

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

MA No/11/KOB/2019

and MA No. 13/KOB/2019

in IBA/12/KOB/2019

Date of order: 04.11. 2019

In the matter of:

M/s Indunia Realtch Limited Vs. Swami Cyber Solution Private Limited

The MA No.11/KOB/2019 in IBA/12/KOB/2019 has been filed by the Counsel for the applicant Advocate Mr. Prince Jain to issue a direction or permission to the financial creditor to withdraw the proceedings of Section 7 of IB Code 2016 with the liberty of filing a fresh case in the event of any default of EMI in view of the MOU/settlement dated 16.10.2019.

2. When the matter was taken up today, learned counsel for the petitioner sought permission to withdraw the MA. Request is allowed. **MA 11/KOB/2019 stands withdrawn.**

3 MA No.13/KOB/2019 is filed by Mr.,Suman Kumar, Interim Resolution Professional (IRP) appointed in the above case on behalf of the Financial Creditor to withdraw the proceedings of Section 7 of Insolvency and Bankruptcy Code, 2016 under Section 12A of Insolvency and Bankruptcy Code, 2016 read with Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

4. The IRP has produced a certified true copy of the resolution passed at the meeting of Operational Decision Making (ODM) committee of the Board of Directors of SMC Global Securities Limited held on 2.11.2019 at New Delhi, in which it is stated that the consent of the members of the Committee of Board of Directors of the Company be and is hereby accorded to authorize Mr.Jitendra Kumar S/o Shri Shiv Prasad to act as authorised representative of the company in the matter of Idnunia Realtech limited Vs. Swmai Cyber Soluions Private Limited (now merged with SMC Global Securities Limited pursuant to the Composite Scheme of Arrangement approved vide order of Hon'ble NCLT, New Delhi dated 11.7.2019 for which

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form INC-28 is pending for approval with Registrar of Companies, Delhi). It is further stated that the abovesaid representative be and is further authorised to appear and withdraw the proceedings under Section 7 of Insolvency and Bankruptcy Code, 2016 bearing No.IBA./12/KOB/20189 titled as Indunia Realtech Limited Vs. Swami Cyber Solutions Private Limited pending before this Bench and to submit Form FA to Mr. Suman Kumar Resolution Professional or engage a lawyers, advocate, solicitors on behalf of the company to withdraw the above mentioned proceedings in IBA/12/KOB/2019.

5. The IRP in his MA stated that the matter has been amicably settled between both the parties through MOU/Settlement dated 16.10.2019 on the basis of certain agreed terms and conditions. He has also produced the copy of Minutes of Frist CoC meeting held on 19.10.219 as Annexure A2 and copy of MOU/Settlement dated 16.10.2019 as Annexure A3. The second CoC meeting has been held on 1.11.2019 and a resolution has been duly passed that RP shall move the application under Section 12A of Insolvency and Bankruptcy Code, 2016 read with Section 30A of IBBI (Insolvency Resolution process of Corporate Persons) Regulations 2016. Copy of Minutes of second CoC meting held on 1.11.2019 has been produced as Annexure A4. The applicant of CIRP submitted a copy of Form FA as per section12A of Insolvency and Bankruptcy Code, 2016 read with Section 30A of IBBI (Insolvency Resolution Process of Corporate Persons) Regulations 2016 to the RP. He has produced a copy of the same as Annexure A5.

6. In view of the above facts, the applicant financial creditor has sought permission to withdraw the present CIR Proceedings under Section 7 of I&B Code 2016.

7. In the minutes of the 2nd meeting held on 1.11.2019 it has been further agreed by the Committee of Creditors that the cost of resolution proceedings of Rs. 1,64,000/- which has been incurred by IRP/RP till date 4.11.2019 shall be paid to IRP/RP in addition to his professional fee for the amount of Rs. 1,11,000/- by the corporate debtor. The total amount shall be paid Rs. 2,75,000/- to the IRP through the cheque of the corporate debtor. It has further resolved that the RP shall withdraw his authorization in all the bank accounts of the Corporate Debtor subject to the orders/direction of this Tribunal.

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8. The settlement terms and withdrawal of application was approved by the members of CoC with 100% voting rights against statutory requirement of 90%.

ORDER

9. We have heard the learned counsel for the applicant, the learned counsel for the respondents and the IRP present before the Court. In view of the settlement of the matter between the parties and as the IRP has submitted the relevant documents (Annexures A1 to A5) and requested for withdrawal of the CIR Process in the said IBA No.12/KOB/2019, we accordingly, approve the application filed by the Interim Resolution Professional for withdrawal of the application with the following directions:

(i) The IRP cost of Rs. 1,64,000/- with professional fee of Rs. 1,11,000/- (total Rs. 2,75,000/-) shall be paid by the Corporate Debtor to the IRP within a week from the date of receipt of this order.

(ii) The IRP shall withdraw his authorisation in all the bank accounts of the Corporate Debtor within the aforesaid period.

10. Accordingly, TIBA/12/KOB/2019 stands disposed of as withdrawn.

11. M.A. No. 13/KOB/2019 also stands disposed of.

Dated the 4th day of November, 2019

Sd/-

(Veera Brahma Rao Arekapudi)
Member (Technical)

Sd/-

(Ashok Kumar Borah)
Member (Judicial)

Memo No.MA/11&13/KOB/2019/.....

Date: 4.11.2019

To

Mr.Suman Kumar, Resolution Professional, B-106, Basement, Amar Colony,
Lajpat Nagar IV, New Delhi-110024. **(Applicant in MA 13/KOB/2019 –
Interim Resolution Professional).**