



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT-V**

**I.A. No. 1853 of 2021**

**In**

**C.P. No. 606 of 2020**

Under Section 12A of Insolvency & Bankruptcy Code,  
2016

*In the matter of*

**Beacon Trusteeship Limited & Ors.**

*...Financial Creditor*

V/s.

**Seya Industries Limited**

*.... Corporate Debtor*

**I. A. No. 1853 of 2021**

Mr. Anuj Bajpai

*....Applicant/IRP*

**Order Pronounced On: 18.04.2023**

**Coram:**

Hon'ble Shri Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Smt. Anuradha Bhatia, Member (Technical)

**Appearance (through video conferencing):**

**For the Applicant:** PCA Ayush J. Rajani a/w Khushboo Shah i.b AKR  
Advisors

**For the Respondent:** Adv. Rathina Maravarman

***Per: Kuldip Kumar Kareer (Judicial)***



**ORDER**

1. The present Interlocutory Application is filed by the Interim Resolution Professional (IRP) of the Corporate Debtor viz., Seya Industries Limited under Section 12A of the Insolvency & bankruptcy Code, 2016 (IBC, 2016) r/w Regulation 30A of the Insolvency and Bankruptcy Board of India (insolvency Resolution Process for Corporate Persons) Regulations, 2019 seeking withdrawal of the Company Petition filed in CP(IB)606/MB/2020 by the Financial Creditor.

**FACTS OF THE CASE**

2. This Tribunal vide order dated 03.08.2021, admitted an application filed under Section 7 of the Code by Beacon Trusteeship Limited & Ors (Financial Creditors) and Corporate Insolvency Resolution Process (CIRP) was initiated against the Seya Industries Limited (Corporate Debtor). Mr. Anuj Bajpai (hereinafter referred to as **“Applicant”**) was appointed as Interim Resolution Professional having IBBI No. IBBI/IPA-001/IP-P00311/2017-2018/10575. It was submitted that the order initiating the CIRP was pronounced on 03.08.2021 but made available to the parties on 11.08.2021.
3. The Applicant has submitted that the Suspended Director of Corporate Debtor had approached the Hon’ble NCLAT directly vide Company Appeal (AT) (INS) No. 598 of 2021, which was heard on 10.08.2021 by Hon’ble NCLAT pursuant to a settlement agreement dated 08.08.2021 executed between the Financial Creditor and the Corporate Debtor. Hon’ble NCLAT directed the Applicant not to issue Public Announcement till the next date of hearing as scheduled on 18.08.2021.
4. The Applicant received Form FA dated 12.08.2021 duly signed by the Financial Creditors seeking withdrawal of application admitted for CIRP and



accordingly, the Applicant filed the present Application under Section 12A read with regulations 30A of the CIRP Regulations.

5. The Applicant has claimed Rs. 7,93,250 as CIRP cost out of which Rs. 7,08,000/- has been paid, while the balance Rs. 85,250/- would be paid by the Financial Creditor before any order for withdrawal is being passed by this Tribunal.

### **FINDINGS**

6. We have heard the counsel for the parties and gone through the records.
7. The Ld. Counsel for the Applicant has submitted that pursuant to the admission order, the suspended director of the Corporate Debtor had preferred an appeal before the Hon'ble NCLAT. Subsequently, the Hon'ble NCLAT vide order dated 10.08.2021 directed to hold back the Publication of notice till the next date. Further, the Hon'ble NCLAT vide orders dated 19.10.2022 and 05.01.2023 directed that the Committee of Creditors may not be constituted till the application under Section 12A is finally decided by Adjudicating Authority.
8. The Ld. Counsel for the Applicant has further stated that the parties have arrived at a settlement by virtue of a Settlement Agreement dated 08.08.2021. Resultantly, the Financial Creditors have submitted Form FA before the Applicant IRP giving consent to file the present Application.
9. We have considered the matter as stated above. The present petition has been filed before constitution of the Committee of Creditors. Here, it is worth noting that recently in ***Abhishek Singh v. Huhtamaki PPL Ltd. and Anr (CIVIL APPEAL NO(s). 2241 OF 2023 (Arising out of SLP (Civil) No.6452 of 2021)***, the Hon'ble Supreme Court has held that an application for withdrawal of the Corporate Insolvency Resolution Process under Section



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12A of the Insolvency and Bankruptcy Code, 2016 (“IBC”) can be allowed by the Adjudicating Authority before the constitution of the committee of creditors in terms of Regulation 30A of the IBBI Regulation (Insolvency Resolution Process for Corporate Persons), 2018 (“IBBI Regulations”). In the light of the law laid down by the Hon’ble Supreme Court in the cited case and considering the fact that the matter has been settled between the Financial Creditors and Corporate Debtor, we are of the considered view that the instant application for withdrawal of the Company Petition deserves to be allowed.

10. Accordingly, the Company Petition no. CP(IB)606/MB/2020 is **dismissed** and **withdrawn** and the Interlocutory Application no. 1853 of 2021 is **allowed** and **disposed of**.

Sd/-

**ANURADHA SANJAY BHATIA**  
**MEMBER (TECHNICAL)**

Sd/-

**KULDIP KUMAR KAREER**  
**MEMBER (JUDICIAL)**