

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH

MA 349/2018 in CP. No.(IB) 716(MB)/2017

Under section 30(6) of IBC, 2016

Mr. Charudutt Marathe
Resolution Professional ... Applicant

In the matter of

Ajitnath Steels Pvt Ltd ... Financial Creditor
Vs.
Ellora Paper Mills Ltd Corporate Debtor

Order delivered on : 26.06.2018

Coram:

Hon'ble Shri B.S.V. Prakash Kumar, Member (J)
Hon'ble Shri Ravikumar Duraisamy, Member (T)

For the Resolution Professional: Mr. Sandeep Bajaj
For the Resolution Applicant: Mr. Anuj Jhaveri
For the Intervener: Adv. Indrajeet Hingana, i/b Apex Law

Per B. S. V. Prakash Kumar, Member (Judicial)



ORDER

This is an Application filed by the Resolution Professional under Section 30(6) of the Insolvency and Bankruptcy Code, 2016, read with Regulation 39(4) of the IBBI (Insolvency Resolution Process of Corporate Person) Regulations 2016, seeking approval of the Resolution Plan as approved by the Committee of Creditors in its meeting held on 9.4.2018 with more than 100% voting in favour of the Resolution Plan submitted by the Resolution Applicant.

2. The Corporate Debtor, Ellora Paper Mills Ltd was put under Insolvency Resolution Process by an order of this Adjudicating Authority dated 19.7.2017, Mr. Mohan Ram Goenka was appointed as Interim Resolution Professional (IRP). Subsequently since Mr. Mohan Ram Goenka was unable to act as IRP, the Financial Creditor approached this Adjudicating Authority to replace the said IRP with Mr. Ranjeet Dnyanchand Jain. Vide an Order dated 21.8.2017, Mr. Ranjeet Dnyanchand Jain was appointed as IRP. The said IRP issued Public Announcement inviting the Creditors to submit the proof of their claim

on 23.08.2017 as per Section 13 of the Insolvency and Bankruptcy Code read with Regulation 6(2)(b)(i) of the CIRP Regulations in two newspapers.

3. The IRP conducted the first meeting of Committee of Creditors on 20.9.2017, wherein since the IRP expressed his inability to offer his services as Resolution Professional, Mr. Charudatt Marathe was confirmed as Resolution Professional. Thereafter in the second meeting of Committee of Creditors, COC took a decision to extend the time frame of CIRP for a further period of 90 days, accordingly the Adjudicating Authority, vide its order dated 16.1.2018 allowed the extension of time period of CIRP by further 90 days.

4. In response to the public announcement made, few financial creditors, submitted their claims to the Resolution professional. After going through the claims submitted by Lakhotia Traders Pvt Ltd and Vidhani's Tradelink Pvt Ltd, it was observed that the transactions on basis of which these parties were claiming were preferential in nature and as such, the RP filed an application before this Adjudicating Authority. Thereafter, the said Financial Creditors, vide their letter dated 5.4.2018 informed the RP about the factum of withdrawal of their claims as a Financial Creditors and thereafter submitted their claims as Operational Creditors.

5. In the meantime, on 7.4.2018, two Resolution Applicants, i.e. Mr. Sudhir Goenka and Shri Kailash Aggarwal have submitted their Resolution Plans and subsequently the expression of interests were received from Mr. Sudhir Goenka CPG Academics Services Limited, Shri Siddharth Khosla, Shri Kailash Aggarwal and Shri Neeraj Khemka. The COC, in the 6th meeting held on 9.4.2018, were informed about the above mentioned expression of interest. The above mentioned parties were informed to submit certain documents. Then, the two resolution plans received from Mr. Sudhir Goenka and Shri Kailash Aggarwal were discussed in the CoC meeting held on 9.4.2018. As per the evaluation matrix, the Resolution Plan of Mr. Kailash Agarwal received 61.91 marks and the resolution plan of Mr. Sudhir Goenka received 76.35 marks. Out of these two, the Resolution Plan of Mr. Sudhir Goenka was taken as approved by all the financial creditors in the meeting held on

9.4.2018, for it has received 100% vote share approval in the COC meeting.

6. In the Resolution Plan, the Resolution Applicant had proposed the payment to all the stakeholders as under:

Sr. No.	Particulars	Amount Due	Payment Proposed	Waiver
1.	Insolvency Process Cost	25,00,000	25,00,000	0.00%
2.	Financial Creditors	7,60,50,367	5,40,00,000	28.99%
3.	Operational Creditors, Excluding Workmen	3,33,68,533	0	100%
4.	Operational Creditors, who earlier were Financial Creditors	85,38,533	0	100%
5.	Operational Creditors Workmen	3,03,83,000	53,59,645	0%
6.	Other Creditors - Ajit Nath Steels Pvt Ltd	21,76,71,115	0	100%
7.	Sales tax Deferral in Balance Sheet	1,62,39,179	25,00,000	84.61%
8.	Excise Duty of Rs.1,36,45,796 since 2009 + interest @ 30% p.a. for 9 years	5,04,89,445	0	100%
9.	Amount due under Litigation at various stages	25,00,000	0	100%
10.	Sales Tax Assessment	78,24,050	0	100%
11.	Dues to Tehsildar, Mohadi as per Revenue Certificate	15,06,457	0	100%



12.	BSE/SEBI and other Regulatory Agencies - Dues for listing purpose	15,00,000	0	100%
13.	Equity Shareholders	1,99,36,750	0	100%

7. As to the approval sought by the COC to deem the occupancy rights of the land as Class-I from the date of approval of the resolution plan with a direction to the Revenue Authorities to record the status of the said land as Class I occupant in their records and the direction to the Government to give standing permission to the resolution applicant/ Corporate Debtor to raise finance by mortgage/giving the said land as a security for raising finance to run the company, it is hereby rejected because this Bench cannot confer any property rights or mortgage rights either to the Resolution Applicant or to the Corporate Debtor by way of Resolution Plan for this right of mortgage can only be granted by the Revenue Authorities subject to the law in force. In view of the same, the other reliefs sought for the approval of this Bench as Item No. 9 in the Resolution Plan has not been granted.

8. When this MA came up for hearing on 25.6.2018, this Adjudicating Authority has asked the Resolution Applicant to improve the payment to be made to the Operational Creditors excluding workman more specifically mentioned at Sr. No. 3 and 4 in the above table. The Resolution Applicant filed an Additional Affidavit making the provision to provide 25% of the total admitted claim, i.e. Rs.4,19,07,066 within a period of six months from the date of approval of the Resolution Plan by this Adjudicating Authority, it is therefore, the approval sought in respect to the Operational Creditors in Para 3(b) in the Resolution Plan is to be read as the Provision of 25% provided to the Operational Creditors out of the total admitted claim, i.e. Rs.4,19,07,066 mentioned therein.

9. The Applicant has certified that the contents of the Resolution Plan are not disqualified under the provisions of the IBC and Section 29A in particular.

10. On perusal of the resolution plan, approved by the CoC with 100% voting, this Bench being satisfied with the same, approves the resolution plan subject to the qualifications mentioned above and subject to the laws in force.

11. Accordingly, this MA No: 349/2018 is hereby allowed by vacating the moratorium already granted at the time of admission of Company Petition No: 716/2017.

12. In view of the approval of the Resolution Plan as sought by the Insolvency Resolution Professional, this bench hereby discharges the Insolvency Resolution Professional from duties of the Insolvency Resolution Process by submitting all the records maintained by him before the Insolvency and Bankruptcy Board of India as provided under the Insolvency and Bankruptcy Code, 2016 and the regulations thereunder.

Sd/-

RAVIKUMAR DURAISAMY
Member (Technical)

Sd/-

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



Certified True Copy
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On 5/7/2018


Assistant Registrar
National Company Law Tribunal Mumbai Bench