S.No.115

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON **10-03-2022** AT 10:30 A.M. THROUGH VIDEO CONFERENCE.

IA(IBC)/68/2021
IA No.945/2020
CP(IB) No. 375/7/HDB/2019
U/s 7 of IBC, 2016

IN THE MATTER OF:

Indian Bank **...Operational Creditor**

Vs

Bartronics India Ltd **...Corporate Debtor**

CORAM:-

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER (TECHNICAL)

ORDER

Learned Counsel Mr. Boda Bharath for Resolution Professional is present.

Orders in IA(IBC)68/2021 pronounced vide separate sheets. In the result, the tribunal accords approval to the resolution plan. **Accordingly, IA(IBC)68/2021 is disposed of.**

Call other IA No.945/2020 along with CP(IB)No.375/7/HDB/2019 on 04-04-2022.

MEMBER (T) **MEMBER (J)**

Srinivas

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NATIONAL COMPANY LAW TRIBUNAL
BENCH-1, HYDERABAD

I.A. No. 68 of 2021

in

C.P. (IB) No.375/7/HDB/2019

Application U/s 30(6), 31(1) and 31(3) of Insolvency and Bankruptcy Code, 2016

In the matter of: **M/s BARTRONICS INDIA LIMITED**

Filed by

Chinnam Poorna Chandra Rao
Resolution Professional for M/s Bartronics India Ltd
Flat No. 101, TVS Mahathi Apts
Opp: Sampoorna Super Market
Behind SR Digi School, Lanco Hills Road
Manikonda, Hyderabad - 500089

Applicant /
Resolution Professional

Date of order: 10.03.2022

Coram:

Dr. N.Venkata Ramakrishna Badarinath, Hon'ble Member (Judicial)
Shri Veera Brahma Rao Arekapudi, Hon'ble Member (Technical)

Appearance:

For Applicant: Shri Saini Keshava Rao, Advocate

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PER: BENCH

ORDER

1. **IA No. 68/2021** is filed by the Resolution Professional under Section 30(6) 2016 r/w regulation 39(4) of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 & Rule 11 of NCLT Rules, 2016, seeking approval of resolution plan of **ANTANIUM INDIA PRIVATE LIMITED (Resolution Applicant)** as duly approved by the Committee of Creditors.

2. To put concisely, the main petition filed by Indian Bank u/s 7 of IBC, 2016 was admitted by the Adjudicating Authority vide Order Dated 02.12.2019 and ordered commencement of CIRP against **M/s Bartronics India Limited / Corporate Debtor.** The Applicant herein was appointed as Interim Resolution Professional (IRP), who continued as Resolution Professional.

3. In terms of Regulation 6 of Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, public announcement in Form-A was made by IRP on 05.12.2019 in Times of India (English) & Andhra Jyothi (Telugu) inviting claims from the creditors of Corporate Debtor. The IRP, after collating and verifying the same, admitted Claims from financial creditors and constituted Committee of Creditors comprising of following Financial Creditors.

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Sl. No.	Name of Creditor	Voting Share (%)
1	Andhra Bank – Special Asset Recovery Branch – Hyderabad	42.25%
2	Invent Assets Securitisation & Reconstruction Pvt Ltd (Assigned from Bank of India)	18.28%
3	IDBI Bank, Chapel Road, Hyderabad.	16.06%
4	LIC Of India	15.23%
5	Paisalo Digital Limited	1.50%
6	Indian Bank- SAM Branch Hyderabad	6.67%

The list of financial creditors was updated and placed before the COC in the 9th CoC meeting held on 17.12.2020.

4. The Form-G inviting Expression of Interest ("EOI"} from Prospective Resolution Applicants for submission of Resolution Plan of the Corporate Debtor was published and the last date for submission of EOI was fixed as 01.03.2020. The Request for Resolution Plan (RFRP) was extended to 22.07.2020 owing to covid pandemic situation. The date for submission of Resolution Plan by PRAs was also extended from 15.04.2020 to 10.08.2020. Time lost from 25.03.2020 to 31.07.2020 due to covid induced lockdown was excluded from the CIRP timeline of 180 days. In response, the RP received EOI from 03 PRAs. Ultimately, the Resolution Professional was successful in receiving Resolution Plan from **ANTANIUM INDIA PRIVATE LIMITED**

5. It is stated by the Applicant that, the said plan was deliberated in the 5th CoC meeting held on 18.08.2020 and the PRA was instructed to submit revised financial outlay of the Resolution

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Plan. The plan was revised a couple of times. Ultimately the revised plan was submitted on 12.01.2021 and placed before the CoC for deliberations in the 10th & 11th CoC Meetings. The Resolution Applicant filed an addendum dated 09.02.2021 basing upon the final inputs given and modifications suggested by the COC and informed that the addendum will be part and parcel of the plan dated 12.01.2021. Meanwhile, this Tribunal at the request of the RP granted extension of 90 days beyond 180 days and further excluded 129 days of covid lockdown period vide order passed on 07.12.2020. Subsequently, the revised extension of 60 days from 22.12.2020 till 20.02.2021 was granted and the extended period of CIRP ended on 20.02.2021. In all, the Resolution Professional convened 12 CoC meetings.

6. The CoC after several rounds of negotiations evaluated the Resolution Plan submitted by aforesaid resolution applicants as per the Evaluation Matrix and Section 29A of the Code. After evaluating in terms of both qualitative and quantitative criteria and aggregate the resolution plan was put for voting from 12.02.2021 to 15.02.2021. The Resolution Plan submitted by **ANTANIUM INDIA PRIVATE LIMITED** (Resolution Applicant) was considered and approved by the CoC with 97.49% voting in favour of it under Section 30(4) of IBC. The Applicant further submits that all the requirements envisaged under the Code and Rules/Regulations made there-under have been met.

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7. The Applicant submitted that in lieu of Performance Bank Guarantee as required under sub regulation (4A) of Regulation 36(B) of IBBI (Insolvency Resolution for Corporate Persons) Regulations, 2021, an amount of Rs. 50,00,000/- by way of demand draft as set out in the Request for Resolution Plan (RFRP) is paid. It is added by the Resolution Professional that the Resolution Applicant had submitted Performance Bank Guarantee dated 02.03.2021 for an amount of Rs. 4,50,00,000/- which is valid up to 01.03.2022 and shall be extended from time to time for such period as may be desired by the Bank. It is further stated that the bank is liable to pay the guarantee amount or in part thereof under this guarantee only and only if it is served upon them a written claim or demand in terms of the guarantee on or before 01.03.2023.

8. **Contour of the Resolution Plan**

(A) **ANTANIUM INDIA PRIVATE LIMITED** (FORMERLY KNOWN AS TRITERRAS SMART ID SYSTEMS INDIA PRIVATE LIMITED) who submitted the resolution plan is a Company incorporated under the Companies Act, 2013, having its Corporate Office at #New No. 7/1, Welder Street, Anna Salai, Chennai, Tamil Nadu, 600002. The memorandum of association of the Company was altered vide special resolution passed in EGM of the Company held on 30.11.2020. The Company is into the business of developing and providing Automatic Identification and Data Capture related products, solutions and consulting services and manufacturing.

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(B) The CoC comprised of the following financial creditors and the distribution of voting share among them is as under:-

Sl. No.	Name of Creditor	Voting Share (%)	Voting for Resolution Plan (Voted for / Dissented / Abstained)
1	Andhra Bank – Special Asset Recovery Branch – Hyderabad	26.65%	Voted for
2	Bistrolla Asia Inc.	18.54%	Voted for
3	Invent Assets Securitisation & Reconstruction Pvt Ltd (Assigned from Bank of India)	11.53%	Voted for
4	Asset Reconstruction Company (India) Ltd. (ARCIL) (Assigned from Bank of Baroda)	10.54%	Voted for
5	IDBI Bank, Chapel Road, Hyderabad.	10.13%	Voted for
6	LIC Of India	9.61%	Voted for
7	Barclays Bank PLC	4.81%	Voted for
8	Indian Bank, SAM Branch-Hyderabad.	4.21%	Voted for
9	Triterras Smart ID Systems India Private Limited (Acquired from Hewlett-Packard Financial Services (India) Pvt Ltd	1.47%	Voted for
10	Paisalo Digital Limited	0.95%	Not participated
11	Himanshu S. Shah & Tejal H. Shah	0.42%	Dissented
12	Shaishav Rameshchandra Mehta	0.28%	Not participated
13	RTK International Limited	0.14%	Dissented
14	RC Ahuja	0.14%	Dissented
15	Vicky Notandas Awtani	0.14%	Abstained
16	Venugopal Venkatesh	0.10%	Dissented
17	Sanjay Bhayani and Amita Bhayani	0.10%	Not Participated
18	Krishna and Prakash Chetnani	0.14%	Not Participated
19	Vijay Himatlal	0.10%	Not Participated
	Total Voting % of Financial Creditors (Present Through VC)	**100.00%**	

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(C) Financial proposal: The amount provided to the stakeholders of the Corporate Debtor is Rs. 25,07,37,616/- which is tabulated below:

(in lakhs)

Sl. No.	Category of Stakeholder *	Sub-Category of Stakeholder	Amount Claimed	Amount Admitted	Amount Provided under the Plan#	Amount Provided to the Amount Claimed (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Secured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	-	-	-	-
		(b) Other than (a) above:	-	-	-	-
		(i) who did not vote in favour of the resolution Plan				
		(ii) who voted in favour of the resolution plan	807,36,60,091.11	807,36,60,091.11	24,37,93,968	3.02%
		Total[(a) + (b)]	807,36,60,091.11	807,36,60,091.11	24,37,93,968	3.02%
2	Unsecured Financial Creditors	(a) Creditors not having a right to vote under sub-section (2) of section 21	-	-	-	-
		(b) Other than (a) above:	-	-	-	-
		(i) who did not vote in favour of the resolution Plan	26,02,81,836.63	26,02,81,836.63	6,88,594	0.26%
		(ii) who voted in favour of the resolution plan	208,55,37,493.65	208,55,37,493.65	55,17,438	0.26%
		Total[(a) + (b)]	2,34,58,19,330.28	2,34,58,19,330.28	62,06,032	0.26%
3	Operational Creditors	(a) Related Party of Corporate Debtor	-	-	-	-
		(b) Other than (a) above:	-	-	-	-

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		(i)Government (ii)Workmen (iii)Employees (iv) Others	25,14,02,799 2,37,616 - 28,21,763.00	25,14,02,799 2,37,616 - 28,21,763.00	4,94,450.25 2,37,616 - 5,549.75	0.20% 100% - 0.20%
		Total[(a) + (b)]	25,44,62,178	25,44,62,178	7,37,616	0.29%
4	Other debts and dues		-	-	-	-
Grand Total			10,92,84,03,777	10,92,84,03,777	25,07,37,616.00	2.29%

The break-up of the resolution amount of Rs. 25,07,37,616.00 brought in by the Resolution Applicant for various purposes are detailed as under:

S.no.	Particulars	Amount provided
1	CIRP Expenses	At actuals
2	Amount payable to workmen and employees	2,37,616
3	Amount payable to Operational Creditors (Other than workmen and employees)	5,00,000
4.	Liquidation value due to the dissenting financial creditors (if any). For the purposes of the Financial proposal, we have assumed that there shall be no dissenting Financial Creditors.	In the event there are dissenting financial creditors, then the liquidation value due to such dissenting financial creditors in terms of Section 53 of IBC will be given priority over the assenting Financial Creditors, while making payments to the Financial Creditor, out of the Financial Creditors settlement amount
5.	Subject to adjustment in Section 1.2 (vi) (b) of this Plan, payment of the Financial Creditors settlement amount.	25,00,00,000
	Total	25,07,37,616

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(D) TERM OF THE PLAN

The plan shall be valid and binding on the Resolution Applicant till the expiry of six months from the binding plan due date or the approval of the Resolution Plan by the Adjudicating Authority, whichever is later and the details pertaining to the said aspect are covered under Clause 6.2 & 6.3 of the Plan.

(E) Management of the Corporate Debtor

For effective implementation and supervision, the plan provides for appointment of the Resolution Professional as Monitoring Agent in consultation with the Resolution Applicant and the CoC to run the Corporate Debtor as a going concern to oversee the activities of the Corporate Debtor and to take all necessary corporate action required to implement the plan till the hand over date. Post hand over, a Monitoring Committee comprising of two representatives of the financial creditors, and two representatives of Resolution Applicant shall monitor and supervise the implementation of the Resolution Plan by the Resolution Applicant. constitution of a Monitoring Committee consisting of the Resolution Professional, one representative each from the Financial Creditor side and the Resolution Applicant in terms of Section 30(2) (c). The Plan further provides for managing the affairs of Corporate Debtor by reconstituting the Board and the Resolution Applicant shall be entitled to exercise sole and absolute control over the affairs of the Corporate Debtor in accordance with applicable law in terms of Section 30(2) (d) of the Code. The new management team of the Company shall be

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constituted by the Resolution Applicant, in accordance with the plan.

(F) **Compliance of mandatory contents of Resolution Plan under the Code and CIRP Regulations:-**

The Applicant has conducted a thorough compliance check of the Resolution Plan in terms of the Code as well as Regulations 38 & 39 of the Insolvency and Bankruptcy Board of India (Corporate Insolvency Resolution Process) Regulations, 2016 (herein after referred to as Regulation) and has submitted his Form-H under Regulation 39 (4). It is submitted that Resolution Applicant has filed an Affidavit declaring that they are eligible to submit the plan under Section 29A of the Code and that the contents of the said affidavit are in order. The fair value and Liquidation value as submitted in Form-H is Rs. 3,506.94 lakhs and Rs. 2,458.91 lakhs respectively.

9. In the above backdrop we heard the Learned Resolution Professional. He submits that the Resolution Plan meets the requirement of Section 30 (2) of the Code, as under:-

(a) The Plan provides for the priority payment of CIRP costs at actuals and the same shall be paid in full and in priority.

(b) The Plan provides for payment of the debts of operational creditors (including minimum amount payable in terms of Section 30 (2) (b) of IBC towards workmen dues), with such payment being equal to an amount which is higher of the amount payable in terms of Section 30 (3) (b) (i) and Section 30 (2) (b)

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(ii) of IBC due to such operational creditors in priority to payment of financial creditors.

(c) The Plan provides for payment of debts to dissenting financial creditors, who did not vote in favour of the Resolution Plan, which shall not be less than the amount of liquidation value due to them in terms of Section 53 (1) of IBC.

10. The Resolution Plan is in compliance of Regulation 38 of the Regulations in the following manner:

(a) The amount due to the operational creditors under the resolution plan has been given priority in payment over financial creditors which is detailed at clause 1.3 of the Resolution Plan.

(b) Declaration by the Resolution Applicant that the Resolution Plan has considered the interest of all the stakeholders of the Corporate Debtor, keeping in view the objectives of the Code {Para 3 of the Resolution Plan} (Regulation 38 (1A).

(c) Declaration by the Resolution Applicant that neither the Resolution Applicant nor any of his related party has either failed or contributed to the failure of the implementation of any other approved Resolution Plan [clause 12.1(v)(i) of the Resolution Plan] (Regulation 38 (1B)).

11. It is further submitted that the Resolution Plan value of Rs. 25,07,37,616/- is higher than the Liquidation value of Rs. 24.59 crores and the Resolution Plan has been approved by the CoC in the 12th CoC meeting with 97.49% votes in favour of it.

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12. ***In K. Sashidhar v. Indian Overseas Bank & Others (in Civil Appeal No. 10673/2018) the Hon'ble Apex Court*** 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. On receipt of such 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*".

13. The Hon'ble Supreme Court has further held at para 35 of the above judgement that ***the discretion of the adjudicating authority (NCLT) is circumscribed by Section 31 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.***

14. The Hon'ble Supreme Court in ***Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors,*** held that "*the limited judicial review available to AA has to be within the four corners of section 30(2) of the Code. Such review can in no circumstance trespass upon a business decision of the majority of the CoC. As such the Adjudicating Authority would not have power to modify the Resolution Plan which the CoC in their commercial wisdom have approved*".

15. Therefore, the resolution plan, when tested on the touch stone of the aforesaid facts and the rulings, we are of the view that the instant resolution plan satisfies the requirements of Section 30 (2) of the Code and Regulations 37, 38, 38 (1A) and 39 (4) of the Regulations. We also found that the Resolution Applicant is eligible to submit the Resolution Plan under Section 29A of the Code. We therefore, hereby **approve** the Resolution Plan along

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with addendum submitted by the Resolution Applicant annexed to the Application and order as under:-

(i) The Resolution Plan shall be binding on the Corporate Debtor, its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is due, guarantors and other stakeholders involved in the Resolution Plan.

(ii) All crystallized liabilities and unclaimed liabilities of the Corporate Debtor as on the date of this order shall stand extinguished on the approval of this Resolution Plan.

(iii) The approval of the Resolution Plan shall not be construed as waiver of any statutory obligations/ liabilities of the Corporate Debtor and shall be dealt with by the appropriate Authorities in accordance with law. Any waiver sought in the Resolution Plan, shall be subject to approval by the Authorities concerned as held by Hon'ble Supreme Court in the matter of ***Ghanashyam Mishra And Sons Private Limited Versus Edelweiss Asset Reconstruction Company Limited*** in CIVIL APPEAL NO.8129 OF 2019 dated 13.04.2021.

(iv) It is hereby ordered that Performance Bank Guarantee furnished by the Resolution Applicant shall remain as performance Bank Guarantee till the amount proposed to be paid to the creditors under this plan is fully paid off and the plan is fully implemented.

(v) The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with

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the Registrar of Companies (RoC) Hyderabad for information and record. The Resolution Applicant, for effective implementation of the Plan, shall obtain all necessary approvals, under any law for the time being in force, within such period as may be prescribed.

(vi) Henceforth, no creditors of the erstwhile Corporate Debtor can claim anything other than the liabilities referred to supra.

(vii) The moratorium under Section 14 of the Code shall cease to have effect from this date.

(viii). The Applicant shall forward all records relating to the conduct of the CIRP and the Resolution Plan to the IBBI along with copy of this order for information.

(ix). The Applicant shall forthwith send a copy of this order to the CoC and the Resolution Applicant.

(x). The Registry is directed to communicate this order to the Registrar of Companies, Hyderabad for updating the master data and also forward a copy to IBBI.

10/03/2022

(Veera Brahma Rao Arekapudi)
MEMBER (TECHNICAL)

(DR N.Venkata Ramakrishna Badrinath)
MEMBER (JUDICIAL)

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