NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI

CP/258/ (IB)/CB/2017

Under Section 30(6) read with Reg.39(4) and 12(2)
read with Reg.40(2) of the IBC, 2016

In the matter of

M/s. MECHANO ENGINEERING WORKS

Vs.

M/s. PROPEL VALVES PRIVATE LIMITED

Order delivered on: 19.03.2017

CORAM

K. ANANTHA PADMANABHA SWAMY, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Petitioner : Shri.S.Rajagopal, RP

ORDER

Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (JUDICIAL)

The Resolution Professional in this case has submitted for approval under Section 30(b) a resolution plan. The salient features of the Resolution Plan are as under:

In this case, there is only one member in the committee of creditors (SBI) which holds 100% of the voting power in the CoC. The report of the RP confirms that the financial creditor has confirmed that the corporate debt is considered as a standard asset in its books and it is a going concern as a SME and has not defaulted on payments to its creditors as and when due and that the financial creditor is not seeking a change in management. It has also been stated that the financial creditor has waived the duty of the RP under Section 25 for inviting resolution plan from general public through public announcement and an opportunity has been given to the promoter Directors of the Corporate Debtor to submit a Resolution Plan and evaluate the same on merits. However, it is seen from the petition that the proceedings against the corporate Insolvency proceeding were initiated based on the petition filed by one of the operational creditors M/s.Mechano Engineering Works who had filed a petition on account of default for the amount of Rs.12,45,907/- payable by the respondent company/corporate debtor. The Tribunal has held that it is satisfied that the petitioner has made out this case by establishing that the corporate debtor has defaulted on payment of dues on various occasions to the petitioner/OC.

Pursuance to the decision of the CoC the erstwhile promoter Directors of the Corporate Debtor Shri.M.Swaminathan, Shri Vivek Jacob Simon and Shri. E.S.Narayanan have submitted a Resolution Plan and they were advised to submit a modified/revised resolution plan. In the 4th meeting of the CoC the Resolution plan submitted by the promoter Director was approved by the sole member of the Committee of Creditors vide letter dt.19.01.2018 as mentioned in para 6 of the report filed by RP. It has been stated vide para 6 that

> *"As on date of this Report the Resolution Applicants have brought in funds and have already paid all the resolution costs except the fee payable to the Resolution Professional from 27th December 2017 till conclusion of the implementation of the Resolution Plan."*

Vide para 7, the Resolution Professional has certified that the requirements of Regulation 39(4) have been fully complied with regard to the revised resolution plan. The salient features as mentioned in para 8 of the Resolution Plan as submitted by the erstwhile promoter Directors of the Corporate Debtor envisages that all payments would be completed within 30 days from the date of approval of the Resolution Plan by the National Company Law Tribunal by suitably extending the moratorium period by two more months. The report seeks for approval of the Resolution Plan and for directing the Resolution applicants to pay the remaining resolution cost in priority to other debts of the corporate debtor and vide clause (C) of the submission has also been made for further orders as the Tribunal may deem fit.

ORDER

The resolution plan does not envisage any hair cut being suffered either by the financial creditor or by the operational creditors. It is inferred from the proposal that the petitioner's claim as an operational creditor will also be settled in full.

It is noted that the resolution plan as submitted by the erstwhile promoter Directors of the Corporate Debtor states that the promoters do not suffer under any disqualification mentioned in Clause (a) to Clause (j) of Section 29(A) of the IBC 2016. In view of this the Tribunal is of the opinion that it is just and equitable to approve the resolution made by the erstwhile promoter Directors of the Company. Regarding the prayer (b) made by the RP the Resolution applicants are directed to adhere to the provisions of Section 53 of the IBC 2016 duly following the procedure for "water fall" in relation to the amounts brought in by the Resolution Applicants while bringing in fresh capital by way of debt as mentioned in the Resolution Plan. The terms of fund

राष्ट्रीय कंपनी विधि अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI
CHENNAI BENCH
चेन्नै न्यायपीठ

infusion by way of debt as proposed in by the applicants states the fact that

> *"The additional funds brought in as loan to the Corporate Debtor would be subject to a repayment holiday of three years for principal and cumulative interest and will carry an interest rate of 10.95% p.a. on par with the rate of interest currently charged by the Bank. Further, the Plan provides that the affairs of the Company would be managed by its current Directors under the supervision of the Resolution Professional."*

The extension of moratorium period by two more months is agreed to.

The Resolution Plan stands approved and the Resolution Process is to be concluded as per the terms of approved resolution plan.

S. Vijayaraghavan.

(S.VIJAYARAGHAVAN)
MEMBER (TECHNICAL)

(K.ANANTHA PADMANABHA SWAMY)
MEMBER (JUDICIAL)

pb/tjs

राष्ट्रीय कम्पनी विधि अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH
चेन्नै न्यायपीठ

Certified to be True Copy

DEPUTY REGISTRAR 19/3/18
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH