

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT - II)

Item No. 112
(IB)-318(ND)2020
IA-3287/2021, IA3289/2021 & IA-3313/2021

IN THE MATTER OF:

Mr. Danish Irfan

... **Applicant/Petitioner**

Versus

M/s Samiah International Builders Ltd.

... **Respondent**

Under Section: 9 of IBC Code,2016

Order delivered on 03.08.2021

CORAM:

SHRI. ABNI RANJAN KUMAR SINHA,
HON'BLE MEMBER (J)

SHRI. L. N. GUPTA,
HON'BLE MEMBER (T)

PRESENT: Advocate Yashu Gupta for the IRP, Ms. Gunjan Sharma

Order

IA-3287/2021: By filing this Application, the Corporate Debtor has prayed to:

- a) Allow the instant Application in terms of the settlement terms agreed between the parties and stoppage of the ongoing corporate insolvency resolution process initiated against M/s Samiah International Builders Pvt Ltd. Vide CP(IB)-318(ND)/2020, and
- b) Restore the erstwhile board of directors as well as discharge the Ld. IRP in view of the fact that all their mutual disputes have been settled by the parties herein.

None appeared for the Applicant. We notice that the present Application is filed under Section 12(A) of IBC. In the course of hearing, Ld. Counsel appearing for the IRP informed that the CoC has not been constituted yet.

On perusal of the Section 12A, we observe that the Application under Section 12A can only be filed by the Applicant with the approval of the 90% voting share of the CoC.

Parul



On perusal of the Section 12A, we observe that the Application under Section 12A can only be filed by the Applicant with the approval of the 90% voting share of the CoC.

Even under the Regulation 30A of IBBI (Insolvency Process for Corporate Persons) Regulation 2016, the right to file an Application for withdrawal is given to the applicant through IRP only after receipt of form FA from the Applicant on whose Application the CIRP is initiated.

But the Present IA is filed by the Corporate Debtor, which is not maintainable.

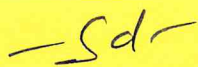
Hence, the IA is Dismissed.

IA3289/2021: Notice be issued upon Operational Creditor by all modes including the e-mail ID of the Operational Creditor. Affidavit of service be filed within three weeks from today.

List the matter on 13.08.2021.

IA-3313/2021: By filing this Application, the Corporate Debtor has prayed to recall the Order dated 09.07.2021 passed by this Tribunal in CP 318/2020. None appeared for the Applicant. We perused the averments made in the Application and notice that by filing this Application the applicant has prayed for recall of the Order dated 09.07.2021, by which order was reserved. We also notice that subsequently, the order has also been pronounced on 23.07.2021. Application was admitted and CIRP was initiated against Corporate Debtor. Therefore, the present IA has become Infructuous.

Hence, the IA is Dismissed being Infructuous.



**(L.N. GUPTA)
MEMBER (T)**



**(ABNI RANJAN KUMAR SINHA)
MEMBER (J)**