

TVS RAGHAVENDRA SREYAS
Advocate on Record, Supreme Court of India

20.12.2019

To
Mr. N K Sharma
The Resolution Professional
Indirapuram Habitat Center

Sub: **REPORT ON RESOLUTION PLAN BY VICTORY APARTMENTS PRIVATE LIMITED**

Sir

Please find attached the Report on the Resolution Plan submitted By Victory Apartments Private Limited as per the provisions of Insolvency and Bankruptcy Code, 2016.

Thanking you

Yours Sincerely



(TVS Raghavendra Sreyas)

Encl:- Report on the Resolution Plan submitted By Victory Apartments Private Limited

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REPORT ON RESOLUTION PLAN BY VICTORY APARTMENTS PRIVATE LIMITED IN CORPORATE INSOLVENCY RESOLUTION PROCESS OF INDIRAPURAM HABITAT CENTER PRIVATE LIMITED

A. Brief Background

Indrapuram Habitat Center Private Limited (“**Corporate Debtor**” or “**CD**”) is a private limited company incorporated on 18.03.2002 with its registered office at Unit No 154, F.F, Aggarwal Shopping Center Plot No.2, LSC Block-CD, Pitampura Delhi – 110034. The company is developing a project under a consortium with other applicants which was awarded to the consortium on 3rd February 2006 for developing a habitat centre at Plot no. 16, Ahimsa Khand- I, Indrapuram, Ghaziabad, Uttar Pradesh- 201012 (The “**Project**” or the “**Habitat Centre Project**”). As per details available with us, the total area available under the project for sale was 11,58,650 Sq ft, out of which, area of 8,00,000 Sq Ft has been developed fully and sold. The remaining area is yet to be sold is 3,58,650 Sq Ft (“**Balance Area**”). However in May 2018, the Ghaziabad Development Authority (“**GDA**”) raised demands of INR 49,31,55,991 which was followed by sealing of the centre premises including its operational as well as under construction part. This led to litigation between the CD and the GDA which went on for months. One of the Financial creditors of the company namely **Diamond Traexim Private Limited** filed an application under section 7 of the Insolvency and Bankruptcy Code, 2016 (the “**Code**”) for initiation of Corporate Insolvency Resolution Process (**CIRP**) against the corporate debtor which was admitted on 22.08.2019 (“**Insolvency Commencement Date**” or “**ICD**”). However the promoter through his company **Victory Apartments Private Limited** filed an appeal with National Company Law Appellate Tribunal (“**NCLAT**”) and NCLAT vide its order date 14.11.2019 has granted the promoter to submit its resolution plan to Resolution Professional (“**RP**” or “**Resolution Professional**”) within 30 days which may be considered by the Committee of Creditors of the CD (“**CoC**”). The RP has received the plan on 13.12.2019 which had been reviewed by us and submitted to Resolution Professional with our observations.

B. Disclaimer

This Resolution Plan Analysis and Due Diligence Report is based on the limited scope of analysis of the resolution plan in terms of the mandatory provisions of section 30(2) of the Insolvency and Bankruptcy Code, 2016 and the Regulation 38 of CIRP Regulations and limited financial due diligence of the Resolution Plan and Resolution Applicant (“**Scope of Work**”) on the basis of the Information provided by the client Mr. N. K. Sharma who is Resolution Professional of the Corporate Debtor. In this regard, we hereby mention that the following information/ documents have been provided by the Resolution Professional:

1. Order of NCLAT dated 14.11.2019
2. Resolution Plan submitted by Resolution Applicant to Resolution Professional on 13.12.2019

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The report is strictly based on the scope of work as provided in the above paragraph. The report nowhere expresses its opinion on eligibility of the Resolution Applicant under section 29A of the Code and accordingly the Resolution Applicant and its connected persons are not assessed for their eligibility under section 29A of the Code.

In this Report, we may choose to not include matters that we believe to be insignificant. There may be matters, other than those noted in this Report, which might be relevant in the context of the issue and which a wider scope might uncover. The analysis and due diligence is based on documents provided by the Resolution Professional.

Our work does not constitute recommendations about the feasibility and viability of the resolution plan. If, anywhere in this report, the words "feasibility" and/ or "viability" are mentioned, they are considered within the limited scope of our report. This report is not intended to carry out detailed feasibility and viability of the resolution plan since the same may require industry experts. This Report also does not constitute an audit in accordance with the Audit Standards and we have not independently verified all the matters discussed in this Report and have relied on the information as given by the RP (verbal as well as written). We have assumed the genuineness of all signatures and the authenticity of all documents submitted to us, whether original or copies. Consequently, we do not express an opinion on the figures and other information included in this Report.

The information and conclusions of this Report should not be the sole basis for the approval or rejection of the Resolution Plan or to make a decision whether to provide/ grant any further extension to submit revise proposal to the RP/ CoC. Our due diligence and analysis should not be construed as conclusive advice; specifically, we do not express any opinion on the suitability or otherwise of considering the Resolution Plan to resolve the insolvency of the CD. We accept no responsibility for matters not covered by the Report or omitted due to the limited nature of our analysis.

C. Resolution Plan Analysis

The Resolution Plan as submitted by the company **Victory Apartments Private Limited** controlled by the promoter (**Resolution Applicant** or **RA**) of the CD has been received by the RP on 13.12.2019. The same has been reviewed by us in terms of legal and financial compliance. We have submitted our observations on this resolution plan to the RP. Following is the detailed analysis of the Resolution Plan in terms of legal and financial compliance on basis of which the CoC and RP may consider to decide on the same. Before we provide details of the analysis carried out, we hereby clarify that the Resolution Plan as submitted by the RA is incomplete and the RA itself brings out the same abundantly in the Resolution Plan. The RA has clarified that the Resolution Plan submitted is only outlined proposal and the same may be completed with the detailed proposal on grant of 60 days to the RA. However, we have not assessed the same in our analysis and we, nowhere, in our report suggest or refrain to grant the extension of time to the RA. The same shall be analyzed by the CoC/ RP on their own.

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We are providing our detailed analysis of this resolution plan in terms of the legal and financial assessment of the Resolution Plan and the genuineness of the RA in the following paragraphs for the consideration of the RP/ CoC.

C.1. About the Resolution Applicant

The Resolution Applicant is Victory Apartments Private Limited which is private limited company controlled by the promoter of the Corporate Debtor. As per provisions of the Code and CIRP Regulations, the Resolution Applicant has to submit the documents with regard to its identity and financial position in accordance with the terms of the Request For Resolution Plan (RFRP) as issued by the RP. The CoC also has to assess the genuineness of the Resolution Applicant in terms of implementation of the Resolution Plan. In this regard, we have not received any such document with the resolution plan. However the CoC may require the Resolution Applicant to submit the same to assess the genuineness and standing of the Resolution Applicant in the CIRP of the CD.

We have extracted the master data of the RA from MCA website which is briefed as follows:

Company Master Data	
CIN	U70109DL2006PTC150887
Company / LLP Name	VICTORY APARTMENTS PRIVATE LIMITED
ROC Code	RoC-Delhi
Registration Number	150887
Company Category	Company limited by Shares
Company SubCategory	Non-govt company
Class of Company	Private
Authorised Capital(Rs)	3500000
Paid up Capital(Rs)	3032500
Number of Members(Applicable in case of company without Share Capital)	0
Date of Incorporation	12/07/2006
Registered Address	304 & 304 A, Gupta Tower, Azadpur Commercial Complex, New Delhi North West DL 110033 IN
Email Id	taxation@victoryinfra.com
Whether Listed or not	Unlisted
Date of last AGM	29/09/2018
Date of Balance Sheet	31/03/2018
Company Status(for e filing)	Active

Since this company is a private limited company, the data available on public domain is very limited in nature to form an opinion on the genuineness of the company. Due to limitation of availability of the data on public domain, we could not find much about the company during our search through

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various websites. On basis of our search on the company, we can not comment upon the standing of the Resolution Applicant with regard to the implementation of the Resolution Plan submitted by it.

C.2. Resolution Plan Analysis in terms of Legal Compliance

The Resolution Plan submitted by is prima facie an outline brief plan which describes broader outlines of the proposal to various creditors involved in the CIRP. The Resolution Plan is assessed for its legal compliance on terms of the provisions of the Code and CIRP Regulations which are mandatory to be included in the resolution plan. A brief chart with regard to the compliance of the Resolution Plan in respect of the mandatory provisions of the Code and CIRP Regulations is attached with our report as **Annexure A**.

C.3. Resolution Plan Analysis in terms of Financial Proposal

The RA has provided list of liabilities and expected cash flows under the plan which is attached with the report as **Annexure B**. As per these lists/ tables, the net surplus to the CD is supposed to be INR 62.30 crore.

In this Resolution Plan, as stated earlier, detailed proposal has not been provided for all the stakeholders involved in the CIRP of the CD. Moreover we have not been provided with Information Memorandum, thus we are not in a position to comment upon the settlement with regard to the amount of the financial creditors and other creditors and other liabilities of the CD. However certain specific provisions are provided to deal with specific costs/ dues. We are hereby providing our observations with regard to specific stakeholders/ creditors of the CD in respect of the manner they are dealt in the Resolution Plan:

a. CIRP Costs

The Resolution Applicant has proposed specifically to pay the CIRP Costs in priority to any other debt of the CD however no amount has been allocated in the proposal. Moreover, in the tables as provided in **Annexure B** do not consider CIRP Costs while listing out the liabilities to be settled under the Resolution Plan.

As per the contents of the Resolution plan, this plan is submitted as per the section 12A of the Code on direction of NCLAT vide its order dated 14.11.2019. In this regard, the Resolution Applicant is required to provide a bank guarantee covering the CIRP Costs on the approval of the CoC. Though the same is not required on the time of submission of the Resolution Plan but we observe that the same is not mentioned anywhere in the Resolution Plan.

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b. Financial Creditors

The tables as per **Annexure B** list out Loans as INR 425.00 crores and secured creditors as INR 70.00 crores which in absence of IM, we are not sure whether all of these are Financial Creditors.

In other provisions related to buyers of the commercial area under the project (commercial buyers) and loans, the RA has proposed to provide allotment, possession, registration and refund as the case may be requested/ claimed by these commercial buyers. But no amount is provided specifically with regard to settlement of these buyers.

Additionally, there is no provision in the Resolution Plan for treatment of the dissenting financial creditors.

In this regard, due to incomplete information, we are unable to assess the proposal to Financial Creditors in its Resolution Plan.

c. Operational Creditors (including employees and workmen and Statutory Authorities)

The Resolution Plan provided by the RA has provided specific clauses for Employees/ workmen and statutory authorities (including GDA).

3.1 Employees/ workmen

With regard to the settlement of the dues of employees/ workmen, it is provided in the resolution plan that the same will be paid in full in priority to financial creditors, but no amount is specifically mentioned. Moreover, no amount is In absence of IM and financial statements of the CD, we are unable to provide our comments in respect of the proposal provided by the RA for employees/ workmen dues of the CD.

3.2 Statutory Authorities

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With regard to the Statutory Authorities, the Resolution Applicant has provided that the dues in respect of Income Tax, Sales Tax, Service Tax, VAT, Excise, Customs, Luxury Tax, GST etc. arising for period upto the Effective Date shall be treated as settled and satisfied in full. With regard to dues of GDA, the resolution plan provides that the payment under demand and payable to GDA shall be treated as satisfied for the plan/ map upto Floor area ratio (FAR) @ 1.92. However in the tables of **Annexure B**, there is an amount of INR 25.00 crores has been assumed under the liabilities towards Statutory Dues. Here in this case, due to limitation of details available with us and in absence of the IM and Financial Statements, we are unable to find the statutory dues included in this liability of INR 25.00 crores and hence, we cannot comment upon the proposal made by the RA towards the Statutory Authorities.

3.3 Other Operational Creditors

Apart from the employees/ workmen and statutory creditors, the resolution plan has no provision for other operational creditors. Moreover, in absence of IM and financial statements of the CD, we cannot comment upon the liabilities of the CD with regard to such creditors.

d. Completion of the project

The resolution plan has provided for recoveries from commercial area buyers and the completion of the project with regard to its pending construction and sale of balance area at the rate of INR 20,000 per sq ft as the same is also depicted through the tables as provided in **Annexure B**. However the details of achieving the completion of the project are not available in the plan. Moreover, the financial projections in order to support the feasibility and viability of the proposal are not provided. In absence of details with regard to the completion of the project, we are not able to comment upon the feasibility and viability of the Resolution Plan.

e. Contingencies

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As per the tables of **Annexure B**, The Resolution Plan has allocated INR 100.00 crores towards the contingencies and commitments; however no details are mentioned in the plan with regard to the same. Moreover, in absence of the IM and financial statements of the CD, we are not in a position to comment on the same.

f. Sources of Funds

As per the tables listed out in **Annexure B**, we observe that the RA is proposing to settle the liabilities of the CD totaling to INR 785.00 crores through the cash flows which will be earned through pending recoveries from the commercial area buyers and sale of the Balance Area. However, we cannot comment upon the reliability and realisability of the cash flows since the detailed plan or calculation and the financial projections are not submitted to support the estimated cash flows.

g. Timelines for payment

As mentioned earlier, the RA has provided specific provisions for the payment of certain dues with regard to their timelines. As per the Resolution Plan, the CIRP Costs shall be paid in priority to any other debt, and the dues of employees/workmen shall be paid in priority to the financial creditors. However, the Resolution Plan is silent about the timelines for the payment of all other dues. Thus, due to unavailability of clear timelines for the payment proposed in the resolution plan, we are not in position to assess the Resolution Plan.

C.4. Conclusion

As mentioned earlier, the Resolution Plan is not complete in major aspects with regard to legal and financial requirements and this resolution plan is only outlined for the detailed plan for submission of which the RA has requested the RP/ CoC to grant it extension of 60 days.

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With regard to the analysis of the Resolution Plan submitted by the RA, we have provided our detailed view on the legal and financial aspects impacting a resolution plan in accordance with the Code and CIRP Regulations for the consideration of RP/CoC. In this report, we have carried out the analysis as detailed as possible on the basis of the information available through the documents provided and the information of RA and CD available on public domain. Thus in conclusion, we submit that the Resolution Plan is not complete with regard to the requirements needed to be included and demonstrated in it as per the Code and CIRP Regulations and the RA has sought various details from the RP and has also sought additional time of sixty days for submission of revised resolution plan for which the RP/CoC may take their decision. In case, the RA gives a complete resolution plan after incorporating the information as referred to in this report, the same may be considered by us provided RP /CoC decides to provide the information sought by the RA and also the additional time sought by him.

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ANNEXURE A

<i>Indirapuram Habitat Centre Private Limited</i>		
<i>Resolution Plan by Victory Apartments Private Limited</i>		
<i>Compliance with the provisions of Insolvency and Bankruptcy Code, 2016 and CIRP Regulations, 2016</i>		
Section/ Regulation	Provision	Compliance in the Resolution Plan
Sectoon 30(2)	The resolution professional shall examine each resolution plan received by him to confirm that each resolution plan	
SECTION 30(2)(a)	provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the payment of other debts of the corporate debtor	Provided in the plan, through following sections of the plan: 1. Effective Date Actions and 2. Financial and Other Proposal for all stakeholders
SECTION 30(2)(b)	<p>provides for the payment of debts of operational creditors in such manner as may be specified by the Board which shall not be less than-</p> <p>i the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53; or</p> <p>ii the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (1) of section 53 whichever is higher, and provides for the payment of debts of financial creditors, who do not vote in favour of the resolution plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (1) of section 53 in the event of a liquidation of the corporate debtor.</p> <p>Explanation 1. — For removal of doubts, it is hereby clarified that a distribution in accordance with the provisions of this clause shall be fair and equitable to such creditors.</p> <p>Explanation 2. — For the purpose of this clause, it is hereby declared that on and from the date</p>	<p>Not clearly provided for the liquidation value but have provided for payment of operational creditors (Workmen and Employees).</p> <p>No provisions have been provided in the resolution plan for dissenting creditors.</p>

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	<p>of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019, the provisions of this clause shall also apply to the corporate insolvency resolution process of a corporate debtor-</p> <p>i where a resolution plan has not been approved or rejected by the Adjudicating Authority;</p> <p>ii where an appeal has been preferred under section 61 or section 62 or such an appeal is not time barred under any provision of law for the time being in force; or</p> <p>iii where a legal proceeding has been initiated in any court against the decision of the Adjudicating Authority in respect of a resolution plan</p>	
SECTION 30(2)(c)	provides for the management of the affairs of the Corporate debtor after approval of the resolution plan	Not provided in the Resolution Plan
SECTION 30(2)(d)	The implementation and supervision of the resolution plan	Not provided in the Resolution Plan
SECTION 30(2)(e)	does not contravene any of the provisions of the law for the time being in force	The Resolution Plan is not in compliance with the Code and the CIRP Regulations
SECTION 30(2)(f)	confirms to such other requirements as may be specified by the Board	<p>The Resolution Plan is not in compliance with the Code and the CIRP Regulations.</p> <p>The resolution applicants should provide an undertaking to provide a bank guarantee as per Regulation 30A(2) on approval of the Resolution Plan by CoC.</p>

Regulation 38 (1)	The amount payable under a resolution plan	
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Regulation 38 (1) (a)	to the operational creditors shall be paid in priority over financial creditors	The Resolution Plan has provided that the payment to OC (workmen and employees) shall be paid in priority over FCs.
Regulation 38 (1) (b)	to the financial creditors, who have a right to vote under sub-section (2) of section 21 and did not vote in favour of the resolution plan, shall be paid in priority over financial creditors who voted in favour of the plan	The Resolution Plan does not have any provision for Dissenting Financial Creditors.
Regulation 38 (1A)	A resolution plan shall include a statement as to how it has dealt with the interests of all stakeholders, including financial creditors and operational creditors, of the corporate debtor	The Resolution Plan provides a statement for settlement of dues of stakeholders of the CD
Regulation 38 (1B)	A resolution plan shall include a statement giving details if the resolution applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past	The Resolution Plan does not include any such statement
Regulation 38 (2)	A resolution plan shall provide	
Regulation 38 (2)(a)	the term of the plan and its implementation schedule	The Resolution Plan does not mention term and implementation schedule
Regulation 38 (2)(b)	the management and control of the business of the corporate debtor during its term	The Resolution Plan does not provide for the management and control of the business of the corporate debtor during its term
Regulation 38 (2)(c)	adequate means for supervising its implementation	The Resolution Plan does not provide for adequate means for supervising its implementation
Regulation 38 (3)	A resolution plan shall demonstrate that	The Resolution Plan does not demonstrate any of these .
Regulation 38 (3)(a)	it addresses the cause of default	it provides for cause of default as unexpected demands by GDA- Ghaziabad Development Authority, but not how the plan is addressing the cause of default is
Regulation 38 (3)(b)	it is feasible and viable	
Regulation 38 (3)(c)	it has provisions for its effective implementation	

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Regulation 38 (3)(d)	it has provisions for approvals required and the timeline for the same	not demonstrated except by mentioning that debt reduction by infusion of fresh equity by investor and quasi equity and thereafter completion of pending work, and postponement of statutory obligations are the key catch to be implemented in phased manner
Regulation 38 (3)(e)	the resolution applicant has the capability to implement the resolution plan	

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ANNEXURE B

DETAILS OF LIABILITIES AND RECOVERIES AS PROVIDED IN THE RESOLUTION PLAN

Details of Liabilities including additional forecast			
Sr No.	Liability Type	Amount (INR in crores)	
1	Pending construction and interior	100.00	
2	area pending for allocation (phase I)	6.00	
3	area pending for allocation (phase II)	22.00	
4	area pending for allocation (phase III)	37.00	
5	Loans	425.00	
6	Statutory Dues	25.00	
7	Secured Creditors	70.00	
8	Others (Contingencies and commitments)	100.00	
Total (A)		785.00	
Sources of Funds			
Sr No.	Available inventory/ working	Area in Sq ft	Amount (INR in crores)
1	Total Saleable area	11,58,650	
2	Total area sold	8,00,000	
3	balance area	3,58,650	
4	Expected Sale proceeds (for balance area)		717.30
5	Pending recoveries		130.00
Total (B)			847.30
Net Surplus (B-A)			62.30

