

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, CHENNAI**

**MA/1397/2019**

**IN**

**CP/536/IB/CB/2017**

*Application filed under section 30(6) of the IBC, 2016*

**In the matter of Infonet Asia Private Limited**

**D. Ebenezar Inbaraj**

**...Applicant**

Resolution Professional

Representing Corporate Debtor

**(Infonet Asia Private Limited)**

**Order delivered on: 27.12.2019**

**CORAM:**

**B.S.V PRAKASH KUMAR, MEMBER (JUDICIAL)**

**S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

Counsel for Applicant: *Shri. A.G Sathyanarayana, Advocate*

*For Shri. D. Ebenezar Inbaraj, RP*

**ORDER**

**Per: B.S.V PRAKASH KUMAR, MEMBER (JUDICIAL)**

**Heard and dictated in Open Court on: 19.12.2019**

It is an Application filed under Section 30 (6) of the Insolvency and Bankruptcy Code, 2016 ("the Code") by the Resolution Professional (RP) seeking approval of the resolution plan u/s.31 of the Code based on the 100% voting in the CoC dated 04.11.2019.

2. On perusal of this application, it appears that this company petition was admitted on 02.08.2017, thereafter on receipt of claims,

the Resolution Professional admitted ₹4,66,89,000 as claims against the Corporate debtor, then upon receipt of valuation from two valuers appointed, the RP determined fair value as ₹1,73,90,000 and liquidation value as ₹1,56,89,000. Subsequent thereto, for the Corporate Debtor being an MSME, its promoter-directors placed their Expression of Interest on the Invitation for Expression of Interest, responding to the same, the RP having held that the Resolution Plan of the Promoter-Directors being met with the eligibility criteria u/s.30(2) of the Code, it was placed for consideration of the CoC. For the CoC being satisfied of the Plan, the CoC on 04.11.2019 approved the Plan with 100% voting in favor of the resolution plan.

3. Looking at the resolution plan, it appears that the Resolution Plan discloses that the Plan Applicant would infuse 100% plan value money within three months from the date of approval by this Bench, which would meet 85.69% of the admitted claim, which is not only above the liquidation value but also far above fair value of the Corporate Debtor, and for there being no provision in this resolution

plan seeking reliefs against law in force except for withdrawal of any suit or application pending against the Corporate Debtor. As to this relief is concerned, if the claim involved in the admitted claim is already treated in the Plan, such proceeding shall be withdrawn, whereas the reliefs sought against the Corporate Debtor in any suit or application are not made as part of the Plan, and when it has not yet been determined by court of law, the Resolution Plan Applicant is subject to the outcome of those pending proceedings, because in reorganization, litigation qua against the Debtor company will be passed on to the person taking it. In view of the same, we hereby modify this plan to the extent of deletion of withdrawal clause with aforesaid modification, and allow the Plan without any exemptions post plan approval unless such exemptions are permitted under any other law in force.

4. Accordingly this MA/1397/2019 is hereby **allowed**.

**-Sd-**  
**(S. VIJAYARAGHAVAN)**  
**Member (Technical)**

**-Sd-**  
**(B. S.V. PRAKASH KUMAR)**  
**Member (Judicial)**

KNP/TJS