

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II, CHENNAI**

IA/505(CHE)/2021 IN IBA/1324/2019
filed under Section 12A of the Insolvency
and Bankruptcy Code, 2016 read with
Regulation 30A(1)(A) of IBBI(Insolvency
Process of Corporate Persons) Regulations,
2016.

In the matter of **M/s. Fortune Mix India Private Limited**

ESSKKAAY CONSTRUCTIONS,
Rep. by its Proprietor Mr. S. Karthik
Flat No. 24, BBC Villa, 2nd Floor,
65/33, Prakasam Salai,
Broadway, Chennai-600108.

... Applicant

Through: S. Kamaraj
Interim Resolution Professional of
M/s. Fortune Mix India Private Limited
New No.28, Old No. 22, Menod Street,
Purasawalkam, Chennai-600007

CORAM :

R. SUCHARITHA, MEMBER (JUDICIAL)
B. ANIL KUMAR, MEMBER (TECHNICAL)

For Applicant/Liquidator : *Shri. Ramakrishan Sadasivan, RP*

ORDER

Per: R. R. SUCHARITHA, MEMBER (JUDICIAL)

Order Pronounced on:15.06.2021

This is an Application filed under section 12A of the Insolvency
and Bankruptcy Code, 2016 read with Regulation 30 A(1)(a) of the
Insolvency and Bankruptcy Board of India (Insolvency Process of
Corporate Persons) Regulation, 2016 by M/s. Esskkaay Constructions

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In the matter of M/s. Fortune Mix India Private Limited



Operational Creditor and Suspended Director of the Corporate Debtor for settlement for entire amount of Rs, 2,38,977/- through Demand Draft in favour of Esskkaay Construction dated 30.04.2021 bearing DD No. 000393.

5. The learned counsel for the applicant has submitted that as per regulation 40A the date for constitution of COC was fixed for 08.05.2021. The Application received under Section 12A read with Regulation 30A(1)(a) of the I & B Code, 2016 from the Operational Creditor for withdrawal in form FA on 07.05.2021 was filed before the constitution of Committee of Creditors.

6. We are of the view that section 12A of the I & B Code provides that the Adjudicating Authority may allow the withdrawal of the Application admitted under Section 7 or Section 9 or Section 10, on an Application made by the Applicant with the approval of 90% voting share of the Committee of Creditors in such manner as prescribed. In this matter, the action taken by both the parties was quick and before the formation of Committee of Creditors.

7. Therefore, this Adjudicating Authority after considering the contents in the Application and the submissions made by the Applicant allows this Application for withdrawal of this IBA/1324/2019.

The IRP is discharged from his assignment. The Corporate Debtor is allowed to function independently through its Board of Directors with immediate effect.

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In the matter of M/s. Fortune Mix India Private Limited

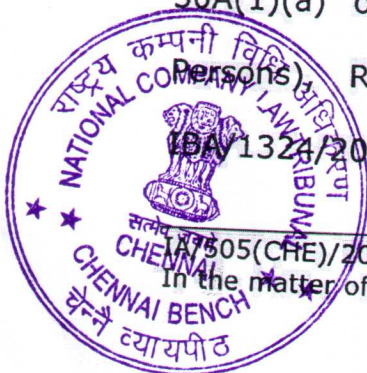


through S. Kamaraj, Interim Resolution Professional, seeking for withdrawal of Application IBA/1324/2019 which was admitted under 9 of the IBC, 2016 vide Order dated 15.04.2021

2. This Adjudicating Authority, vide Order dated 15.04.2021 admitted the application filed by the Operational Creditor i.e M/s. Esskkaay Constructions, under Section 9 read with Rule 6 of the Insolvency and Bankruptcy Code, 2016 against M/s. Fortune Mix India Private Limited, the Corporate Debtor and appointed Mr. S. Kamaraj as Interim Resolution Professional (in short "IRP").

3. The learned counsel for the Applicant has submitted that the IRP made public Announcement on 23.04.2021 in two newspapers namely **Trinity Mirror** (English) and **Makkal Kural** (Tamil) for inviting claims from the creditors in terms of Regulation 6 of IBBI (Insolvency Resolution Process for Corporate Persons), Regulations, 2016 and the last date for submissions of the claims was on or before 06.05.2021.

4. The learned counsel for the Applicant further submitted that no claims were received from any Financial/Operational Creditors as on 07.05.2021, it is also further submitted that on 07.05.2021 the Operational Creditor namely, Esskkaay Constructions filed an application before the IRP under section 12A read with Regulation 30A(1)(a) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 in form FA for withdrawal of IBA/1324/2019, stated that the consent terms entered between the



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9. In view of the above facts the IA/505(CHE)/2021 is **allowed** and IBA/1324/2019 is hereby **closed**.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

TJS



Certified to be True Copy

2. Madh f- 15/6/2021
DEPUTY REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH
CORPORATE BHAVAN, 3rd FLOOR,
29, RAJAJI SALAI, CHENNAI-600001