

DIVISION BENCH O-110

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P. (IB)/1503(KB)2018
IA/129(KB)2021
IA/1361(KB)2020

**Present: 1. Hon'ble Member(J), Shri Rajasekhar V.K.
2. Hon'ble Member(T), Shri Harish Chander Suri**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 25th February, 2021, 10:30
A.M**

Name of the Company	PHOENIX ARC PRIVATE LIMITED Vs. M/S SUNITTI PAPERS PRIVATE LIMITED		
Under Section	IBC under Sec 7		
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

Appearances through video conference

For the RP

Mr. Shaunak Mitra, Advocate
Mr. Jitendra Lohia, RP

ORDER

Mr. Shaunak Mitra, Ld. Counsel for the RP along with Mr. Jitendra Lohia, RP in person present.

IA/1361(KB)2020 – Vide separate order dated 25/02/2021 this IA is allowed.

IA/129(KB)2021 -

1. Mr. Shaunak Mitra, Ld. Counsel for the applicant present. Mr. Jitendra Lohia, RP, present in person.
2. IA(IB) No. 129/KB/2020 is an application filed by the Resolution Professional, u/s. 12A of the Code read with Regulation 30A(1)(b) IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

3. Mr. Shaunak Mitra, Ld. Counsel appearing on behalf of RP submits that Corporate Debtor was admitted under CIRP *vide* order dated 06/11/2019 appointing Mr. Jitendra Lohia as the Interim Resolution Professional. The CoC has subsequently confirmed his appointment as RP. After his appointment *vide* order dated 06/11/2019 the applicant has taken all necessary steps and has convened and conducted 15 (fifteen) meetings of the CoC till the date of filing of this application.

4. Ld. Counsel appearing on behalf of RP further submits that while CIRP is going on Mr. Akhil Agarwal, suspended member of the Board of Directors of Suniti Papers Private Limited, the Corporate Debtor, has proposed for settlement with the Committee of Creditors ('CoC') and submitted his request through mail to the CoC members with copy to the Resolution Professional and which was duly accepted by the CoC members. Pursuant to the settlement, the CoC has given '**Form FA**' on 18/01/2021 to the Resolution Professional for withdrawal of the CIRP u/s. 12A of the Insolvency and Bankruptcy Code, 2016. The Resolution Professional has placed the same to the CoC members during the 15th CoC meeting held on 19/01/2021 for discussion and voting. After discussions and being satisfied with the fulfilment of other prescribed requirements of Section 12A including payments of CIRP cost, etc., CoC with 100% voting share has given their consent for filing an application for withdrawal u/s. 12A of the Insolvency and Bankruptcy Code, 2016 read with regulation 30A of the IBBI (Resolution Process for Corporate Persons) Regulations, 2016. A copy of the minutes of the meeting dated 19/01/2021 is annexed with the application as **Annexure 'H'** to the application.

4. Ld. Counsel appearing for the RP further submits that CIRP cost till 6th December, 2020 has already been paid and that further pending/estimated CIRP cost is to be paid from the available funds in the account of the Corporate Debtor and that there would be no pending CIRP cost as on the date of making the application u/s. 12A of the Code. Therefore, the requirement of submission of Bank Guarantee as mandated under clause (b) of sub-regulation (2) of regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 is dispensed with.

5. Since there are no other claims and cost of CIRP including fees of RP has been paid in full, there can be no objection for withdrawal of the underlying Company Petition, bearing CP(IB) No. 1503/KB/2018. Therefore, it is ordered as follows :-

- (a) CIRP initiated against the Corporate Debtor *vide* order dated 06/11/2019 is hereby closed;
- (b) The Board of Directors of Corporate Debtor is restored to its original position;
- (c) The RP is discharged from his responsibility;

(d) The RP is hereby directed to hand over to the Board of Directors of the Corporate Debtor all its assets and books of account and other documents immediately.

6. With the above directions both the IA(IB) No.129/KB/2021 and the CP(IB) No. 1503/KB/2018 shall stand disposed of.

Harish Chander Suri
Member (Technical)

Rajasekhar V.K.
Member (Judicial)

