

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

Video Conference

**CORAM: HON'BLE BHASKARA PANTULA MOHAN-MEMBER JUDICIAL
CORAM: HON'BLE VEERA BRAHMA RAO AREKAPUDI-MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 16.03.2022 AT 02:30 PM THROUGH VIDEO CONFERENCE**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/228/2022 in Company Petition Ib/34/2021
NAME OF THE COMPANY	Eswari Exports Pvt Ltd
NAME OF THE PETITIONER(S)	Turk Eximbank
NAME OF THE RESPONDENT(S)	Eswari Exports Pvt Ltd
UNDER SECTION	9 of IBC

ORDER

Learned Counsel for the Operational Creditor and Learned Counsel for the Corporate Debtor appeared via video conference.

Order Pronounced vide separate sheets. This Application is allowed and CIRP stands closed.


MEMBER (T)

Ajay


MEMBER (J)

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

IA No. 228/2022

In CP (IB) No.34/9/HDB/2021

Under section 12A of IB Code, 2016.

In the matter of :

M/s. ESWARI EXPORTS PRIVATE LIMITED

CS Dr. Ahalada Rao Vummenthala,
IBBI/IPA-002/IP-N00074/2017-2018/10172
Interim Resolution Professional

Applicant/
Interim Resolution Professional

Date of Order: 16.03.2022

Coram:

**Shri Bhaskara Pantula Mohan, Member Judicial
Shri Veera Brahma Rao Arekapudi, Member Technical**

Parties/Counsels present:

For the Applicant: Mr. Y. Suryanarayana, Advocate

Per: Bench

ORDER

1. Under consideration is an Interlocutory Application bearing IA No. 228 of 2022 in CP (IB) No.34/9/HDB/2021 filed by Interim Resolution Professional (**IRP**) under section 12A of the Insolvency and Bankruptcy Code, 2016, on behalf of the Operational Creditor, inter-alia, seeking to allow the present application filed under section 12A and withdraw the CIRP process initiated against M/s. Eswari Exports Private Limited and to *set-aside* the moratorium under section 14 of the IB code.



2. The following are the brief facts of the case as stated by the Applicant:
- a) That the Application bearing CP (IB) No.34/9/HDB/2021 filed by Operational Creditor (M/s. Turk Eximbank, Export Credit Bank of Turkey) and the same was admitted by this Adjudicating Authority vide its order dated 04.02.2022 for initiation of CIRP against the Corporate Debtor (M/s. Eswari Exports Private Limited) under section 9 of IB Code, 2016 and Dr. Ahalada Rao Vummenthala was appointed as the Interim Resolution Professional (**IRP**).
 - b) The IRP/Applicant issued public announcement in FORM-A on 05.03.2022 in Financial Express and Andhra Jyothi newspapers and the last date for submission of claims as per Public Announcement was 17.03.2022.
 - c) That in the meantime, the Corporate Debtor and Operational Creditor have arrived at the full and final settlement of the claim of USD 155,520 along with the interest. The same has been settled at USD 140,000. Mr. Ravi Katragadda, Managing Director of the Corporate Debtor has paid the entire settlement amount out of his personal sources on behalf of the Corporate Debtor and the Operational Creditor received, acknowledged and accepted the same as full and final settlement of its entire claim against the Corporate Debtor.
 - d) That the Operational Creditor has submitted Form-FA along with Affidavit on 11.03.2022 in pursuance to Regulation 30A of Insolvency and Bankruptcy Board of India (CIRP) Regulations, 2016 for withdrawal of CIRP, to the Applicant herein duly signed by its constituted Attorney Mr. Sahil Bhatia.



- e) That the Applicant herein states that there were no claims submitted by any of the creditors and the Applicant herein has not constituted the Committee of Creditors.
 - f) That the Applicant has made necessary arrangement to defray the expenses incurred by IRP up to the filing of the said application.
 - g) 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.
3. Heard and perused the record.
 4. The instant Application is filed by the Interim Resolution Professional seeking to allow the present Application and accord permission to withdraw the Company Application bearing CP (IB) No. 34/9/HDB/2021.
 5. 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-*

Albany

- 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.”
6. It is observed that the provisions of Regulation 30A are duly complied as Form FA is submitted before issuing Expression of Interest. As on date there is no outstanding fees payable to the IRP and further necessary arrangements have been made to defray the CIRP Cost.
 7. This Adjudicating Authority is empowered to allow the prayer for withdrawal by exercising its power U/s. 12A of the IB Code, 2016,



R/w Regulation 30A of Insolvency & Bankruptcy Board of India (Insolvency Resolution Process of Corporate Persons) Regulations 2016. 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.

8. In the result, IA No.228 of 2022 is hereby allowed. Petition bearing CP (IB) No. 34/9/HDB/2021 is allowed to be withdrawn in terms of provisions of section 12A of the IB Code, read with relevant Rules and Regulation 30A and CIRP stands closed. The Moratorium order passed u/s. 14 of the IB Code, 2016 shall also cease to have effect from the date of this order.



Veera Brahma Rao Arekapudi
Member Technical



Bhaskara Pantula Mohan
Member Judicial

Santi/SKRathi