concluded that the Resolution Applicant meets the criteria specified in the Evaluation Matrix and the Process Document. CoC on the commercial

Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance)Yes / No(
			guidance of the RP's team and in its own commercial wisdom has found that the Resolution Applicant meets the criteria specified herein. Yes, Compliance has been met.
Section 29A	Whether the Resolution Applicant is eligible to submit resolution plan as per final list of Resolution Professional or Order, if any, of the Adjudicating Authority?	Format III-A of the Resolution Plan	The Section 29A Due Diligence Report does not report any adverse findings. Yes, Compliance has been met.
Section 30)1(	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Format III-A of the Resolution Plan	Signed and notarised affidavit u/s 29A is provided separately by the PRA to Resolution Professional. Yes, Compliance has been met.
Section 30)2(	Whether the Resolution Plan- (a) provides for the payment of insolvency resolution process costs?	The details are provided at Page 18, Clause 10 "Treatment under the Resolution Plan for the Insolvency Resolution Process Cost of the Corporate Debtor"	Yes, Compliance has been made
	(b) provides for the payment to the operational creditors?	The details are provided at Page 28-31, Clause 14 & 15	Yes, Compliance has been made.
	(b) provides for the payment to the financial creditors who did not vote in favor of the resolution plan?	The details are provided at Page 21, Clause B for secured Financial Creditors & Page 26, Clause B for unsecured Financial Creditors of Part III "Treatment to the Creditors of the Corporate Debtor"	Yes, Compliance has been made.
	(c) provides for the management of the affairs of the corporate debtor?	The details are provided at Page 35-37, Clause 19 "Management, control and supervision of the affairs of the Corporate	Yes, Compliance has been made.

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Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance)Yes / No(
		Debtor”	
	(d) provides for the implementation and supervision of the resolution plan?	The details are provided at Page 34-35, Clause 18 “Term and implementation Schedule” and Page 35-37, Clause 19 “Management, Control and Supervision of the affairs of the Corporate Debtor”	Yes, Compliance has been made.
	(e) contravenes any of the provisions of the law for the time being in force?	The details are provided at Page 36, Clause 19.10	Yes, Compliance has been made.
Section 30)4(	Whether the Resolution Plan)a(is feasible and viable, according to the CoC?)b(has been approved by the CoC with 66% voting share?	-	Pursuant to the approval of Resolution Plan by the CoC, the CoC has considered the Resolution Plan as feasible and viable. Yes by 100 % of voting share
Section 31)1(	Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?	The details are provided at Page 34, Clause 18 “Term and implementation Schedule”	Pursuant to the approval of Resolution Plan by the CoC, the CoC has considered the same.
Regulation 35A	Where the resolution professional made a determination if the corporate debtor has been subjected to any transaction of the nature covered under sections 43, 45, 50 or 66, before the one hundred and fifteenth day of the insolvency commencement date, under intimation to the Board?	The details are provided at Page 23, Clause 12.26	As per the Transaction audit report, there are transaction reported within the provision of section 43, 45, 50, 51 & 66 of the Code. The report has been filed with the Hon’ble NCLT and share with the CoC Members. Yes, Compliance has been made

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Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance)Yes / No(
Regulation 38)1(	Whether the amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors?	The details are provided at Page 28-31, Clause 14 “Treatment for Operational Creditors”.	Yes, Compliance has been met.
Regulation 38)1A(	Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?	The details are provided at Page 33 Clause 17 “Statement showing treatment to the Claims of all the stakeholders viz. Financial Creditors, Operational Creditors, Equity Shareholders and other contingent stakeholders”	Yes, Compliance has been met.
Regulation 38)1B(	(i) Whether the Resolution Applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved under the Code. (ii) If so, whether the Resolution Applicant has submitted the statement giving details of such non-implementation?	The details are provided at Page 12, Clause 2.21	Yes, Compliance has been met.
Regulation 38)2(	Whether the Resolution Plan provides:)a(the term of the plan and its implementation schedule?)b(for the management and control of the business of the corporate debtor during its term?)c(adequate means for supervising its implementation?	The details are provided at Page 34-35, Clause 18 “Term & Implementation Schedule” & Page 35-37 Clause 19 “Management, Control & Supervision of the affairs of the Corporate Debtor”	Yes, Compliance has been met.
38)3(Whether the resolution plan demonstrates that –	(a) The details are provided at Page 15, Clause 4 “Causes of Default and Addressing causes of default of Corporate Debtor”. The details are provided at Page 16-17, clause 6	Yes, Compliance has been met.

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Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance)Yes / No(
	<p>)a(it addresses the cause of default?)b(it is feasible and viable?)c(it has provisions for its effective implementation?)d(it has provisions for approvals required and the timeline for the same?)e(the resolution applicant has the capability to implement the resolution plan?</p>	<p>Addressing causes of default”</p> <p>(b) The details are provided at Page 17, Clause 8 “Reasonableness of Financial Projections including Feasibility and Viability.”</p> <p>The details are provided at Page 16, Clause 5 “Turnaround/Revival Plan proposed by the Resolution Applicant”.</p> <p>(c) The details are provided at Page 34-35, Clause 18 “Terms and Implementation Schedule”.</p> <p>The details are provided at Page 35-37, Clause 19 “Management, Control and Supervision of the affairs of the Corporate Debtor”</p> <p>(d) The details are provided at Page 10, Clause 2.10.</p> <p>The details are provided at Page 57-61, Clause 21.68 to Clause 21.89.</p> <p>(e) The details are provided at Page 1-9, Clause 1 “Details of Resolution Applicant.”</p> <p>The details are provided at Page 16, Clause 5 “Turnaround/Revival Plan proposed by the Resolution Applicant”.</p>	
39)2(Whether the RP has filed applications in respect of transactions observed, found, or determined by him?		\The Application has been filed with the Hon’ble NCLT and share with the CoC Members.

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Section of the Code / Regulation No.	Requirement with respect to Resolution Plan	Clause of Resolution Plan	Compliance)Yes / No(
			Yes, Compliance has been made
Regulation 39(4)	Provide details of performance security received, as referred to in sub-regulation (4A) of regulation 36B.]	Bank BG Amount BG Number	Yes, Compliance has been made

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

Section of the Code / Regulation No.	Description of Activity	Latest Timeline under regulation 40A	Actual Date
Section 16)1(	Commencement of CIRP and Appointment of IRP	T	T May 9, 2022
Regulation 6)1(	Publication of Public Announcement	T+3	T+3 (May 12, 2022)
Section 15)1)(c) / Regulation 12)1(	Submission of Claims	T+14	T+14 May 23, 2022
Regulation 13)1(	Verification of Claims	T+21	T+21 May 30, 2022
Regulation 17)1(	Filing of Report Certifying Constitution of CoC	T+23	T+25 June 10, 2022
Section 22)1(and regulation 17)2(	First Meeting of the CoC	T+30	T+32 June 10, 2022
Regulation 35A	Determination of fraudulent and other transactions	T+115	T+306 March 11, 2023
Regulation 27	Appointment of two Registered Valuers	T+47	Kakode: June 25, 2022 AAA: July 01, 2022
Regulation 36)1(	Submission of Information Memorandum to CoC	T+54	T+189 November 14, 2022
Regulation 36A	Invitation of EoI	T+75	Original: August 11, 2022 Modified: September 05, 2022 Fresh: September 29, 2022
	Publication of Form G	T+75	Original: August 11, 2022 Modified: September 05, 2022 Fresh: September 29, 2022
	Provisional List of Resolution Applicants	T+100	T+168 October 24, 2022
	Final List of Resolution Applicants	T+115	T+183

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Section of the Code / Regulation No.	Description of Activity	Latest Timeline under regulation 40A	Actual Date
			November 08, 2022
Regulation 36B	Issue of Request for Resolution Plan, which includes Evaluation Matrix and Information Memorandum to Resolution Applicants	T+105	T+188 November 13, 2022
Section 30)6(/ Regulation 39)4(	Submission of CoC approved Resolution Plan	T+165	-
Section 31)1(	Approval of Resolution Plan	T+180	-

11. The time frame proposed for obtaining relevant approvals is as under:

SN	Nature of Approval	Name of applicable Law	Name of Authority who will grant Approval	When to be obtained
1.				
2.				
3.				

Further, the Resolution Applicant undertakes that they will implement this Resolution Plan, whether the reliefs and concessions are granted or not.

12. The Resolution Plan is not subject to any contingency – **Not Applicable**

or

The Resolution Plan is subject to the following contingencies)Elaborate the contingencies(:

- i.....
ii.....

13. Following are the deviations / non-compliances of the provisions of the Insolvency and Bankruptcy Code, 2016, regulations made or circulars issued thereunder)If any deviation/ non-compliances were observed, please state the details and reasons for the same(:

SN	Deviation/Non-compliance observed	Section of the Code / Regulation No. / Circular No.	Reasons	Whether rectified or not
1	Not Applicable	Not Applicable	Not Applicable	Not Applicable

14. The Resolution Plan is being filed ___ days before the expiry of the period of CIRP provided in section 12 of the Code.

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14A. Whether the resolution professional has, in accordance with regulation 35A:

- (a) applied to the Adjudicating Authority on or before the one hundred and thirty-fifth day of the insolvency commencement date: **No**, The Resolution Professional had appointed M/s. Pipara & Co. LLP as the Transaction Auditor. However, due to non-co-operation from the Erstwhile management of the Corporate Debtor, the finalization of transaction audit got delayed and the transaction Audit report was received on 10 March 2023. As soon as the report was received, the undersigned filed an application under Section 43 on March 14, 2023 and application under Section 66 on March 18, 2023.
- (b) filed Form CIRP 8 with the Board on or before the one hundred and fortieth day of the insolvency commencement date: **No**, However, the said Form was filed by the undersigned on March 17, 2023 subsequent to the filing of Avoidance application before Hon'ble NCLT

15. Provide details of section 66 or avoidance application filed / pending.

SN	Type of Transaction	Date of Filing with Adjudicating Authority	Date of Order of the Adjudicating Authority	Brief of the Order
1	Preferential transactions under section 43	March 14, 2023	Next Date of Hearing – June 14, 2023	Court Notice issued. Next date of hearing is June 14, 2023
2	Undervalued transactions under section 45	-	-	-
3	Extortionate credit transactions under section 50	-	-	-
4	Fraudulent transactions under section 66	March 18, 2023	May 18, 2023	Recovery Order dated May 18, 2023 Received

15A. The committee has approved a plan providing for contribution under regulation 39B as under:

- a. Estimated liquidation cost: INR 2.72 Crores
- b. Estimated liquid assets available: NIL
- c. Contributions required to be made: INR 2.72 Crores
- d. Financial creditor wise contribution is as under:

SN	Name of financial creditor	Amount to be contributed (Rs. In Crores)
1	JC Flowers Asset Reconstruction Private Limited	2.21

	(Erstwhile Yes Bank Limited)	
2	Suraksha ARC Limited	0.51
	Total – Rs. In Crores	2.72

15B. The committee has recommended under regulation 39C as under:

- a. Sale of corporate debtor as a going concern: Yes
- b. Sale of business of corporate debtor as a going concern: Yes

The details of recommendation are available with the resolution professional.

15C. The committee has fixed, in consultation with the resolution professional, the fee payable to the liquidator during the liquidation period under regulation 39D - Yes

16. I Bhrugesh Amin hereby certify that the contents of this certificate are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.

Best regards

Authorized Representative

For or on behalf of Bhrugesh Amin

भृगेश अमीन | BHRUGESH AMIN.

Resolution Professional in the matter of CIRP of Radius Infra Holdings Private Limited.

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Insolvency Professional Entity: BDO Restructuring Advisory LLP, Level 9, The Ruby, Northwest Wing, Senapati Bapat Road, Dadar (W), Mumbai 400028, India.

Date: March 18, 2024

Place: Mumbai

9. In the circumstances mentioned hereinabove, the Applicant Resolution Professional has filed this Application seeking approval of this Tribunal on the Resolution Plan, submitted by the Resolution Applicant *viz.* Shree Naman Developers Private Limited, stating that the plan is in accordance with Section 30(2) of IBC, 2016, and other provisions laid thereunder.

10. On perusal of the Resolution Plan, it is observed that the Resolution Plan provides for the following:

- i.* Payment of CIRP Cost as specified u/s 30(2)(a) of the Code.

- ii.* Repayment of Debts of Operational Creditors as specified u/s 30(2)(b) of the Code.
 - iii.* For management of the affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified U/s 30(2)(c) of the Code.
 - iv.* The implementation and supervision of Resolution Plan by the RP and the CoC as specified u/s 30(2)(d) of the Code.
11. The Applicant RP has complied with the requirement of the Code in terms of Section 30(2)(a) to 30(2)(f) of IBC, 2016, and Regulations 38(1), 38(1)(a), 38(2)(a), 38(2)(b), 38(2)(c) & 38(3) of the CIRP Regulations.
12. The Applicant RP has filed the Compliance Certificate in Form-H (*Amended*) along with the plan. On perusal, the same is found to be in order. The Resolution Plan has been approved by the members of CoC in the Thirteenth Meeting held on 17.07.2023, with 100% of voting share. Further, there are no such pending proceedings *u/s.* 66(1) *r/w* 43(1) and 44(1) of IBC, 2016.
13. The SRA has additionally sought certain reliefs and concessions / waivers/ directions/ specific orders, per Annexure 1 of the Resolution Plan. Be that as it may, para {22} of the Resolution Plan makes it clear that implementation of the Resolution Plan is not conditional or contingent upon grant of any or all of such reliefs, concessions and dispensations by this Adjudicating Authority. We make it expressly clear that **no** reliefs, concessions and dispensations that fall within the domain of other government department/authorities are granted hereto. The reliefs, concessions and dispensations that pertain to other governmental authorities/departments shall be dealt with by the respective competent authorities/fora/offices, Government (State or Central) with regard to the respective reliefs, if any.

14. In the case of *K Sashidhar v. Indian Overseas Bank & Others* (in Civil Appeal No.10673/2018 decided on 05.02.2019) 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 Court observed that the role of the NCLT is ‘no more and no less’. The Hon’ble 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.
15. In *CoC of Essar Steel* (Civil Appeal No. 8766-67 of 2019 decided on 15.11.2019) the Hon’ble Apex Court clearly laid down that the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved. In para 42 Hon’ble Court observed as under:
- “Thus, it is clear that the limited judicial review available, which can in no circumstance trespass upon a business decision of the majority of the Committee of Creditors, has to be within the four corners of section 30(2) of the Code, insofar as the Adjudicating Authority is concerned, and section 32 read with section 61(3) of the Code, insofar as the Appellate Tribunal is concerned, the parameters of such review having been clearly laid down in K. Sashidhar (supra).”*

16. In view of the discussions and the law thus settled, the instant Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. The same needs to be approved. Hence ordered.

ORDER

17. The present Application bearing IA No. 4317 of 2023 in C.P. (IB) No. 1123/MB/2021 is **Allowed**. The Resolution Plan annexed to the Application is hereby approved. It shall become effective from this date and shall form part of this order.

18.1. It shall be binding on the 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.

18.2. The approval of the resolution plan shall not be construed as waiver of any statutory obligations of the Corporate Debtor and shall be dealt by the appropriate authorities in accordance with law.

18.3. Further in terms of the judgment of Hon'ble Supreme Court in the matter of *Ghanshyam Mishra And Sons Private Limited V/S 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 the Resolution Plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim which is not a part of the Resolution Plan.

18.4. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC), Mumbai, Maharashtra for information and record. The Resolution Applicant, 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.

18.5. The Moratorium under Section 14 of the Code shall cease to have effect from this date.

18.6. The Applicant shall supervise the implementation of the Resolution Plan and file status of its implementation before this Authority from time to time, preferably every quarter.

18.7. 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.

18.8. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant, respectively for necessary compliance.

18. The Interlocutory Application *i.e.* IA No. 4317/2023 in C.P. (IB) No. 1123/MB/2021 is accordingly **Allowed** and **Disposed-of**.

Sd/-

ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)

29.04.2024

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Sd/-

KISHORE VEMULAPALLI
MEMBER (JUDICIAL)