

**Before the National Company Law Tribunal,
Chandigarh Bench
Corporate Bhawan, Plot No.4B, Sector 27-B, Madhya Marg,
Chandigarh.**

No. NCLT/CHD/Reg/1778

Dated 31/8/18

CA Nos 197/Chd/Hry/2018

IN

CP(IB)No.49/Chd/Hry/2017

In the matter of:

Punjab National Bank

...Applicant-Financial Creditor.

Vs

Arcee Ispat Udyog Ltd

.....Respondent-Corporate Debtor.

And

In the matter of :

Jalesh Kumar Grover


...Applicant-Resolution Professional

To

Sh. Jalesh Kumar Grover, RP
R/o Flat No. 202, GH-40,
Sector-20, Panchkula-134116.

Please find enclosed herewith a certified copy of order dated 30.08.2018,
for your information and necessary action.

Encl: Copy of order.


Asstt. Registrar
for Registrar
NCLT, Chandigarh Bench

IN THE NATIONAL COMPANY LAW TRIBUNAL
 "CHANDIGARH BENCH, CHANDIGARH"
 (Exercising the powers of Adjudicating Authority
 under the Insolvency and Bankruptcy Code, 2016)

CA No.197/Chd/Hry/2018

IN

CP (IB) No.49/Chd/Hry/2017

Under Section 31(1) of the
 Insolvency and Bankruptcy
 Code 2016.

In the matter of:

Punjab National Bank

.... Financial Creditor

Versus

M/s Arcee Ispat Udyog Limited
 7th KM Stone, Barwala Road,
 Talwandi Raha, Hissar

....Corporate Debtor

And In the matter of:

Mr. Jalesh Kumar Grover
 Insolvency Professional

...Applicant- Resolution Professional

Order delivered on 30.08.2018

Coram: Hon'ble Mr. Justice R.P.Nagrath, Member (Judicial)
Hon'ble Mr. Pradeep R.Sethi, Member (Technical)

For the Resolution Professional	:	Mr. G.S. Sarin, Practising Company Secretary
For the Resolution Applicant	:	Mr. Krishan Vrind Jain, Chartered Accountant
For the Financial Creditor	:	None

Handwritten signature/initials

Per: Mr. Pradeep R.Sethi, Member (Technical)

ORDER

Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'Code') was filed by Punjab National Bank a financial creditor for initiating Corporate Insolvency Resolution Process (CIRP) against M/s Arcee Ispat Udyog Limited (Corporate debtor). The application was admitted by order dated 30.08.2017 and moratorium as provided in Section 14(1) of the Code was declared. Subsequently by order dated 07.09.2017, Sh. Jalesh Kumar Grover, Registration No.IBBI/IPA-001/IP/P00200/2017-18-10390 was appointed as the Interim Resolution Professional (IRP). In the first meeting of the Committee of Creditors (COC) held on 06.10.2017, Sh. Jalesh Kumar Grover was ratified as Resolution Professional (RP). The period of 180 days for completion of CIRP expired on 26.02.2018. In the meeting of the COC held on 20.02.2018, it was resolved to seek extension of 90 days for completion of CIRP. The application filed by the RP (CA No.48/2018) was allowed by order dated 01.03.2018 and the period of completion of CIRP was extended by a period of 90 days beyond 26.02.2018.

2. The instant application is filed by the RP under Section 31 of the Code read with Regulation 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as 'Regulations') for approval of resolution plan submitted by Alexis Marketing LLP as duly approved by the COC in its meeting dated 25.05.2018 in terms of Section 31(1) of the Code. It is stated that consequent to

appointment as IRP, he made a public announcement calling the creditors to submit their claims along with proof in the prescribed format and this public announcement was made in newspapers dated 11.09.2017 and 10.09.2017. It is stated that the IRP/RP appointed Valuers for determining the liquidation value of the corporate debtor as per Regulation 35 of the regulations and as per the reports submitted by the Valuers, the liquidation value of the corporate debtor is ₹7.06 crores (primary as well as collateral securities). The COC is stated to be constituted by the IRP on 21.09.2017 comprising of Punjab National Bank as the only member with 100% voting share.

3. In the 2nd meeting of the COC held on 13.11.2017, the information memorandum as required under Regulation 36 of the Regulations is stated to be submitted by the RP and consequent to decision of the COC, Expression of Interest (EOI) is stated to be published by the RP vide advertisement in Business Standard newspaper dated 20.11.2017 inviting potential resolution applicants to submit resolution plan. It is stated that during the 3rd meeting of the COC on 27.12.2017 and consequent to insertion of Section 29A in the Code making the promoters of the corporate debtor ineligible to submit resolution plan, the COC decided not to consider the one-time settlement proposal offered by the promoters of the corporate debtor which was pending for consideration of COC. During the course of the meeting, it is stated that the RP apprised that no offers for submission of resolution plan have been received. It is stated that with the consent of COC, another Expression of Interest (EOI) was published in the newspaper Business Standard on 06.02.2018 and M/s Alexis Marketing LLP showed interest in submitting a resolution plan and after finding that the resolution applicant was eligible for submission of the plan as per the provisions of the Code,

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the RP shared the Information Memorandum. The resolution plan is stated to be considered in the 6th and 7th meeting of the COC held on 11.04.2018 and 22.05.2018 respectively and finally, it is stated that the resolution plan was approved by the COC with 100% voting share in the COC meeting on 25.05.2018. It is prayed in the application that the resolution plan submitted by M/s Alexis Marketing LLP and as duly approved by the COC in its meeting dated 25.05.2018 be approved.

4. By order dated 05.06.2018, it was decided to hear the COC and the resolution applicant. The authorised representative for the resolution applicant was present during the course of the subsequent hearings in the case. Sh. Subodh Kumar, Assistant General Manager of Punjab National Bank, the only financial creditor, attended on 19.07.2018 and stated that the Bank is not to file any objection to the approval of the resolution plan. During the course of the hearing on 03.08.2018, the Compliance Certificate by the RP in Form-H as per Regulation 39(4) of the Regulations as amended by the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2018 was filed.

5. It was noticed during the course of arguments on 03.08.2018 that the resolution plan also contains the condition that the financial creditor should transfer the guarantees of the corporate debtor in favour of the resolution applicant. After arguing for some time, the authorised representative of the resolution applicant sought time to file the affidavit of all the three partners for explaining the above condition, which may be an impediment in accepting the plan. In the next hearing held on 14.08.2018, the authorised representative for the resolution applicant stated that affidavits vide diary No.2948 dated 13.08.2018

have been filed stating that in the event the resolution plan is accepted, they will not enforce the condition of transfer of guarantees in their favour. The authorised representative for the RP stated that in view of the resolution plan being approved by the COC with 100% voting share, the same may be approved by the Adjudicating Authority subject to deletion of the condition regarding transfer of guarantees of the corporate debtor in favour of resolution applicant.

6. We have carefully considered the submissions of the authorised representatives for the Resolution Professional, the resolution applicant and also perused the records. The corporate debtor started a project of manufacturing of galvanizing of MS pipes/tubes. The RP has stated in his affidavit dated 28.05.2018 (Annexure B of the application) that the unit is non-operational since last two years.

7. The COC consists of only one financial creditor i.e. Punjab National Bank with 100% voting share and voted in favour of the resolution plan. As discussed above, the RP has filed compliance certificate in Form-H of the Schedule as provided for by Regulation 39(4) of the Regulations as amended by the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2018. The Form-H has been filed vide diary No.2764 dated 30.07.2018. In Para No.7 of Form-H, the amount provided for the stakeholders under the resolution plan is given as under:-

Sl. No.	Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
1.	Dissenting Secured	-			

	<i>Financial Creditors</i>				
2.	<i>Other Secured Financial Creditors</i>	6403	6403	1510	23.58
3.	<i>Dissenting Unsecured Financial Creditors</i>	-			
4.	<i>Other Unsecured Financial Creditors</i>	46	46	-	-
5.	<i>Operational Creditors</i>				
	<i>Government</i>	-	-		
	<i>Workmen</i>				
	<i>Employees</i>			-	-
	<i>Trade Payables</i>			-	-
6.	<i>Other Debts and Dues</i>		-	-	-
	<i>Advance from Customers</i>				
	<i>Creditors against expenses</i>				
Total		6449	6449	1510	23.58

8. Taking into consideration that the amount provided under the plan for payment to Punjab National Bank is 23.58% of the amount claimed/admitted, it was decided to give an opportunity of hearing to the financial creditor. This was done by order dated 05.06.2018. We may note here that the liquidation value of the corporate debtor is about ₹7 crore (in Para 30 of the application, the liquidation value is given as ₹7.06 crore and in Form-H, the liquidation value mentioned in Para 2.19 is ₹6.998 crore). We have already discussed above that, Sh. Subodh Kumar, Assistant General Manager of Punjab National Bank, attended on 19.07.2018 and stated that the Bank is not to file any objection to the

approval of the resolution plan. Therefore, the matter being within the commercial and banking wisdom of the financial creditor, the same is not being interfered with.

Section 31(1) of the Code reads as follows:-

"If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, guarantors and other stakeholders involved in the resolution plan.

Provided that the Adjudicating Authority shall, before passing an order for approval of resolution plan under this sub-section, satisfy that the resolution plan has provisions for its effective implementation."

Section 30(2) of the Code reads as follows:-

"The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan—

- (a) provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the repayment of other debts of the corporate debtor;*
- (b) provides for the repayment of the debts of operational creditors in such manner as may be specified by the Board which shall not be less than the amount to be paid to the operational creditors in the event of a liquidation of the corporate debtor under section 53;*
- (c) provides for the management of the affairs of the Corporate debtor after approval of the resolution plan;*
- (d) the implementation and supervision of the resolution plan;*
- (e) does not contravene any of the provisions of the law for the time being in force;*
- (f) conforms to such other requirements as may be specified by the Board."*

We have already discussed above that the resolution plan submitted

by M/s Alexis Marketing LLP has been approved by the COC in its 8th meeting

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held on 25.05.2018 and that there is only financial creditor - Punjab National Bank, which has given its assent to the resolution plan resulting in the resolution plan being approved with 100% voting share. The resolution passed by the COC is as follows:-

“RESOLVED THAT, the resolution plan submitted by M/s Alexis Marketing LLP be and hereby approved by COC with 100% voting and Resolution Professional Mr. Jalesh Kumar Grover be and hereby authorised to move an application under Section 31 for approval of resolution plan from Adjudicating Authority.

Main Contents of the Resolution Plan

SUMMARY – BOOK BALANCES/ CLAIMS/ LIQUIDATION VALUE/ RESOLUTION REPAYMENTS

S. No.	Name of Creditor	Book balance	Claim amount	Repayment u/s 53 of IBC, 2016	Repayment under resolution
	CIRP Cost			0.125	0.125
	Financial Creditors				
1.	Punjab National Bank (Secured)	22.77	64.03	6.935	15.10
2.	R C Gupta – Promoter (Unsecured)	0.46	0.46	-	-
3.	Operational Creditors				
	Trade Creditors	0.38	-	-	-
4.	Other Creditors: Advance from Customers Creditors against expenses	0.54 0.07	- -	- -	- -
5.	Service Providers (Utilities)	-	-	-	-
6.	Employees & Workmen dues	-	-	-	-
7.	Statutory dues	-	-	-	-
	Total	24.22	64.49	7.06	15.22

Cost (Amount of Investment) under the Resolution Plan

Particulars	Amount In Crores
Repayments under Resolution Plan	15.22
Capital Expenditure by Resolution Applicant	0.25
Working Capital	0.25

Total	15.72
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Means of Finance of Resolution Applicant:

Particulars	Amount In Crores
Equity	0.50
Long Term Loans	15.22
Total	15.72

PAYMENT OF CIRP COST IN PRIORITY

The Insolvency Resolution Process Cost of ₹0.125 Crores will be paid in priority payment to other creditors.

REPAYMENT SCHEDULE OF FINANCIAL CREDITOR - PNB

Repayment Schedule starting from the date of approval of Plan by NCLT

Total Repayment	Within One month	1 st Installment	2 nd Installment	3 rd Installment	4 th Installment	5 th Installment
Total Term – 6 months	First Month	Second Month	Third Month	Fourth Month	Fifth Month	Sixth Month
15.10	3.75	2.27	2.27	2.27	2.27	2.27

The resolution applicant to deposit ₹3.75 crore within one month from the effective date and balance amount of ₹11.35 crore would be paid in 5 Equal instalments of ₹2.37 crore. All payments beyond one month shall carry interest at 9% p.a.

The amount of ₹1.25 core kept with PNB as upfront amount of earlier OTS proposal of the company shall be refunded to the depositor named M/s Kaycee Digital Works Pvt. Ltd.

REPAYMENT TO OPERATIONAL CREDITORS

S. No.	Operational Creditor	Book Liability	Claims admitted	Liquidation Value available	Repayment amount under resolution
1.	Trade Creditors	0.38	-	Nil	Nil
2.	Workmen/Employees	-	-	Nil	Nil
3.	Service Providers	0.61	-	Nil	Nil

	(Utilities)				
4.	Statutory Dues	-	-	Nil	Nil
5.	Other Creditors	-	-	Nil	Nil
6.	Contingent Liabilities	-	-	Nil	Nil

No payments has been proposed to any of the operational creditors Liquidation value available to operational creditors is nil

(Please refer table for details)

Other Terms:

Acquisition of Shares

- Entire paid up share capital of the Corporate Debtor of ₹3.92 crore would be transferred to resolution applicant for ₹1.

Release of Charge over Assets

- On receipt of the payment of the entire amount as per this plan, the bank shall release their charge over all the assets of Arcee Ispat Udyog Limited which have been provided as security against the facilities availed from the financial creditor (lender) and the corporate guarantees or any other guarantees held by them in respect of loans to the Company, shall also be released & assign in f/o resolution applicant. No amount of any nature shall be payable by the resolution applicant or by the corporate debtor or the personal guarantors except for what has been agreed to in the plan.

- **To Assign Personal Guarantees in f/o of Resolution Applicant**

The personal guarantees executed by Mr. R.C. Gupta, Mrs. Krishna Gupta and Mr. Akshat Gupta in favour of PNB shall be assigned by PNB in favour of the resolution applicant as per the terms of the resolution plan.

- **Withdrawal of all Suits/Litigations in any court of law**

All the suits/applications filed against Arcee Ispat Udyog Limited of any nature pending in any court of law shall be withdrawn & liability associated would be extinguished."

10. We, therefore, note that the payment under the resolution plan towards CIRP cost and the secured financial creditor Punjab National Bank totals to ₹15.22 crores and that the liquidation value available to the operational creditors is NIL and therefore, no payments have been proposed to any of the operational creditors.

Arcee Ispat Udyog Limited

11. The RP has submitted a certificate at Schedule V of the application. It is stated therein that as required under Regulation 39(2) of the Regulations, the RP has submitted to the COC the resolution plan which complies with the requirements of the Code and regulations made thereunder and that transactions mentioned under Sections 43, 45, 50 and 66 of the Code have not been found as the unit is non-operational since the last two years. The RP has also filed Form-H supra (Diary No.2764 dated 30.07.2018) certifying that the resolution plan complies with all the provisions of the Code and the Regulations and does not contravene any of the provisions of law for the time being in force; the resolution applicant M/s Alexis Marketing LLP has submitted an undertaking pursuant to Section 30(1) of the Code confirming its eligibility under Section 29A of the Code to submit the resolution plan; the resolution plan has been approved by the COC in accordance with the provisions of the Code and the Regulations; the resolution plan has been approved by 100% voting share of financial creditors after considering its feasibility and viability and other requirements specified by the Regulations. The compliance of the resolution plan has been submitted by the RP in Para 9 of Form-H supra as under:-

<i>Section of the Code / Regulation No.</i>	<i>Requirement with respect to Resolution Plan</i>	<i>Clause of Resolution Plan</i>	<i>Compliance (Yes / No)</i>
25(2)(h)	<i>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?</i>	<i>at Page No. 258-260</i>	YES
Section 29A	<i>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?</i>	<i>Yes. Undertaking given by resolution applicant at page No 264-266 of</i>	YES

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		application. LLP Agreement ,Board Resolution and Certificate of Incorporation 269-285, Affidavit – 286- 289	
Section 30(1)	Whether the Resolution Applicant has submitted an affidavit stating that it is eligible?	Not Applicable (Amended vide Regulations dated 03.07.2018) The Resolution Applicant had provided an Undertaking at page No 264-266 of application.	Yes
Section 30(2)	Whether the Resolution Plan: (a) Provides for the payment of insolvency resolution process costs? (b) provides for the payment of the debts of operational creditors? (c) provides for the management of the affairs of the Corporate debtor? (d) provides for the implementation and supervision of the resolution plan? (e) contravenes any of the provisions of the law for the time being in force?	At Clause 5.1 page 253 and 268 B of application At Clause 5.3.2 Page 256 and 268 C of the Application Clause 6.2 Page 261 and 268 D of the Application Clause 6.4 page 261 and 268 D of the Application Page 288 of the Application	Yes
Section 30(4)	Whether the Resolution Plan (a) is feasible and viable,	Page No. 243	Yes

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	<p>according to the CoC?</p> <p>(b) has been approved by the CoC with 66% voting share?</p>	<p>& at Clause 5.2 on page no-254 of application Item 8.05 at page no. 225</p>	
Section 31(1)	<p>Whether the Resolution Plan has provisions for its effective implementation plan, according to the CoC?</p>	<p>at Clause 6.6 on page no-266 and 268 D of the Application</p>	Yes
Regulation 35A	<p>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?</p>	<p>There were no such transactions. Stated by resolution professional in his certificate at Page No. 289 of application.</p>	Yes
Regulation 38 (1)	<p>Whether the Resolution Plan identifies specific sources of funds that will be used to pay the -</p> <p>(a) insolvency resolution process costs?</p> <p>(b) liquidation value due to operational creditors?</p> <p>(c) liquidation value due to dissenting financial creditors?</p>	<p>At Clause No-5.2 on Page No. 254-257 of application</p>	Yes
Regulation 38(1A)	<p>Whether the resolution plan includes a statement as to how it has dealt with the interests of all stakeholders?</p>	<p>At Clause No-6.5 on Page 261 and 288-289 of application</p>	Yes
Regulation 38(2)	<p>Whether the Resolution Plan provides:</p> <p>(a) the term of the plan and its implementation schedule?</p> <p>(b) for the management and control of the business of the corporate debtor during its term?</p> <p>(c) adequate means for supervising its implementation?</p>	<p>At Clause 5.1 page 253 and 268 B of application</p> <p>Clause 6.2 Page 261 and 268 D of the Application</p> <p>Clause 6.4 page 261 and 268 D of the</p>	Yes

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		Application	
38(3)	<p>Whether the resolution plan demonstrates that –</p> <p>(a) it addresses the cause of default?</p> <p>(b) it is feasible and viable?</p> <p>(c) it has provisions for its effective implementation?</p> <p>(c) it has provisions for approvals required and the timeline for the same?</p> <p>(e) the resolution applicant has the capability to implement the resolution plan?</p>	<p>Not Applicable</p> <p>Not Applicable</p> <p>Clause 6.4 page 261 and 268 D of the Application</p> <p>Not Applicable</p> <p>At Page No-242-243</p>	YES
39(2)	<p>Whether the RP has filed applications in respect of transactions observed, found or determined by him?</p>	<p>There were no such transactions. Stated by resolution professional in his certificate at Page No. 289 of Application</p>	Yes

12. The compliance of Section 30(2) of the Code has been discussed by the RP above and it is stated that the necessary compliance has been made. The compliance is further examined as under:-

Section 30(2)(a):- The payment of insolvency resolution process costs in priority to payment of other debts of the corporate debtor is provided for in the resolution plan.

Section 30(2)(b):- The liquidation value of the corporate debtor for the operational creditors is NIL and the resolution plan does not provide for any such payment. It may be added that as per RP certificate at Annexure V of the application, there are no outstanding dues towards workmen/employees of the corporate debtor.

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Section 30(2)(c) & (d):- It is stated that as per the resolution plan, the management and control of the business shall lie with the resolution applicant and new directors would be inducted replacing the existing directors on the Board of the corporate debtor after the resolution plan is approved by the Adjudicating Authority. It is further stated that as per the resolution plan, the resolution applicant proposes to appoint a Monitoring and Supervising Professional as would be decided by the secured financial creditor, being only member of the COC. It is stated by the RP that the agency so appointed will coordinate with the new management, financial creditors, outgoing promoter/management for smooth implementation along with execution of necessary documentation and that in the 7th meeting, the COC has appointed the present RP Sh. Jalesh Kumar Grover as monitoring agency at total remuneration of ₹2,00,000/- for the term of plan plus out of pocket expenses on actual basis which shall not exceed ₹50,000/- and remuneration and expenses shall be borne by the resolution applicant.

Section 30(2)(e):- It is stated that the resolution plan does not contravene any of the provisions of the law for the time being in force.

Section 30(2)(f):- It is stated that the resolution plan conforms to all other requirements as specified in the regulations.

13. We have also examined whether the resolution plan has provisions for its effective implementation. We find that the resolution plan states that a monitoring agency is to be appointed in consultation with COC for the implementation and supervision of the plan. The COC in its 7th meeting is stated to have appointed Sh. Jalesh Kumar Grover present RP as the monitoring

agency. As regards sources of funds for making payments for meeting commitments being made under the plan, the resolution applicant M/s Alexis Marketing LLP has stated that it has identified a potential financing partner i.e. Turnaround Consultants Pvt. Ltd.(TCPL) engaged in providing advisory and consultancy on all issues related to finance, costing management, administrations, investment, projects etc. and is also engaged in providing financial, managerial, technical and other assistance to clients to undertake business and make further investments. The net worth of TCPL based on its audited financial statement as on 31.03.2017 is stated to be approximately ₹14.65 crore and considering its experience in turning around stressed businesses, in principle understanding has been arrived that with TCPL whereby TCPL has agreed to provide financial assistance to the resolution applicant at such terms as may be mutually agreeable between TCPL and resolution applicant. It has been proposed that the resolution applicant, along with potential financial partner TCPL will infuse an amount of ₹15.725 crore in the form of equity (₹0.5 crore) and long term loans (₹15.225 crores).

14. In the application, various directions have been sought for Government bodies/Statutory bodies/Income Tax Authorities etc. This request is being examined with reference to the main contents of the resolution plan given in the resolution passed by the COC on 25.05.2018 (Annexure P of the application). We may add here that Regulation 39(3) of the Regulations states that the COC may approve any resolution plan with such modifications as it deems fit. Therefore, the resolution plan as approved by the COC is to be seen and 'short term' given therein require examinations (Resolution passed by the COC is extracted above). The first term relating to acquisition of shares does not require

any comment. However, the terms relating to release of charge over assets and assignment of personal guarantees in favour of resolution applicant requires detailed examination inasmuch as corporate guarantees or any other guarantees, including personal guarantees held by Punjab National Bank in respect of loans to the corporate debtor are to be released and assigned in favour of the resolution applicant and no amount of any nature is to be payable by the personal guarantors. On our attention being drawn to this aspect during the course of the hearing, we have heard the arguments of the authorised representative or the resolution applicant and his request seeking time to file affidavit of all the three partners of the resolution applicant for explaining the aforesaid condition (Tribunal's order dated 03.08.2018). We note that vide Diary No.2948 dated 13.08.2018, the resolution applicant has filed compliance affidavit enclosing affidavits of all the three partners of the resolution applicant stating that they have no objection if the personal guarantees are not assigned in favour of the resolution applicant. In view of the affidavits filed, the financial creditor Punjab National Bank will not assign the guarantees in favour of the resolution applicant and is at liberty to take necessary action as per law to execute the guarantees for the recovery of its dues remaining after payments received under the resolution plan.

15. The last term in the resolution plan requiring consideration is that all suits/applications filed against the corporate debtor of any nature pending in any Court of law shall be withdrawn and liability associated would be extinguished. No directions are required from the Adjudicating Authority in this regard, and the matter is to be decided by the relevant Court.

16. In view of the above discussion, we conclude that the requirements provided in Section 31(1) of the Code have been satisfied and therefore, the resolution plan submitted by M/s Alexis Marketing LLP is approved subject to guarantees not being assigned to the resolution applicant as discussed above. In view of Section 31(1) of the Code, resolution plan shall be binding on the corporate debtor and its employees/members/creditors/guarantors and other stakeholders involved in the resolution plan; and

- (a) The moratorium order passed by the Adjudicating Authority under Section 14 of the Code on 30.08.2017 shall cease to have effect; and
- (b) The RP shall forward all records relating to the conduct of the CIRP and the resolution plan to the Board to be recorded on its database.

CA No.197/2018 shall stand disposed.

Sd/-
(Justice R.P.Nagrath)
Member (Judicial)



Sd/-
(Pradeep R.Sethi)
Member (Technical)

August 30 2018
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