

**IN THE NATIONAL COMPANY LAW TRIBUNAL
Guwahati Bench
Guwahati**

**IA(IB) No. /2020
in
CP(IB) No. 13/GB/2019**

In the matter of:

An application u/s. 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

And

In the matter of:

An application u/s. 30(6) read with 31 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016;

And

In the matter of:

Allahabad Bank;

Applicant/Financial Creditor

And

In the matter of:

Meghalaya Infratech Limited;

Respondent/Corporate Debtor

And

In the matter of:

Amit Pareek, Resolution Professional appointed u/s. 22(3)(a) of the Insolvency and Bankruptcy Code, 2016.

Applicant

Coram: Shri Jinan K.R., Hon'ble Member (Judicial)

Date of hearing : 18th May, 2020.

Order pronounced on : 18th May, 2020.

ORDER

Per Shri Jinan K.R., Hon'ble Member (J)

1. This is an unnumbered application in the CP(IB) No. 13/GB/2019 came up for consideration on today at the instance of the Resolution Professional, which was filed by the Resolution Professional through E-mail, for final approval of the Resolution Plan by the Adjudicating Authority, which was duly approved by Committee of Creditors (**in short, CoC**) at the 7th CoC meeting held on 06/03/2020.

2. The applicant prayed for an urgent hearing because the 180 days CIRP period has already expired on 24/02/2020 and the extended period of 90 days will expire soon on 24/05/2020. The urgency set out in the application being found satisfactory this application was listed for hearing on today through video conference (VC), by giving advance notice from the Registry of Kolkata Bench to the Resolution Professional.

3. The Allahabad Bank has filed the CP(IB) No. 13/GB/2019 before the Guwahati Bench of National Company Law Tribunal u/s. 7 of the Insolvency and Bankruptcy Code, 2016 (**In short, I & B Code, 2016**) for initiating Corporate Insolvency Resolution Process (In short, **CIRP**) as against the Corporate Debtor, Meghalaya Infratech Limited. Vide order dated 28/08/2019, the application was admitted by appointing Mr. Amit Pareek as Interim Resolution Professional. Thereafter, at the 1st CoC meeting held on 25/09/2019 Interim Resolution Professional was appointed as Resolution Professional.

4. As an Interim Resolution Professional, he has made public announcement in compliance of Section 15 of the I & B Code, 2016 calling for claims from the creditors of the Corporate Debtor. Upon receipt of claims from Creditors, Committee of Creditors (in Short, **CoC**) was formed on 17/09/2019. Expression of Interest (in short, **Eoi**) was invited from the prospective resolution applicants and has received Four(4) Expression of Interests from (a) Panna Pragati Infrastructure Pvt. Ltd. & Others.; (b) Mr. Ngaitlang Dhar; (c) Mr. Abhishek Agarwal and (d) Mr. Ashish Jaisasaria & Others respectively. **EOI's** received from 4 prospective resolution applicants were conformed to the eligibility criteria as laid down for evaluation of EOI's and provisional list of prospective resolution applicants was published for submissions of objections to the provisional list by 25/12/2019. However, no objection for inclusion or exclusion of any prospective resolution applicants was received and the final list of prospective resolution applicants was placed before the CoC for evolution. Thereafter, all the prospective resolution applicants as per Regulation 36B of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

were invited to submit their respective resolution plans by 24/01/2020. In response to that Four(4) resolutions plans were received from the Four (4) prospective resolution applicants.

5. At the 5th CoC meeting held on 12/02/2020 CoC has decided to follow swiss challenge method of bidding for resolution plan and after deliberation and negotiation with the resolution applicants present at the meeting Mr. Ngaitlang Dhar has been declared as H-1 and Mr. Abhishek Agarwal as H-2 by the CoC.

6. Finally at the 7th CoC meeting held on 06/03/2020 the CoC with a 100% voting share has approved the Resolution Plan of H-1 bidder.

7. It is stated that based on the affidavits received from the H-1 bidder by the Resolution Professional, the resolution applicant was found eligible under Section 29A of the Code.

8. The Ld. Resolution Professional (RP) Mr.Amit Pareek, Mr. Prasanta Kumar Mallik, member of CoC, and Mr. Sushil Maithani representing Union Bank of India one another member of CoC were present. They were heard through **Video**

Conferencing. Perused the scanned copies of documents and the Resolution Plan submitted through **e-mail**.

9. The Ld. RP has submitted that the resolution plan contains all the mandatory requirements to be meted out as per Regulation 38 of IBBI (IRP For Corporate Persons) Regulations, 2016 and that an affidavit stating that the resolution applicant, H-1 bidder is eligible under Section 29A has been annexed with the resolution plan in compliance of section 30(1) and that the resolution plan submitted to the CoC for its approval conforms to all the conditions referred to in sub-section(2) of Section 30.

10. The mandatory contents of the Resolution Plan as required to be meted out as per Regulation 38 of IBBI (IRP For Corporate Persons) Regulations, 2016 provides, inter alia, for :

(1) A resolution plan shall identify specific sources of funds that will be used to pay the -

(a) insolvency resolution process costs and provide that the insolvency resolution process costs will be paid in priority to any other creditor;

(b) liquidation value due to operational creditors and provide for such payment in priority to any financial creditor which shall in any

event be made before the expiry of thirty days after the approval of the resolution plan by the Adjudicating Authority; and

(c) liquidation value due to dissenting financial creditors and provide that such payment is made before any recoveries are made by the financial creditors who voted in favour of the resolution plan.

(2) A resolution plan shall provide :

(a) the term of the plan and its implementation schedule;

(b) The management and control of the business of the corporate debtor during the term; and

(c) Adequate means for supervising its implementation.

11. The Resolution Professional states that he has verified the contents of the Resolution Plan and confirms that it complies with the requirements as envisaged under Regulation 38 of IBBI (IRP For Corporate Persons) Regulations, 2016 as well as Section 30 of the Code, for which a copy of **Form H - Compliance Certificate** issued by the Resolution Professional is annexed with the application and marked as "**Annexure – F**", (pages 375 to 385).

12. It is submitted by the Ld. Resolution Professional that by giving fairly good opportunities to both H-1 and H-2 bidders for arriving at the maximization of value for the stressed assets of the Corporate Debtor, and the CoC has approved the resolution plan of H-1 as the best plan among the two plans under consideration of the CoC and it is that plan which was approved by the CoC by a 100% voting share of the members of the CoC. It is understood that the resolution plan bid amount is Rs. 64.30 crore which is higher than the liquidation value of Rs. 61.62 crore. The financial creditors have had a hair cut of 51.44%. So it appears to me that the CoC has taken a wise decision after considering the feasibility and viability of the plan and all other requirements to be meted out. No waiver or extinguishments in contravention of the provisions of the Code or in violation of existing laws seen not brought out. In the view of the matter, the Resolution Plan of H-1 bidder is liable to be approved as per section 31 (1) of the Code.

13. A reference to the Plan, it is understood that the assets of the Corporate Debtor are going to rest in a safer hand who is engaged in the very same kind of business as the Corporate Debtor. The RP Mr. Amit Pareek deserves special appreciation for finding out a resolution applicant whose plan has been approved by the CoC by 100% vote share even in these difficult time of pandemic due to COVID-19. All the provisions of mandatory requirements are seen complied by the resolution applicant as per **Form H** submitted by the RP. It provides provision for the payment of insolvency resolution process, payment of the debts of operational creditors, management of the affairs of the Corporate Debtor, and provides provision for implementation and supervision of the resolution plan. It also provides term of the plan and its implementation schedule. So it is a feasible and viable plan. This is a case in which the CoC has judiciously distributed the financial bids to the stakeholders according to their entitlements. There is nothing in the plan, so as to disapprove it. The CoC has very well deliberated with the two plans and decided the viability, feasibility and financial matrix of each plans and approved one with 100% vote shares

of the members of the CoC. Accordingly, I hereby approve the resolution plan of Mr. Ngaitlang Dhar (H-1 bidder) upon the following directions:-

- (i) The Resolution Plan of **Mr. Ngaitlang Dhar**, which was approved by the CoC with 100% voting share, is hereby approved under provisions of sub-section (1) of Section 31 of the Insolvency and Bankruptcy Code, 2016, which shall be binding on the Corporate Debtor (**Meghalaya Infratech Limited**), its employees, members, creditors, guarantors and other stakeholders involved in the Resolution Plan.
- (ii) The revival plan of the company in accordance with the approved Resolution Plan shall come into force with immediate effect.
- (iii) The moratorium order passed under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have effect.
- (iv) The Resolution Professional shall forward all records relating to the conduct of the Corporate Insolvency

Resolution Process and the Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.

(v) Unnumbered **IA (IB) No. /2020** in **CP (IB) No. 13/GB/2019** is disposed of accordingly.

(vi) Accordingly, **CP(IB) No. 13/GB/2019** along with all the **CAs filed and/or pending, if any**, in this context is disposed of.

The Registry is directed to send e-mail copies of the order forthwith to all parties inclusive of the Counsel.

**(Jinan K.R.)
Member (J)
In charge of Guwahati bench.**

Signed on this, the 18th day of May, 2020.

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