

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

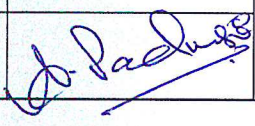
PRESENT: HON'BLE SHRI K ANANTHA PADMANABHA SWAMY – MEMBER JUDICIAL

PRESENT: HON'BLE SHRI BINOD KUMAR SINHA –MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 08.01.2020 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA NO. 34/2020 CP(IB) NO. 494/9/HDB/2019
NAME OF THE COMPANY	APITCO Ltd
NAME OF THE PETITIONER(S)	Singar India Ltd
NAME OF THE RESPONDENT(S)	APITCO Ltd
UNDER SECTION	9 OF IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
PADMASRI APPANA	IRP	padmasriappana@ yubico.co.in 944147644	

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

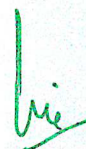
ORDER

IA No.34/2020

Orders pronounced in open court. IA allowed vide separate order.



MEMBER TECHNICAL



MEMBER JUDICIAL

AS

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

IA No. 34 of 2020

In CP (IB) No.494/09/HDB/2019

Under section 12A of the Insolvency & Bankruptcy Code, 2016,
Read with Regulation 30A of the Insolvency and Bankruptcy
Code (Corporate Insolvency Resolution Process) Regulation, 2016.

In the matter of :

M/s. APITCO Limited

Between:

Ms. A. Padmasri (IRP)
Flat No.301, Vishnu Residency, Gandhi Nagar,
Hyderabad.
Representing M/s. APITCO Limited.

...Applicant

And

M/s. Singer India Ltd

...Operational Creditor

Vs

M/s. APITCO Limited

...Corporate Debtor

Date of order: 08.01.2020.

**Coram: Shri. K. ANANTHA PADMANABHA SWAMY, MEMBER JUDICIAL
Dr. BINOD KUMAR SINHA, MEMBER TECHNICAL**

Parties/Counsels present:

For the Applicant: Ms. Padmasri Appana.
Insolvency Resolution Professional

For the Operational Creditor: Mr. M.L. Narasimham, Counsel.

For the Corporate Debtor: Mr. V.K. Sajith, Counsel.

Per: K. Anantha Padmanabha Swamy, Member Judicial.

ORDER

1. Under consideration is a Interlocutory Application bearing IA No. 34 of 2020 in CP (IB) No.494/9/HDB/2019 filed by Resolution Professional (IRP) under section 12A of the Insolvency and Bankruptcy Code, 2016, seeking to allow the present Application and accord permission to the operational Creditor to withdraw the Petition bearing CP (IB) No. 494/9/HDB/2019 in terms of the settlement of debt.

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2. It is stated that the petition bearing CP (IB) No.494/9/HDB/2019 was admitted for CIRP vide this Adjudicating Authority's order dated 28.11.2019 and appointed Ms. Padmasri Appana having IP. Regn. No. IBBI/IPA-002/IP-N00220/2017-18/10672 as the Interim Resolution Professional (**IRP**).
3. It is stated that before IRP could made paper publication in Form-A as per IBC, 2016. The parties M/s. Singer India Ltd (Operational Creditor) and M/s. APITCO Ltd (Corporate Debtor) approached IRP stating that they are reaching a compromise and requested to halt the further process vide through e-mail.
4. It is stated that Corporate Debtor has made the full payment of agreed amount of Rs.33,16,230/- vide RTGS with a request to Operational Creditor for withdrawal of the CIRP.
5. It is stated that IRP received Form FA as required under section 12A. it is further stated that Corporate Debtor remitted the amount agreed Rs. 33,16,230/- vide RTGS dated 05.12.2019 to Operational Creditor and requested the applicant not to proceed further in this matter. It is further stated that no paper publication is made and CoC formed.
6. It is also stated that the Applicant has made necessary arrangement to defray the expenses incurred by IRP up to the filing of the said application.
7. It is stated that the present application is being made bona fide and in the interest of justice, equity and good conscience and further prayed to allow the Application as prayed for.
8. Heard and perused the record.
9. The Instant Application is filed by IRP seeking permission to allow the present Application and accord permission to withdraw the Petition bearing CP(IB) No. 494/9/HDB/2019.

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10. It is pertinent to note here that the Board vide Gazette Notification No.IBBI/2019-20/GN/REG048 dated 25.07.2019 have substituted Regulation 30A with a new Regulation 30A which is extracted hereunder:

“30A. Withdrawal of application.

1. An application for withdrawal under section 12A may be made to the Adjudicating Authority-

- a. before the constitution of the committee, by the applicant through the interim resolution professional;*
- b. after the constitution of the committee, by the applicant through the interim resolution professional or the resolution professional, as the case may be;*

Provided that where the application is made under clause (b) after the issue of invitation for expression of interest under regulation 36A, the applicant shall state the reasons justifying withdrawal after issue of such invitation.

2. The application under sub-regulation (1) shall be made in Form FA of the Schedule accompanied by a bank guarantee-

- a. towards estimated expenses incurred on or by the interim resolution professional for purposes of regulation 33, till the date of filing of the application under clause (a) of sub-regulation (1); or*
- b. towards estimated expenses incurred for purposes of clauses (aa), (ab), (c) and (d) of regulation 31, till the date of filing of the application under clause (b) of sub-regulation (1).*

3. Where an application for withdrawal is under clause (a) of sub-regulation (1), the interim resolution professional shall submit the application to the Adjudicating Authority on behalf of the applicant, within three days of its receipt.

4. Where an application for withdrawal is under clause (b) of sub-regulation (1), the committee shall consider the application, within seven days of its receipt.

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

6. The Adjudicating Authority may, by order, approve the application submitted under sub-regulation (3) or (5).

Where the application is approved under sub-regulation (6), the applicant shall deposit an amount, towards the actual expenses incurred for the purposes referred to in clause (a) or clause (b) of sub-regulation (2) till the date of approval by the Adjudicating Authority, as determined by the interim resolution professional or resolution professional, as the case may be, within three days of such approval, in the bank account of the corporate debtor, failing which the bank guarantee received under sub-regulation (2) shall be invoked, without prejudice to any other action permissible against the applicant under the Code.”


11. A perusal of the extracted Regulation 30A makes it clear that w.e.f. 25.07.2019, an application for withdrawal can be made even before the constitution of CoC by the applicant through the IRP and such application shall be made in Form FA, which should be accompanied

Advt.

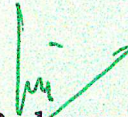
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with a Bank Guarantee towards estimated CIRP cost to be reimbursed to the IRP.

12. It is observed that the provisions of Regulation 30A(1)(a) are duly complied as Form FA is submitted before issuing constitution of Committee of Creditors. As on date there is no outstanding fees payable to the IRP and further necessary arrangements are made to defray the CIRP Cost. Therefore, there is no requirement to file the Bank Guarantee in this case.
13. This Adjudicating Authority by exercising its power U/s 12A of the IB Code, 2016, R/w Regulation 30A of Insolvency & Bankruptcy (Insolvency Resolution Process of Corporate Persons) Regulations 2016, is empowered to allow the prayer for withdrawal. Having satisfied with the submissions put forth by the Applicant and having seen that the Applicant has complied with all the requirements as contemplated under Regulation 30A *supra*, this Adjudicating Authority is inclined to allow the Application.
14. Consequently, Application filed by RP is to be allowed and Moratorium order passed under section 14 of the IB Code, shall cease to have effect.
15. In the result, IA No. 34 of 2020 is hereby allowed and Company Application bearing CP (IB) No. 494/9/HDB/2019 admitted earlier stands withdrawn and CIRP stands closed.


08.01.2020

Dr. Binod Kumar Sinha
Member Technical



K. Anantha Padmanabha Swamy
Member Judicial