

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

IA No.686/2018

In CP (IB) No.24/7/HDB/2018

Under section 31 of the IB Code, 2016

Read with Regulation 39(4) of the IBBI

(Insolvency Resolution Process for Corporate Persons)
Regulations, 2016.

**In the matter of
MIC ELECTRONICS LIMITED**

Mr. Prabhakar Nandiraju,
Resolution Professional,
R/o. D.No.11-2-7,
Road No.1, Income Tax Colony,
Sree Rama Krishna Puram,
Kothapet, Hyderabad – 500 035.

...Applicant

In the matter between:

SREI Equipment Finance Limited
Vishwakarma
86C, Tosia Road,
Kolkata – 700 046,
West Bengal.



Versus

MIC Electronics Limited
A4/II, Electronic complex,
Kushaiguda,
Hyderabad – 500 062,
Telangana.

...Respondent

Date of order: 3/07.2019.

Parties/counsels are present:-

For the Applicant/RP:

Mr. S.Chidambaram, PCS, Mr. Naresh Kumar Sangam, Counsel,

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PER: K.ANANTHA PADMANABHA SWAMY
MEMBER JUDICIAL

ORDER

1. The present Application bearing IA No. 686 of 2018, is filed by the Resolution Professional appointed in CP(IB) No. 24/7/HDB/2018 in the matter of MIC Electronics Limited Under Section 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 seeking approval of Resolution Plan submitted along with the Application.

A. To Approve the Resolution Plan submitted by Cosyn ltd consortium.

B. To direct that the Resolution Plan is binding on Corporate Debtor, and its employees, Members, Creditors, Guarantors, and other stake-holders involved in the Resolution Plan;

C. To pass such other orders and grant other reliefs as deemed fit in these circumstances of the Case.

2. The following are the brief submissions made in the present Application.

a. That the original petitioner, SREI Equipment Finance Limited, had filed the main Petition bearing C.P.(IB) No.24/7/HDB/2018 under Section 7 of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiating Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor/Respondent herein, namely MIC Electronics Limited.



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b. That the said Petition was admitted *vide* this Bench's order dated 13.03.2018 and Mr. Prabhakar Nandiraju, Insolvency Professional, was appointed as the Interim Resolution Professional (IRP) who was directed to take further necessary action in accordance with the relevant provisions of the Code. The IRP was unanimously confirmed as the Resolution Professional (RP) at the third meeting of the Committee of Creditors held on 01.06.2018. The RP is the Applicant in the instant Application.

c. That the Public Advertisement was issued in Financial Express and Nava Telangana newspapers of 18.03.2018 inviting claims from various stakeholders on or before 26.03.2018.

d. That the CoC was initially constituted with the following financial creditors: -

- 1) State Bank of India
- 2) UCO Bank
- 3) Technology development Board
- 4) SREI Equipment Finance Limited
- 5) Reliance Capital Limited
- 6) JBB Infrastructure Private Limited
- 7) MIC Welfare Employees Trust
- 8) Axis Bank Limited, and
- 9) Andhra Bank.

e. That the Resolution Professional, in compliance of various provisions of the Code and the relevant Regulations, convened six meetings of

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the CoC on various dates, viz., 12.04.2018, 11.05.2018, 01.06.2018, 20.07.2018, 20.08.2018 and 27.08.2018.

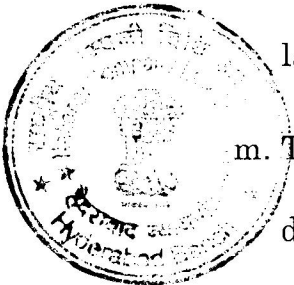
- f. That the Resolution Professional submitted that the CoC approved the Criteria and Evaluation Matrix for inviting Expressions of Interest and for evaluation of Resolution Plans that may be submitted in pursuance of the Advertisements in this behalf, which were issued on 29.07.2018.
- g. That the Resolution Professional submitted that on 20.07.2018, the CoC was reconstituted with thirty financial creditors totalling Rs.271,58,71,932/-. On 26.07.2018, the NCLAT dismissed the Company Appeal (AT) (Insolvency) No.105/2018 filed by the shareholder-director of the Corporate Debtor. On 27.08.2018, the CoC authorised the Resolution Professional to seek extension of duration of the CIRP which was ended on 09.09.2018.
- h. That the CoC was once again reconstituted on 31.08.2018 with thirty-six financial creditors having total claims to the extent of Rs.263,53,51,542/-.
- i. That on 24.10.2018, the CoC met to consider the Resolution Plans submitted by three resolution applicants, namely, (1) M/s Alchemist ARC; (2) M/s Cosyn Consortium; and (3) M/s Corpus Consortium. The CoC considered the Resolution Plans and advised the three resolution applicants to increase their payments to all the stakeholders and also to reduce the plan period.
- j. That on 05.09.2018, this Adjudicating Authority by an order in IA No.363/2018 extended the CIRP by a further period of 90 days beyond 180 days.

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k. That the Applicant submitted that on 31.10.2018, one of the Resolution Applicants, M/s Alchemist ARC, requested for time upto 12.11.2018 to submit revised Resolution Plan. M/s Cosyn Consortium also requested time upto 05.11.2018 to submit revised Resolution Plan. M/s Corpus Consortium did not make any communication. The CoC took note of the requests and adjourned its meeting to 12.11.2018.

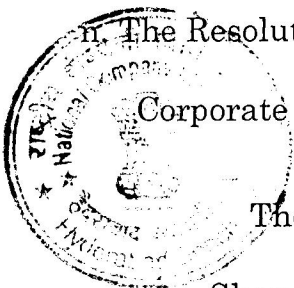
l. That the Resolution Professional stated that on 12.11.2018, M/s Corpus Consortium and Alchemist ARC decided that they were not revising their financial commitment beyond Rs.51 crores, which was inclusive of the CoC cost of Rs.5.80 crores. However, M/s Cosyn Consortium revised their bid. The CoC decided to meet again on 28.11.2018 to consider the plan. However, the CoC meeting was later on postponed to 30.11.2018.

m. That the Resolution Professional stated that on 30.11.2018, CoC decided to ask for modifications to the Resolution Plan submitted on 12.11.2018 and did not approve the Resolution Plan. Thereafter, another meeting of the CoC was held on 06.12.2018, at which the resolution plan submitted by M/s Cosyn Consortium was approved by the members of the CoC with 83.25% voting rights. The Resolution Plan submitted by Cosyn Ltd consortium, provides as under;



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Particulars	Admitted Claim (in Crore)	Payment as per Resolution Plan (in Crore)	Payment Schedule (from the date of Approval of Resolution Plan)
CIRP Cost	-	5.80	Soon after Approval of Resolution Plan
Secured Financial Creditors	173.76	46.51	Rs. 29 Crores within 3 Months and balance amount Within 6 months but not later than 31.10.2019
Unsecured Financial Creditors	89.77	3.21	Upfront Rs. 61 Lakhs within 3 Months, balance amount in 8 equal quarterly installments within 6 months
Trade payables/ Trade Suppliers/ Trade Creditors	62.59	2.16	Within three months from date of Order
Government dues	8.46	0.08	In 8 equal quarterly Installments commencing 6 months from date of Order
Workmen, Employees dues and ex-employees claims	10.87	1.05	Workers and Employees dues of Rs. 0.81 Crores will be paid in three months Ex-Employees claims of 0.24 Crores to be paid in four quarterly installments commencing six months from date of Approval of Resolution Plan



n. The Resolution Plan provides for restructuring of Equity Share Capital of the Corporate Debtor as under;

The Current Equity share Capital consisting of 22,02,54,319 Equity Shares @ Rs. 2/- each amounting to Rs. 44.05 Crores would be reduced to 5,50,64,000 Equity shares of Rs. 2/- each totalling Rs. 11 Crores. The balance cancelled shares of 16,51,90,319 shares of Rs. 2/- each will be issued and allotted to new promoters, strategic investors, associates after approval by Adjudicating Authority.

o. That Rs. 3 Crores for refurbishing the plant would be brought in by the Resolution Applicant.

p. That the Approval of Resolution Plan by the Financial Creditors is in conformity with the Regulation 39 of the Insolvency and Bankruptcy Board

[Signature]

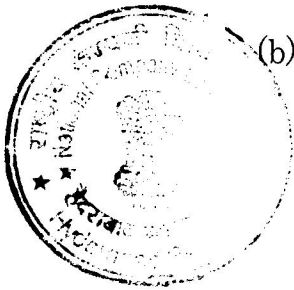
of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

q. That the Resolution Professional reiterating above, prayed this Adjudicating Authority to allow the Application as prayed for.

3. Heard Resolution Professional and perused the Resolution Plan and other documents submitted along with Application.

4. Section 30(2) of the Code enjoins upon the resolution professional to examine each resolution plan received by him to confirm that such plan –

(a) Provides for the payment of insolvency resolution process costs in a manner specified by the Board in priority to the repayment of other debts of the corporate debtor;



(b) Provides for the repayment of debts of operational creditors in such manner as may be specified by the Board which shall not be less than the amount to be paid to the operational creditors in the event of a liquidation of the corporate debtor under section 53;

(c) Provides for the management of the affairs of the Corporate Debtor after approval of the resolution plan;

(d) The implementation and supervision of the resolution plan;

(e) Does not contravene any of the provisions of the law for the time being in force;

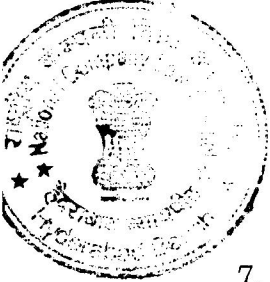
(f) Conforms to such other requirements as may be specified by the Board.

5. Section 30(4) of the Code as it stands at present after the amendment reads as follows: -

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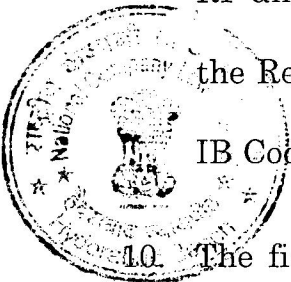
“(4) The committee of creditors may approve a resolution plan by a vote of not less than sixty-six percent of voting share of the financial creditors, after considering the feasibility and viability, and such other requirements as may be specified by the Board.”

Section 30(6) of the Code enjoins the resolution professional to submit the resolution plan as approved by the committee of creditors to the Adjudicating Authority. Section 31 of the Code deals with the approval of the resolution plan by the Adjudicating Authority, if it is satisfied that the resolution plan as approved by the committee of creditors under section 30(4) meets the requirements as referred to in section 30(2).

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6. Before Approving the Resolution plan, it is the duty of the Adjudicating Authority that it should satisfy that the Resolution plan as approved by the CoC meets the requirements as referred to sub-section (2) of Section 30.
 7. On perusal of the Resolution Plan, this Adjudicating Authority has witnessed that the Resolution plan placed for consideration provides for the following;
 - a) Payment of CIRP Cost as specified U/s 30(2)(a) of IBC, 2016.
 - b) Repayment of Debts of Operational Creditors as specified U/s 30(2)(b) of IBC, 2016.
 - c) Provides for management of affairs of the Corporate Debtor, after the approval of Resolution Plan, as specified U/s 30(2)(c) of IBC, 2016.

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- d) The implementation and supervision of Resolution Plan shall be done by Insolvency Resolution Professional and by the CoC as specified U/s 30(2)(d) of IBC, 2016.
- e) The Resolution Plan is not in contravention to any of the provisions of Law, for the time being in force, as specified U/s 30(2)(e) of IBC, 2016.
- f) The Resolution plan Conforms to such other requirements specified by the Board.
8. In terms of Regulation 27 of CIRP Regulations, Liquidation value was ascertained through two registered valuers. The RP has complied with the code in terms of Section 30(2)(a) to 30(2)(f) and Regulations 38(1), 38(1)(a), 38(2)(a), 38(2)(b), 38(2)(c) & 38(3) of CIRP regulations.
9. The identity of the Resolution Applicants have been duly verified by the RP and affidavit as per section 30(1) of the Code has been obtained from the Resolution Applicants stating that it is not ineligible U/s 29A of the IB Code, 2016.
10. The financial Proposal made by the Resolution Applicant as tabulated above, has been perused.
11. That the structuring of the Equity Share Capital and fresh issue of Equity to the Resolution Applicant as detailed above has been gone through, it is observed that there is no requirement for passing any special Resolution for Reduction of Share Capital as per Section 66 of Companies Act, 2013. Further, the Resolution Applicant is not required to make public announcement for open offer to the public in case of acquisition of Share capital of the Company as per SEBI Regulations, 2011.



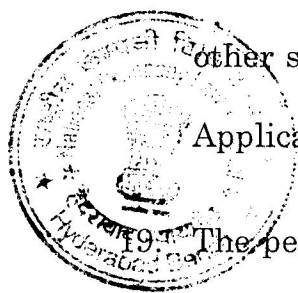
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12. The proposed Resolution Plan also provides for refurbishing the plant and additional capital expenditure to the tune of Rs. 3 Crores, which the Resolution Applicant proposes to introduce.
13. The Plan also provides for keeping the Company as a going concern and operate in its normal course of business upon implementation of Resolution Plan. There is no objection filed by any other person in this regard
14. The Resolution Professional has also filed necessary certificate under Section 39 (4) (a) of the Code.
15. It is also evident that the Resolution Plan placed before this Adjudicating Authority, was approved by the Committee of Creditors in its 11th CoC meeting dated 06.12.2018 with 83.25% votes cast in favour of Approval of Resolution Plan.
16. In *K Sashidhar Vs. Indian Overseas Bank & Others*, decided on 05.02.2019 in Civil Appeal No.10673/2018 with CA Nos.10719/2018, 10971/ 2018 and SLP(C) No.29181/2018, the Hon'ble Supreme Court, noticing the provisions of section 30(4), held that if the CoC had approved the resolution plan by requisite percent of voting share, then as per section 30(6) of the Code, it is imperative for the resolution professional to submit the same to the adjudicating authority (NCLT). On receipt of such a proposal, the adjudicating authority (NCLT) is required to satisfy itself that the resolution plan as approved by CoC meets the requirements specified in Section 30(2). No more and no less.
17. In the said judgment, in para 35, the Hon'ble Supreme Court held that the discretion of the adjudicating authority is circumscribed by Section 31



and is limited to scrutiny of the resolution plan "as approved" by the requisite percent of voting share of financial creditors. Even in that enquiry, the grounds on which the adjudicating authority can reject the resolution plan is in reference to matters specified in Section 30(2) when the resolution plan does not conform to the stated requirements.

18. In view of the above, the 'Resolution Plan' filed with the Application meets the requirements of Section 30(2) of the I&B Code, 2016 and Regulations 37, 38, 38(1A) and 39 (4) of IBBI (CIRP) Regulations, 2016. The 'Resolution Plan' is also not in contravention of any of the provisions of Section 29A. Hence, This Adjudicating Authority is satisfied that the Resolution Plan is in accordance with Law. Therefore, the 'Resolution Plan' annexed with Application bearing IA No. 686 of 2018 filed in CP(IB) 24/7/HDB/2018 is hereby approved, which shall be binding on the Corporate Debtor and its employees, members, creditors, guarantors and other stakeholders involved in the Resolution Plan including Resolution Applicant.



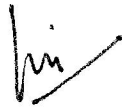
- The permission for re-structuring the Equity share capital, as proposed in the Resolution Plan is also granted. Accordingly, the MoA and AoA shall be amended and filed with the RoC for information and record as prescribed. While approving the 'Resolution Plan', as mentioned above, it is clarified that the Resolution Applicant shall pursuant to the Resolution Plan approved under Sub-Section (1) of Section 31 of the I&B Code, 2016, obtain all the necessary approval as may be required under any law for the time being in force within the period as provided for in such law.
20. The approved 'Resolution Plan' shall become effective from the date of receipt of copy of this Order.

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21. This Adjudicating Authority orders for the Constitution of Monitoring Committee consisting of Mr. Prabhakar Nandiraju, RP, one representative from every Secured Financial Creditor along with the Resolution Applicant to supervise the implementation of the Resolution Plan and further Resolution Professional is directed to file status of implementation of Resolution Plan before this Adjudicating Authority from time to time.
22. The order of moratorium passed by this Adjudicating Authority under Section 14 of the I&B Code, 2016 shall ceased to have effect from the date of passing of this Order.
23. The Resolution Professional shall forward all record relating to the conduct of the CIRP and the 'Resolution Plan' to the IBBI along with Copy of this Order, so that the Board may record the same on its data-base.

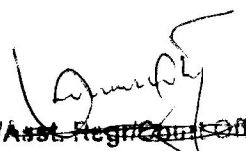
24. The Resolution Professional shall forthwith send a copy of this Order to the participants and the Resolution.

25. Accordingly, IA No. 686 of 2018 is disposed of as allowed.



K. ANANTHA PADMANABHA SWAMY
MEMBER JUDICIAL

Rathi/Rk



Dy. Regr./Asst. Regr./Comptroller
National Company Law Tribunal, Hyderabad Bench.

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या (P/B) No. 24/7/HDB/2018
CASE NUMBER
निर्णय का तारीख
DATE OF JUDGEMENT 31/12/19
प्रति तैयार किया गया तारीख
COPY MADE READY ON 9/8/19