

**IN THE NATIONAL COMPANY LAW TRIBUNAL
 “CHANDIGARH BENCH, CHANDIGARH”
 (Exercising the powers of Adjudicating Authority
 under the Insolvency and Bankruptcy Code, 2016)**

**CA No. 341/2018
 WITH
 CP(IB)No.24/Chd/Hry/2018**

**Under Section 12A of
 Insolvency and Bankruptcy
 Code, 2016.**

In the matter of:

Swastik Polyvinyls Private Limited,
 3B, Big Jos Tower, A-8, Netaji Subhash Place,
 Pitampura, Delhi-110034. ...Applicant-Operational Creditor

Vs.

P.R. Technoplast Private Limited,
 having its registered office at
 Khasra No. 6316/175, Rajendra Park,
 Bajghera Road, Gurgaon-122001,
 Haryana.

...Respondent-Corporate Debtor

Order delivered on: 29.08.2018

**Coram: Hon’ble Mr.Justice R.P.Nagrath, Member (Judicial)
 Hon’ble Mr.Pradeep R.Sethi, Member (Technical)**

For the Applicant- : Mr. G.S. Sarin, Practising Company Secretary.
 Resolution Professional

Per: R.P. Nagrath, Member(Judicial)

ORDER(Oral)

CA No. 341/2018 has been filed by the Resolution Professional for withdrawal of CP (IB) No. 24/Chd/ Hry/2018 admitted under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity, the Code) on 14.03.2018 by this Tribunal. Vide Order dated 20.03.2018, Mr. Prabhjit Singh Soni, registered

professional was appointed as Interim Resolution Professional, who was later on confirmed as Resolution Professional by the Committee of Creditors.

2. The instant application has been filed by the Resolution Profession under Section 12A of the Code, read with Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (for brevity, the Regulations). Section 12A of the Code reads as under:-

“12A. Withdrawal of application admitted under Section 7, 9 or 10—

The Adjudicating Authority may allow the withdrawal of application admitted under Section 7 or Section 9 or Section 10, on an application made by the applicant with the approval of ninety percent voting share of the Committee of Creditors, in such manner as may be prescribed.”

3. It is pertinent to refer to Regulation 30A of the Regulations which reads as under:-

“30A. Withdrawal of application.

(1) An application for withdrawal under section 12A shall be submitted to the interim resolution professional or the resolution professional, as the case may be, in Form FA of the Schedule before issue of invitation for expression of interest under regulation 36A.

(2) The application in sub-regulation (1) shall be accompanied by a bank guarantee towards estimated cost incurred for purposes of clauses (c) and (d) of regulation 31 till the date of application.

(3) The committee shall consider the application made under sub-regulation (1) within seven days of its constitution or seven days of receipt of the application, whichever is later.

(4) Where the application is approved by the committee with ninety percent voting share, the resolution professional shall submit the application under sub-regulation (1) to the Adjudicating Authority on behalf of the applicant, within three days of such approval.

(5) The Adjudicating Authority may, by order, approve the application submitted under sub-regulation (4)."

4. In terms of Regulation 30A of the Regulations, the operational creditor is entitled to file application to the resolution professional for withdrawal of the petition in Form FA of the Schedule before Expression of Interest (EOI) under Regulation 36 A of the Regulations is invited. This is to be accompanied with the documents as mentioned in Regulation 30A(2) of the Regulations. Sub-Regulation (4) of Regulation 30A of the Regulations says that where the application is approved by the Committee with 90% of the voting share, the Resolution Professional shall submit application under sub-regulation (1) to the Adjudicating Authority on behalf of the operational creditor within three days of such approval.

5. We have heard the authorised representative of the Resolution Professional, gone through Form FA dated 30.07.2018 (Annexure A-3) of the application filed by Mr. Deepak Bansal, Director of the operational creditor who is the authorised person through whom the operational creditor filed petition under Section 9 of the Code. The affidavit in support of application furnished by Mr. Deepak Bansal Director of the Operational Creditor is at page 41 of the paper book of the application. There is only one financial creditor – Andhra Bank having 100% of the voting share. The Committee of Creditors was constituted in the first meeting of the Committee of Creditors which comprises only Andhra Bank as the Financial Creditor.

6. The application filed by the operational creditor was placed in the meeting of Committee of Creditors held on 10.08.2018 (Annexure A-7) and the Committee by 100% of the voting share accepted the application for withdrawal of the CIRP filed at the instance of the operational creditor. The instant application has been filed on the strength of this resolution. The affidavit-cum-certificate to the effect that the application complies with the requirement of the Code and the Regulations furnished by the resolution professional is at Annexure A-2.

7. The steps which the Resolution Professional took so far have been detailed. Notice for holding meeting of Committee of Creditors on 31.07.2018 is at page 55 of the paper book of the application but the same was postponed on the request of Andhra Bank. The meeting was held on 10.08.2018 and Form FA for withdrawal of the application was approved. It was further resolved to authorise the resolution professional to file Form FA with the Adjudicating Authority. The minutes of the meeting taking decision with 100% voting share is at Annexure-7. It is also stated by the learned counsel for the resolution professional on instructions that Expression of Interest for submission of resolution plan had not yet been issued.

8. In view of the above, we allow the application and CP (IB) No. 24/Chd/Hry/2018 is permitted to be withdrawn. Consequently, the management of the corporate debtor shall stand restored and the Resolution Professional also stands discharged. The parties shall communicate this order to Insolvency and Bankruptcy Board of India and the Registrar of Companies.

Copy of this order be communicated to all the parties.

Sd/-
(Pradeep R. Sethi)
Member (Technical)

Sd/-
(Justice R.P. Nagrath)
Member (Judicial)

August 29, 2018
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