

**NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **27.07.2023** THROUGH VIDEO CONFERENCING

PRESENT: HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI. SAMEER KAKAR, MEMBER (TECHNICAL)

IN THE MATTER OF : Himalaya Intertrade Pvt Ltd
-Vs- Loocust Incorp Apparel Export Pvt Ltd

MAIN PETITION NUMBER : CP(IB)/63(CHE)/2023

(IA/MA) APPLICATION NUMBERS
IA(IBC)/1345(CHE)2023

ORDER

Applicant is represented by Ld. Counsel Mr. Sandeep Kumar Ambalavanan. Respondent is represented by Ld. Counsel Mr. Dhakshnamoorthy through video conferencing mode.

This Application has been filed under Section 12A of IBC, 2016 R/w Reg 30A of IBBI Reg 2016 R/w Rule 11 of NCLT Rules 2016 seeking the following relief:

To pass an order under Section 12A of the Insolvency and Bankruptcy Code, 2016 r/w Regulation 30A of the CIRP Regulations r/w rule 11 of NCLT Rules permitting the withdrawal of CP/IB/63(CHE)/2023 and thus its CIRP admission.

The CIRP was initiated against the Corporate Debtor Locust Incorp Apparel Export Pvt Ltd. Vide order dated 10.07.2023. Paper publication was given calling for claims from the stakeholders on 13.07.2023. In the meantime, the Respondent/Operational Creditor and the suspended director on behalf of the Corporate Debtor entered into settlement of the subject operational debt vide Memorandum of Compromise dated 18.07.2023. Same is attached as Annexure-2.

After entering into settlement, the Operational Creditor executed Form FA dated 21.07.2023 ("attached as Annexure 3 herewith") under




Reg. 30A of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for the withdrawal as Annexure 4.

It is submitted that as per Section 12A of the IBC and Reg. 30A of Insolvency and Bankruptcy Board of India, if FORM FA is filed by operational creditor, before the constitution of the CoC, the RP shall submit the Form FA of the Operational Creditor before the Tribunal for withdrawal of an Insolvency Application.

It is stated that the Operational Creditor has paid the fee of the RP and nothing is to be paid to the RP or the cost towards the CIRP.

It is stated that the Memorandum of settlement has been attached and payments have been made to the Operational Creditor. Which fact is also confirmed by the Counsel for the Respondent appearing today.

Having gone through the submissions made and in the light of the Memorandum of Compromise entered between the parties, the Applicant is permitted to withdraw the CP in terms of Section 12A of the Insolvency and Bankruptcy Code, 2016 r/w Regulation 30A of the CIRP Regulations r/w rule 11 of NCLT Rules.

Accordingly, IA(IBC)/1345(CHE)2023 stands **disposed off**.

IRP is released from the assignment, Company is released from the rigour of law and is permitted to function independently through its board of directors.



[SAMEER KAKAR]
MEMBER (TECHNICAL)

AR



[SANJIV JAIN]
MEMBER (JUDICIAL)