

**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1**

IA 609 of 2020 in CP(IB) 631 of 2018

**Coram: MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING BEFORE THE AHMEDABAD BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 01.03.2021**

Name of the Company:

Vinod Tarachand Agarwal RP For Mahi
Corporation Pvt Ltd
V/s
Suspended Board of Directors & Ors

Section:

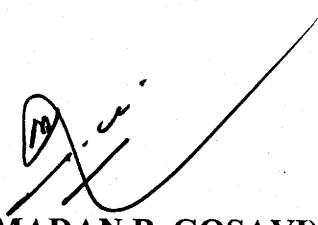
30(6) of the Insolvency and Bankruptcy Code, 2016

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.


**(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)**


**(MADAN B. GOSAVI)
MEMBER (JUDICIAL)**

Dated this the 1st day of March, 2021.

**BEFORE THE ADJUDIATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
COURT 1**

**I.A. No. 609 of 2020 in
C.P.(IB) No.631/NCLT/AHM/2018**

Mr. Vinodchand Tarachand Agrawal
(Resolution Professional of Mahi Corporation Pvt. Ltd.).
Having address at:
204 Wall Street – 1, Opp. Orient Club,
Nr. Gujarat College, Ellisbridge
Ahmedabad

Applicant

Versus

1. Suspended Board of Directors of
Mahi Corporation Pvt. Ltd.,
through Mr. Amitkumar Vallabhbhai Bhimani,
Director Mahi Corporation Pvt. Ltd.,
Having address at:
Flat No.163, Oscar City Tower,
Sadhu Vasvani Road,
Rajkot – 360005
2. M/s Craftisans Arts & Crafts
(Resolution Applicant)
47, Shyamal row, 3/B, Shyamal Cross Roads,
Ahmedabad
3. Bank of Baroda (Sole Member of CoC)
Para Bazar Branch,
1st Floor, Toral Building,
Subhash Road, Opp. Shastri Maidan,
Rajkot-360001
4. Chief Commissioner of Income Tax
Aaykar Bhavan,
6th Floor, Race Course Road,
Rajkot-360001

Respondent no.1

Respondent no.2

Respondent no.3

Respondent no.4

Coram: Madan B. Gosavi, Member (Judicial)
Virendra Kumar Gupta, Member (Technical)

Appearance:

Learned PCS Mr. Vinodkumar Shah appeared for Applicant.
Learned Counsel Mr. Vishwas Shah appeared for Respondent.

Order reserved on 9th day of February, 2021
Order delivered on 1st day of March, 2021

[Per: MADAN B. GOSAVI, MEMBER (J)]

1. This application is filed under Section 30(6) of IBC, 2016 by Resolution Professional Mr. Vinod Tarachand Shah (having Registration No. IBBI/IPA-001/IP-P00641/2017-18/11090) who was appointed as IRP of the Corporate Debtor M/s. Mahi Corporation Pvt. Ltd., which was admitted in CIRP vide order dated 21.08.2019.
2. On 26.08.2019, IRP had made public announcement of the CIRP of the Corporate Debtor and called upon its creditors to submit the claim with proof. It appears that no one other than Applicant Dena Bank submitted the claim. The Corporate Debtor has no Operational Creditor or other secured / unsecured creditors. The IRP constituted CoC consist of sole member i.e. Dena Bank (now Bank of Baroda) having 100% voting share. His appointment as Resolution Professional was confirmed by CoC in its first meeting.
3. CIRP period was extended for 90 days once by order dated 03.03.2020. Earlier to that on 10.11.2019, Resolution Professional has published notice in Time of India, (English) and Jai Hind (Gujarati). Calling upon the EOI / resolution

plan from prospective resolution Applicant. He did not get due response. Meantime, Central Government announced nation-wide lockdown due to pandemic Covid-19.

4. Upon lifting of lock-down by the government, Resolution Professional filed this application before this Adjudicating Authority for exclusion of period of lock-down from the CIRP time line as contemplated under Regulation 40C of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. It was allowed. The Resolution Professional again published notice calling upon EOI / resolution plan. In pursuant there to, Resolution Professional received the resolution plan from M/s Craftisans Arts & Crafts – partnership firm. That resolution plan was considered by the CoC in its meeting dated 29.08.2020. The resolution plan submitted by the M/s Craftisans Arts & Crafts has been approved by CoC by 100% vote.

5. Since the CoC approved the resolution plan by 100% votes, we have no reason to deal with commercial viability of the resolution plan. We restricted ourselves to review the resolution plan to see whether it is in compliance with the provision of Section 30(2) of IBC, 2016 r.w. Regulation 38 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

6. Section 31 of IBC, 2016 mandates that the Adjudicating Authority to approve the resolution plan subject to the fact that the resolution plan meets requirement stated in Section 30(2) of IBC, 2016 and further requires this Authority to check whether there is a provision in the resolution plan for its effective implementation.

7. Section 30(2) of IBC, 2016 requires that resolution plan;
 - (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;
 - (b) provides for the payment of debts of operational creditors which shall not be less than liquidation value of the Corporate Debtor;
 - (c) provides mechanism for the management of the affairs of the Corporate debtor after approval of the resolution plan;
 - (d) provides the mechanism for effective implementation and supervision of the resolution plan;
 - (e) to see that the resolution plan does not contravene any provisions of the law for the time being in force and
 - (f) confirms such other requirements as may be specified by the Board.

8. Keeping before our sight the above provision, we have examined the resolution plan. We find that in part A of the resolution plan (page no. 105) provision is made for payment of CIRP costs. There appears no Operational

Creditor and workman / employees of the Corporate Debtor, hence no provision is made for such payment.

9. In Part L of the resolution plan (Page no. 132), mechanism for effective implementation of the resolution plan is provided stating that CIRP cost and amount payable to the Financial Creditor shall be paid within 30 days from the date of approval of the resolution plan.
10. In Part-M (Page no. 134) of the resolution plan, the mechanism is provide for carrying affairs of the Corporate Debtor by handing over control of the affairs to the resolution Applicant.
11. In Part-I (Page no. 120) of the resolution plan, Respondent Applicant has sought certain concession and reliefs. We have gone through this part very minutely. We note that no specific concession or exemption is claimed from the government or local body. We make it clear that we approve the resolution plan with rider that the resolution Applicant may avail such concession / exemption from any authority subject to the Law and Rules under which such authority works. We hold that the resolution plan does not contravene any provisions of the law for the time being in force or the regulation promulgates by IBBI in this behalf.
12. Resolution Professional has certified that resolution plan is in conformity with all provisions of law. The resolution Applicant has also filed affidavit stating that they are not

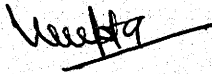
disqualified under Section 29A of the IBC, 2016. Moreover, Corporate Debtor being small enterprise, provisions of Section 29A are not applicable in view of the provision of Section 240A of the IBC, 2016.

13. Since the resolution plan confirms all the requirement stated under Section 30(2) of IBC, 2016, we approved this plan by the following order:

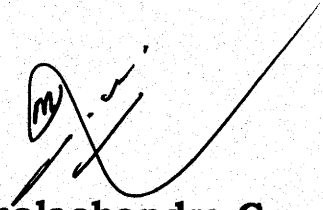
ORDER

1. Resolution plan for Corporate Debtor M/s. Mahi Corporation Pvt. Ltd. submitted by M/s. Craftisans Arts & Crafts is approved.
2. The approved 'Resolution Plan' shall become effective from the date of passing of this order.
3. The order of moratorium dated 21.08.2019 passed by this Adjudicating Authority under Section 14 of IBC, 2016 shall cease to have effect from the date of passing of this order.
4. The Resolution Professional shall forthwith send a copy of this Order to the participants and the Resolution Applicant.
5. The Resolution Plan shall be subject to the various existing laws in force and shall also confirm to such other requirements specified by the Board and other Statutory/Competent Authorities, as the case may be.

6. The Resolution Applicant(s) shall pursuant to the Resolution Plan approved under section 31(1) of the Code, obtain the necessary approvals required under any law for the time being in force within a period of one year from the date of approval of the Resolution Plan by the Adjudicating Authority under section 31(1) or within such period as provided for in such law, whichever is later, as the case may be.
7. The Resolution Professional shall forward all records relating to the conduct of the corporate insolvency resolution process and Resolution Plan to the Insolvency and Bankruptcy Board of India to be recorded in its database.
8. Urgent certified copy of this order, if applied for, to be issued to all concerned parties upon compliance with all requisite documents.
9. Accordingly, the present I.A. No. 609 of 2020 in CP(IB) 631 of 2018 stands allowed and disposed-off.



(Virendra Kumar Gupta)
Member (Technical)



(Madan Bhalachandra Gosavi)
Member (Judicial)