

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

**PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL²³
HON'BLE SHRI NARENDER KUMAR BHOLA- MEMBER TECHNICAL**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 13.11.2019 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No. 1008/2019 in CP(IB) No.501/9/HDB/2018
NAME OF THE COMPANY	Nexus Feeds Ltd
NAME OF THE PETITIONER(S)	Haris Marine Product
NAME OF THE RESPONDENT(S)	Nexus Feeds Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
MS Haris Marimuthu	Adv for IRP	9848559322	MR
For Shabaz / A. Sullyath	Adv for OC	9861745212	Q

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
CH SRINIVASU	Advocate (proxy)	9908672717	SR
Per Raju Anandhetti,	Advocate	Sreenivas Vekel @ gmail.com	(CH SRINIVASU)

ORDER

IA No.1008/2019, is taken up today.

It is filed under Section 12A Read with Regulation 30A (1)(a) of IBBI (CIRP) Regulations,2016.

IRP is present in person.

Proxy Counsel for operational creditor is present.


Counsel for corporate debtor is also present.

Heard both sides.

Orders passed vide separate orders.

Main petition is dismissed as withdrawn. Moratorium order stands vacated. Board of Directors to manage the corporate debtor independently with immediate effect.


Member(T)


Member(J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

IA No. 1008 of 2019

in

CP (IB) No. 501/9/HDB/2018

Section 12A Read with Regulation 30A (1) (a)
of IBBI (CIRP) Regulations, 2016

IN THE MATTER OF:

Haris Marine Products
Post Box No.199, Trinity Commercial Complex
1st Floor, N.G. Road, Attavar
Mangalore – 575001
Karnataka

Operational Creditor/
Petitioner/

VERSUS

M/s. Nexus Feeds Limited
Door No. 8-1-301/86 & 87
Plot No.101, Saipriya Residency
Lakshmi Nagar Colony
Hyderabad – 500008

...Corporate Debtor/
Respondent

Date of order: 13.11.2019

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Hon'ble Shri Narender Kumar Bhola, Member (Technical)

Parties / counsels present:

For the Applicant: Ms. M.S. Mano Ranjani, Advocate

Heard on: 13.11.2019

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**PER: SHRI NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)**

1. The Application is filed by the Interim Resolution Professional under Section 12A Read with Regulation 30A (1)(a) of IBBI (CIRP) Regulations, 2016 seeking permission to withdraw the Company Petition i.e CP(IB) No. 501/9/HDB/2018.
2. The averments relevant to the Application in brief are:-
 - a) This Tribunal vide order dated 04.11.2019 admitted the petition filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 by the Operational Creditor and ordered initiation of Corporate Insolvency Resolution Process against corporate debtor.
 - b) It is stated that pursuant to passing of the order of admission, the dues of the Operational Creditor have been cleared by the Corporate Debtor and further operational creditor filed Form-FA dated 06.11.2019 under Section 12A of I&B Code, 2016 R/w Regulations 30-A(1)(a) of the Insolvency and Bankruptcy Board of India Regulations, 2016. Copy of Form FA is annexed and marked as Annexure-A01 to the Application.
3. We heard the Counsel for Interim Resolution Professional. It is the case of the Interim Resolution Professional/ Applicant herein that this Tribunal admitted the petition filed under Section 9 of IBC, 2016 on 04.11.2019 for initiation of CIRP, granting moratorium and appointment of IRP. It is further stated by the Counsel for IRP that both parties settled the matter amicably.





4. Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2019 read as follows:

- (1) *An application for withdrawal under section 12A may be made to the Adjudicating Authority –*
- (a) *before the constitution of the committee, by the applicant through the interim resolution professional;*
- (b) *after the constitution of the committee, by the applicant through the interim resolution professional or the resolution professional, as the case may be:*
- Provided that where the application is made under clause (b) after the issue of invitation for expression of interest under regulation 36A, the applicant shall state the reasons justifying withdrawal after issue of such invitation.*
- (2) *The application under sub-regulation (1) shall be made in Form FA of the Schedule accompanied by a bank guarantee-*
- (a) *towards estimated expenses incurred on or by the interim resolution professional for purposes of regulation 33, till the date of filing of the application under clause (a) of sub-regulation (1); or*
- (b) *towards estimated expenses incurred for purposes of clauses (aa), (ab), (c) and (d) of regulation 31, till*

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the date of filing of the application under clause (b) of sub-regulation(1)

- (3) Where an application for withdrawal is under clause (a) of sub-regulation (1), the interim resolution professional shall submit the application to the Adjudicating Authority on behalf of the applicant, within three days of its receipt.*
- (4) Where an application for withdrawal is under clause (b) of sub-regulation (1), the committee shall consider the application, within seven days of its receipt.*
- (5) Where the application referred to in sub-regulation (4) is approved by the committee with ninety percent voting share, the resolution professional shall submit such application along with the approval of the committee, to the Adjudicating Authority on behalf of the applicant, within three days of such approval.*
- (6) The Adjudicating Authority may, by order, approve the application submitted under sub-regulation (3) or(5).*
- (7) Where the application is approved under sub-regulation (6), the applicant shall deposit an amount, towards the actual expenses incurred for the purposes referred to in clause (a) or clause (b) of sub-regulation (2) till the date of approval by the*

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Adjudicating Authority, as determined by the interim resolution professional or resolution professional, as the case may be, within three days of such approval, in the bank account of the corporate debtor, failing which the bank guarantee received under sub-regulation (2) shall be invoked, without prejudice to any other action permissible against the applicant under the Code. ”.


5. This Application is filed under Section 12A of I & B Code, 2016. The Petition filed under Section 9 of IBC, 2016 by the Operational Creditor is admitted by this Tribunal on 04.11.2019 and ordered Corporate Insolvency Resolution Process against Corporate Debtor. Learned Counsel for Interim Resolution Professional reported to the Tribunal that parties settled the matter and requested the Tribunal to withdraw the Petition. The Learned Counsel for IRP also stated that Corporate Debtor made payment due to IRP towards expenses incurred for the purposes of regulation 31(c) and (d) till the date of application. The Committee of Creditors is not yet constituted. The procedure prescribed under Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons), 2016 has been followed. This Tribunal has power under Section 12A Read with Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) 2016 to permit withdrawal of the application even after admission of Petition. Accordingly CP (IB) No.501/9/HDB/2018 is disposed of as Withdrawn under Section 12A of Insolvency and Bankruptcy Code, 2016.

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6. The Moratorium under Section 14 stands vacated. The Corporate Debtor is allowed to function independently through its Board of Directors with immediate effect.
7. Accordingly, Application is allowed as prayed for.


13.11.19
NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)


13.11.19
RATAKONDA MURALI
MEMBER (JUDICIAL)

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