

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI

MA/1132/2019
IN
CP/1355/IB/2018

Application filed under section 30 (1) & (6) of the IBC, 2016

In the matter of Xenia Adobe Services India Private Limited

Nagalingam Muthiah ...Applicant
Resolution Professional
Representing Corporate Debtor
(Xenia Adobe Services India Private Limited)

Order delivered on: 08.01.2020

CORAM:

B.S.V PRAKASH KUMAR, ACTING PRESIDENT
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

Counsel for Applicant: *Shri. A.G Sathyanarayana, Advocate*
For Shri. Nagalingam Muthiah, RP

ORDER

Per: S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

Order Pronounced on: 08.01.2020

It is an Application filed under Section 31 of the Insolvency and Bankruptcy Code, 2016 ("the Code") by the **Resolution Professional (RP)** seeking approval of resolution plan on the ground that CoC in its meeting held on 03.10.2019 approved the Resolution Plan with 82.51% voting share.

2. On looking into the Resolution Plan approved by the CoC, it appears that this Bench on 09.01.2019 admitted CP/1355/(IB)/CB/2018 by appointing the IRP. On the recommendation of CoC, this Bench vide its order dated 07.03.2019 appointed Mr. Nagalingam Muthiah as Resolution Professional.

3. The summary of payment particulars as per the Resolution Plan is given hereunder:

S.No.	Class of Creditors	Amount Admitted (in lakhs)	Amount provided under the Plan	% of claim
1.	CIRP costs	₹ 13.50	₹ 13.50	100.00
2.	Secured Financial Creditors	₹ 292.88	₹ 292.88	100.00
3.	Unsecured Financial Creditors	₹ 545.29	₹ 545.29	100.00
4.	Operational Creditors	₹ 315.64	₹ 220.95	70.00
5.	Government	₹ 58.31	₹ 58.31	100.00
	P.F. & ESI	9.53	9.53	
	Other Creditors – Government/ TDS	₹ 23.32		100.00
	Total	1258.47		

4. The Resolution Professional submits that the Resolution Applicants Mr. Nitin Sadanand and Mr. P. Muralidharan had submitted the resolution plan and the same has been verified to

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ensure that all the compliances as required under Section 30(4) of Insolvency and Bankruptcy Code, 2016. Mr. Nitin Sadanand is one of the Promoters-Suspended Director of the Corporate Debtor and it is discussed in the CoC that the accounts of the Corporate Debtor is not classified as NPA as on the date of commencement of the CIRP period. Therefore Section 29A disqualification shall not attract and he is eligible as a resolution applicant as per the Code. The Resolution Professional states that the envisaged Resolution Plan is to ensure revival and continuity of business along with most effective use of the Corporate Debtor business.

5. The Resolution Applicant wants to manage the Corporate Debtor's entity as "*going concern*" thereby keeping the brand value intact. The Resolution Applicant undertakes that he will pay 10% to the Financial Creditors and also 10% of the total Resolution plan will be paid immediately within 30 days from the effective date of approval of this plan. Before making payments to various people as per Resolution Plan, the Resolution Applicant is hereby directed to pay the entire claim of the Provident Fund authorities within 15

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days from hereof for the Provident Fund dues will not come within the ambit of the Liquidation Estate. Prior to approval of the Resolution Plan under Section 30(4) of the Insolvency and Bankruptcy Code read with Regulation 39(3), the CoC constituted on 03.10.2019 observed that Resolution Applicant proposed to pay more than the liquidation value and as only one plan is available for consideration, application of evaluation matrix does not arise. Further, the Resolution Professional has certified the Form-H in accordance with Corporate Insolvency Resolution Plan Regulations 39(4).

6. On hearing the Resolution Professional, it appears that the said Resolution Plan complies with all the provisions of the Insolvency and Bankruptcy Code, 2016, the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) and does not contravene any of the provisions of law for the time being in force as reflected in Form-H Compliance Certificate filed by the Resolution Professional. The Resolution Applicant has submitted an affidavit pursuant to Section 30(1) of

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the Insolvency and Bankruptcy Code confirming its eligibility under Section 29A of the Code to submit Resolution Plan. The said Resolution Plan has been approved by the CoC by 82.51% voting share in accordance with the provisions of the Code and the CIRP Regulations made thereunder.

7. In view of the reasons aforesaid, this MA/1132/2019 is hereby approved.

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

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

TJS/KNP/