April 17, 2021

To,

The Secretary,
BSE Limited
25th Floor,
Phiroze Jeejeebhoy Towers,
Dalal Street,
MUMBAI - 400 001

S E E S S

Dear Sirs,

Please find enclosed herewith the order for **S**

This disclosure is being made in compliance with Regulation 30 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

This is submitted for your information and records.

Thanking you,

JUHI GARG
Digitally signed by JUHI GARG
Date: 2021.04.17 14:40:03 +05'30'

Encl.: As above

Through Videoconference

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT No. - I
*** *** ***

IA No. 700 of 2020
in
C.P. (IB) No. 4071/MB/2018

An Application under Section 30(6) of Insolvency and Bankruptcy Code, 2016 read with Regulation 39(4) of the IBBI (Insolvency Resolutions Process for Corporate Persons) Regulations, 2016

Mahendra Kumar Khandelwal,
Resolution Professional for
Sharan Hospitality Private Limited … Applicant

In the matter of

Cushman & Wakefield India Private Limited … Operational Creditor
V/s
Sharan Hospitality Private Limited … Corporate Debtor

Date of Order: 15.04.2021

CORAM:
Janab Mohammed Ajmal, Hon'ble Member (Judicial)
Shri V. Nallasenapathy, Hon'ble Member (Technical)

Appearance:

For the Applicant : Mr. Ritin Rai, Senior Advocate with Mr. Raunak Rahangdale, Ms. Radhika Gupta i/b Khaitan & Co.

For the CoC : Ms. Aditi Mittal and Ms. Mariam Zaidi, Advocates i/b K Law.

Per: Janab Mohammed Ajmal, Member (Judicial)

ORDER

This is an Application under Section 30(6) of the Insolvency and Bankruptcy Code, 2016 (the Code) by the Resolution Professional of the Corporate Debtor seeking approval of the Resolution Plan submitted by the Resolution Applicant, Majestic Auto Limited.

2. The Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor was initiated by this Bench by order dated 08/05/2019. The Applicant submits that the CIRP of the Corporate Debtor has been conducted in compliance with the provisions of the Code and the Rules framed there under. The Committee of Creditors (CoC) of the Corporate Debtor consists of only one unrelated Secured Financial Creditor viz., Axis Bank Limited.

3. During the CIRP, two Resolution Plans were received by the Applicant, respectively from M/s Majestic Auto Limited (Majestic) and Romell Real Estate Private Limited. The CoC after several rounds of negotiations with the Resolution Applicants evaluated both the Plans as per the Evaluation Matrix. The CoC accepted the Resolution Plan submitted by Majestic, the highest bidder (H1). After due verification of the eligibility of the Successful Resolution Applicant in terms of Section 29A of the Code, the CoC in its 9th meeting held on 30.01.2020 considered the Resolution Plan submitted by Majestic and approved the same with 100% voting.

4. Upon perusal of the Resolution Plan, during the hearing this Bench made a specific query as to how the Resolution Plan could provide a stipulation that if sufficient cash flow was not available in the Company to pay off the CIRP costs, the amount payable to the Unsecured Financial Creditor would be

reduced to the extent of the unpaid CIRP costs. The Bench also wanted to know the propriety of the stipulation in the Plan that if at a later stage any further claims were admitted, then the amount allotted to the Unsecured Financial Creditor would be utilised for payment thereof on *pro rata* basis. In response to the queries the Successful Resolution Applicant and the CoC filed a joint Affidavit dated 05/11/2020 clarifying that CIRP costs would be met from the internal accruals of the Corporate Debtor and no deduction in the amount payable to Unsecured Financial Creditors would be required in the present circumstance. The affidavit further clarified that no new claims would be admitted after the approval of the Resolution Plan by the CoC and no deduction shall be made to the amount earmarked for the Financial Creditor(s) as the same is impermissible under the law. The clarification given as such is accepted.

5. Besides the above, following are the proposals for payment under the Plan:
The Resolution Applicant proposes to infuse a total sum of ₹. 81.84 Crores within 30 days of approval of the Resolution Plan by this Tribunal, in the following manner-

   a. The CIRP costs will be fully met/paid out of the internal generation of the Corporate Debtor till the date of approval of resolution plan.
   b. The following is the payment proposed to the Creditors:

(*Amt in* ₹)

Sr. No.	Description	Claim Admitted	Payment	Payment proposed
1	Operational Creditors			The Operational Creditors would be paid in priority over Financial Creditors *(₹.1.1 crore towards GST and TDS, ₹.53 lakhs for Property Tax)
	a. Employees / Workmen	15,000	15,000	
	b. Trade Creditors (including other liabilities)	22,33,115	22,33,115	
	c. Statutory Dues*	1,63,00,000	1,63,00,000	

2.	Financial Creditor			.
	Secured	76,74,62,002.14	76,74,62,002.14	
	Unsecured	3,24,00,421	3,24,00,421	
	TOTAL	**81,84,10,538.14**	**81,84,10,538.14**	

c. In addition to the above amount, the Resolution Applicant undertakes that the security deposit of ₹. 6,03,76,146/- payable by the Corporate Debtor to the tenants of the building will be the liability of the Resolution Applicant.

Name of Tenant	Amount of security deposit (₹)
Aditya Birla Finance Ltd	1,42,43,436/-
Founding year learning solutions	27,04,800/-
Romell Real Estate Private Limited	85,50,000/-
Sheth Developers Pvt Ltd.	1,56,00,000/-
Viacom Media 18 Pvt. Ltd.	1,92,77,910/-
Total	**6,03,76,146/-**

6. Mode of infusion of Fund:

₹. 5.00 crores by way of Share Capital from the Resolution Applicant and the balance of ₹. 76.84 crores by way of unsecured loan to be provided by the Resolution Applicant.

7. Financial Status of the Resolution Applicant:

i. The Resolution Applicant is a Public Limited Company incorporated on 23rd April 1973. It is engaged in the business of leasing/renting commercial properties and facility management and real estate. The Resolution Applicant in the last 4 years has acquired similar businesses like the Corporate Debtor and has the ability to manage the Company efficiently and profitability.

ii. The entire sum of ₹. 81,84,10,538/- (Rupees Eighty One Crores Eighty Four Lacs Ten Thousand Five Hundred and Thirty Eight only) will be arranged by the Resolution Applicant from its own funds/resources. It has total assets of over ₹. 362,98,02,000/- (Rupees Three Hundred Sixty Two Crores Ninety Eight Lakh and Two Thousand only) including investments and current assets of approximately ₹. 237,20,95,000/- (Rupees Two Hundred Thirty Seven Crores Twenty Lacs and Ninety Five Thousand only) and ₹. 8,64,91,000/- (Rupees Eight Crores Sixty Four Lacs Ninety One Thousand) respectively. The abovementioned include investments worth approximately ₹.147,03,00,000/- (Rupees One Hundred Forty-Seven Crores and Three Lakh only) in Hero Moto Corp Limited. The investment in Hero Moto Corp Limited consists of 9,21,000 shares with market value at approximately ₹. 1,596/- (Rupees One Thousand Five Hundred and Ninety Six Only) per share as on 31st March 2020. Copies of latest audited financial statements of the Resolution Applicant reflecting the above are annexed to the Application. The Resolution Applicant has information that the share value of Hero Moto Corp Limited has in the meantime increased to ₹. 3,055/- (Rupees Three Thousand and Fifty Five Only) per share. Separately, a letter issued by the Resolution Applicant's banker HDFC Bank stating that the Resolution Applicant is solvent up to ₹. 378,55,00,000/- (Rupees Three Hundred and Seventy Eight Crores and Fifty Lacs only) and certificate issued by its Chartered Accountant certifying that the Resolution Applicant has sufficient financial capabilities are also enclosed to the Application.

8. On implementation of the plan, the entire existing share capital of the Corporate Debtor including preference share capital will be cancelled at a

nominal cost. Fresh capital infusion comprising of 5,00,000 shares of ₹. 100 each shall be issued to the RA and/or its nominee.

9. 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 and 39 of the Insolvency and Bankruptcy Board of India (Corporate Insolvency Resolution Process) Regulations, 2016 (the Regulations) and has submitted the Form H under Regulation 39(4) of the Regulations. It is submitted that the Plan is in compliance with the provisions of the Code and the Regulations. It is further submitted that the Resolution Applicant is not ineligible under Section 29A of the Code.

10. Performance Bank Guarantee:

    The Resolution Applicant has furnished a performance bank guarantee of ₹.10,00,00,000/- issued by HDFC Bank in favour of the sole member of the CoC i.e., Axis Bank Ltd.

11. The Resolution Plan provides for appointment of new Board of Directors for implementation and supervision of the plan. It provides that the Resolution Professional shall act as a monitoring agent in consultation with the CoC to run the Corporate Debtor as a going concern from the date of approval of Plan by the Tribunal till the effective date.

12. It is submitted that the implementation of the Resolution Plan is dependent on vacation/modification of the stay orders dated 13 November 2018 and 27 September 2019 (‘Stay Orders’) passed by the Hon’ble High Court of Delhi in IA Nos. 14554/2018 and 14553/2018 in the matter of *Daiichi Sankyo*

Company Limited v. Malvinder Mohan Singh & Ors. (OMP (EFA)(COMM.) 6/2016) ('Daiichi proceedings'). The Corporate Debtor was made a garnishee vide a separate order dated 28 May 2019 passed in the Daiichi proceedings. Subsequently, under the Stay Orders, interim injunctions were passed against the Corporate Debtor in relation to its assets.

13. Pursuant to the above, the Applicant, on behalf of the Corporate Debtor had filed an application being EA No 861/2019 in the Daiichi proceedings seeking vacation and/or modification of the Stay Orders. However, in view of the ongoing CIRP, the Hon'ble High Court refused to pass any orders in the said Application noting that the execution proceedings cannot continue against the Corporate Debtor till the continuance of the moratorium by operation of law.

14. In view of the above, the Resolution Plan would be implemented once the stay orders are vacated or modified to allow such implementation. It is also understood that in case the implementation of the Resolution Plan does not commence within 18 (eighteen) months from the date of its approval by this Tribunal, the Resolution Applicant would discuss the further course of action with the Applicant and CoC. Any proposal/agreement not to extend the term of the implementation of Resolution Plan at that stage shall not be treated as non-implementation of the Plan.

15. The Applicant submits that in view of the above clarifications and the provisions made in the Resolution Plan, the Plan meets the requirements of Section 30(2) of the Code in the following manner:
    a. Plan provides for the priority payment of CIRP costs in full.
    b. Plan provides for the payment of Operational Creditors.

c. Plan provides for the management of the affairs of the Corporate debtor after approval of the resolution plan;

d. Plan provides for the implementation and supervision of the resolution plan; and

e. The Resolution Applicant has given a declaration that the Resolution Plan does not contravene any provisions of the law for the time being in force.

16. The Resolution Plan is in compliance of the Regulation 38 of the Regulations in terms of Section 30(2)(f) of the Code as under:

a) Payment to Operational Creditor will be made in priority over Financial Creditor (Regulation 38(1)(a)).

b) Since the plan has been approved by 100% voting share of the CoC, provision of dissenting financial creditor does not arise. This is in compliance of Regulation 38(1)(b) of the Regulations.

c) 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 (Regulation 38(1A)).

d) 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 (Regulation 38(1B)).

e) The plan also provides for term and implementation schedule, management and control of the Corporate Debtor and adequate means for supervising its implementation (Regulation 38(2)).

f) The Resolution Plan also addresses the cause of default, feasibility and viability, as required under Regulation 38(3).

17. The Resolution Applicant takes over the Corporate Debtor with all its assets, and liabilities as specified in the Resolution Plan subject to orders passed herein.

18. No concessions / waivers claimed / stated in the Resolution Plan are granted. The Resolution Applicant shall make appropriate applications to the authorities concerned and get the approvals etc. Such Authorities may keep in mind the broad objective of the Code while considering the applications. As far as the carry forward of losses of the Corporate Debtor is concerned, the same will be subject to the approval of the Income Tax Authority concerned under the Income Tax Act.

19. In view of the discussions and the law thus settled, we are satisfied that the Resolution Plan as approved by the CoC under Section 30(4) of the Code meets the requirements of Section 30(2) of the Code and Regulations 37 & 38 of the Regulations. The Resolution Plan is not in contravention of any of the provisions of Section 29A of the Code and is in accordance with law. The same needs to be approved as provided under Section 31 of the Code. Hence ordered.

ORDER

The Application be and the same is allowed. The Resolution Plan submitted by M/s Majestic Auto Limited, annexed to the Application is hereby approved. It shall become effective from this date and shall form part of this order.

i. It 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 arising

under any law for the time being in force, is due, guarantors and other stakeholders involved in the Resolution Plan.

ii. As far as the permits held by the Corporate Debtor and the rights and benefits accrued therein, the Corporate Debtor (under the new Management) needs to approach the authorities concerned for renewal and that the same may have to be considered by them favourably, subject to relevant Laws and Rules, so that the implementation of Plan becomes smooth.

iii. The Memorandum of Association (MoA) and Articles of Association (AoA) shall accordingly be amended and filed with the Registrar of Companies (RoC) concerned 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.

iv. Henceforth, no creditors of the erstwhile Corporate Debtor can claim anything other than the liabilities taken over by the Resolution Applicant.

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

vi. The Applicant and the Monitoring Committee shall supervise the implementation of the Resolution Plan and the Applicant shall file status of its implementation before this Authority from time to time, preferably every quarter.

vii. 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.

viii. The Applicant shall forthwith send a certified copy of this Order to the CoC and the Resolution Applicant. The certified copy so granted shall include the Resolution Plan approved herein.

Sd/-	Sd/-
V. Nallasenapathy	Janab Mohammed Ajmal
Member (Technical)	Member (Judicial)