



DIVISION BENCH  
COURT - II

O-218

**NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA**

C.P. (IB)/48(KB)2019  
IA(I.B.C)/72(KB)2025,  
IA(I.B.C)/78(KB)2025

**CORAM: 1. HON'BLE MEMBER(J), SMT. BIDISHA BANERJEE  
2. HON'BLE MEMBER(T), SMT. MADHU SINHA**

**ORDER SHEET OF THE HEARING ON 15<sup>TH</sup> JANUARY 2025**

IN THE MATTER OF	<b>TIRUPATI COMMERCIALS VS NAYEK PAPER INDUSTRIES PRIVATE LIMITED</b>
UNDER SECTION	<b>IBC UNDER SEC 9</b>

**Appearance (via video conferencing/physically)**

Mr. Rishav Karani, Adv. ] For the Operational Creditor  
Mr. Sandip Chaurasia, Adv. ]

Mr. Rishav Banerjee, Adv. ] For the SBOD  
Mr. Tanmay Agarwal, Adv. ]  
Mr. Supriyo Banerjee, Adv. ]

Mr. Anil Kr. Dubey, IRP ] IRP-in-person

**ORDER**

1. Ld. Counsel appearing for the parties present.

2. **IA(I.B.C)/78(KB)2025:**

- a. This application has been preferred by Interim Resolution Professional of Nayek Paper Industries Private Limited, the Corporate Debtor, namely, Anil Kumar Dubey (IRP) to seek the following reliefs:-

*“i. To allow the withdrawal of the application filed by the Respondent No.1/Operational Creditor under Section 9 of the Insolvency and Bankruptcy Code, 2016 being CP(IB) No.48/KB/2019 in terms of Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for*



*Corporate Persons) Regulations, 2016 before the constitution of the Committee of Creditors, Subject to the payment of INR 3,00,000/- (Rupees Three Lakhs) as per order dated 21/11/2024 under Section 12A of the Insolvency and Bankruptcy Code, 2016 read with Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.*

*ii. To order the Respondent No.1 to pay the litigation fees to the present Interlocutory Application.*

*iii. To pass such other or further order/order(s) as may be deemed fit and proper in the facts and circumstances of the instant case.”*

- b. The said application records that a settlement has been arrived at between the Operational Creditor and the Corporate Debtor and an amount of Rs. 55 lakhs has been paid by the Corporate Debtor to the Operational Creditor Tirupati Commercial, the Operational Creditor has duly acknowledged the receipt of the demand draft for the said amount.
- c. It is also submitted that the settlement agreement was entered into and a memo of settlement arrived at on 22<sup>nd</sup> November, 2024 and upon request made by the Operational Creditor, this application has been preferred to seek withdrawal of the CP under Section 12 A of IBC. However, the IRP has prayed that the application be allowed subject to payment of Rs.3 lakhs that was ordered to be paid in terms of our order dated 21.11.2024, initiating CIRP against the Corporate Debtor, it is also an admitted fact that the CoC has not yet been constituted as yet. The IRP appearing in person also submits that the information so stop advertisement was received at 6:50 p.m. on 22<sup>nd</sup> November, 2024. The IRP immediately e-mailed to stop public announcement at 7:01 p.m and received a mail on 23<sup>rd</sup> November, 2024 at 9:52 a.m. that advertisement was processed and sent a mail on 23<sup>rd</sup> November, 2024 at 9:52 p.m. expressing his inability to stop the advertisement from being processed as per information received on 23<sup>rd</sup> November, 2024 from the newspaper agency.

### **3. IA(I.B.C)/72(KB)2025:**

- a. This application has been preferred by the Director of the Suspended Board of the Corporate Debtor prayer for recalling of the order dated 18.12.2024 passed by this Tribunal whereby IA 2339 of 2024 to seek withdrawal of the application that was filed by the Operational Creditor was dismissed on the



ground that the Operational Creditor did not have the locus to seek withdrawal when IRP was already appointed.

- b. Ld. Counsel, Mr. Rishav Banerjee, appearing for the Corporate Debtor would vociferously hurl aspersions on the IRP that the IRP demanded payment in terms of the admission order and refused to file an application under Section 12A without the same being paid. However, no such communication is on board except the fact that the IRP by way of an e-mail has requested for payment of the same in terms of the admission order.
  - c. The IRP, appearing in person very fairly submits that the payment that was directed to be made towards CIRP costs, amounting Rs.3 lakhs in terms of the admission order be directed to be paid as costs for filing of the speculative CP and wasting our time and the Costs to be paid to the National Defence Fund, since this Tribunal is attempted to be reduced to a recovery forum.
  - d. We have heard Ld. Counsel for the parties and the IRP appearing in person. In view of the fact that advertisement has been published, we direct the Operational Creditor to re-imburse / make good to the payment incurred towards the said advertisement and in addition to pay proportionate fees of the RP for the steps he has diligently undertaken pursuant to the admission order upon his appointment as an IRP which may be find at Rs.1,00,000/-. In the event IRP refuses to accept the said payment let the said be deposited to the National Defence Fund.
  - e. Thus, we record that the petition was preferred for a default amount of Rs.80 lakh and the parties have settled their dispute at Rs.55 lakhs which stands already paid by the Corporate Debtor.
4. Accordingly, CIRP order stands recalled, and the CP stands **dismissed as withdrawn**. Both the applications thus stand **disposed of**

**Madhu Sinha**  
**Member (Technical)**

**Bidisha Banerjee**  
**Member (Judicial)**