

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-II**

**IA No.117/2020**

**in**

**CP (IB) 1740/2018**

Under section 60(5) of the Insolvency  
& Bankruptcy Code, 2016, read with  
rule 11 of the NCLT Rules, 2016

**Anuj Bajpai**

Resolution Professional of

SSV Engineers Private Limited

...Applicant

*In the matter of*

**Harshad Vandravandas Vora**

...Operational Creditor

Versus

**SSV Engineers Private Limited**

**[CIN: U29299PN2008PTC131611]**

... Corporate Debtor

**Order pronounced on 28.04.2020**

***Coram:***

Mr. Rajasekhar V.K. : Hon'ble Member (Judicial)

Mr. Ravikumar Duraisamy : Hon'ble Member (Technical)

***Appearances:***

For the Applicant/RP : Ms Khushboo Shah Rajani, i/b  
AKR Advisors LLP, Advocates

**ORDER**

***Per: Ravikumar Duraisamy, Member (Technical)***

1. This is an Interlocutory Application (IA) filed by the Resolution Professional (**RP**) of SSV Engineers Private Limited, under section 60(5) of the Insolvency & Bankruptcy Code, 2016 (IBC).
2. This Adjudicating Authority had, *vide* order dated 03.01.2019 in CP (IB) No.1740/2018, admitted the company petition filed under section 9 of the IBC and ordered initiation of Corporate Insolvency Resolution Process (CIRP) against SSV Engineers Private Limited, the Corporate Debtor. The Committee of Creditors (CoC) was duly constituted. On 03.06.2019, the Applicant herein was appointed as the RP of the Corporate Debtor.
3. In terms of the order dated 03.01.2019, the CIRP of the Corporate Debtor ought to have been completed on or before 01.07.2019. However, IA No.2348/2019 was filed for extension of the CIRP by ninety days. This Adjudicating Authority, *vide* order dated 01.08.2019, allowed extension of CIRP by ninety days and also excluded a period of twenty-six days from the CIRP. As a result, the CIRP period stood extended till 26.10.2019.
4. On 16.10.2019, the Applicant/RP received a withdrawal application in Form FA from the original petitioner/ Operational Creditor, which was placed for discussion at the 10<sup>th</sup> meeting of the CoC held on 19.10.2019. The matter was discussed but did not receive any positive votes. The CoC met again on 22.10.2019, at which stage it was noticed that there were neither any Expressions of Interest (EoIs) nor any Resolution Plans, and therefore

recommended liquidation at the 11<sup>th</sup> meeting held on 22.10.2019. Pursuant thereto, the RP also filed IA No.3467/2019 before this Adjudicating Authority for considering liquidation of the Corporate Debtor.

5. Counsel for the Applicant/RP submits that following this development, the promoter/suspended director of the Corporate Debtor issued letters to the RP as well as the lead bank of the CoC, *viz.*, SBI, requesting for withdrawal of CIRP and of the application for liquidation in view of his proposal for settlement. SBI has taken note of the same and approached its higher authorities for considering the proposal of the promoter/suspended director of the corporate debtor and in the meantime also asked the RP to find out possibilities to deal with the liquidation application already filed.
6. The Applicant/RP further states that the promoter/suspended director of the corporate debtor settled the dues of all the financial creditors as well as the operational creditors by 06.01.2020 and all of them have given consent to file an application for withdrawal. Copies of the communications received by the Applicant/RP from the financial creditors (except SBI) and the operational creditors expressing their no objection to the withdrawal of CIRP has been placed on record as **Annexure 'X'** at pp.38-48 of the present Application. However, SBI, one of the financial creditors, has also desired to know what would happen in the matter since application for liquidation has already been filed by the RP.
7. Counsel for the Applicant/RP submits that since the period of 270 days has already expired on 26.10.2019 and an application for dissolution of the Corporate Debtor has already been filed as IA

No.3467/2019 on 24.10.2019, the RP is not in a position to convene a meeting of the CoC for consideration of the application for withdrawal under section 12A of the IBC and to put for voting the resolution for withdrawal of the present company petition.

8. Learned Counsel for the Applicant/RP has, therefore, filed the present IA seeking a direction to allow the Resolution Professional to conduct a meeting of the CoC of the Corporate Debtor and put for voting the necessary resolution under section 12A read with regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
9. This Bench has carefully considered the facts and circumstances mentioned in the IA and the submissions made by the learned counsel for the Applicant/RP.
10. This Bench is of the view that the RP should be directed to convene a meeting of the CoC to place on record the settlement of dues made by the promoter/suspended director of the corporate debtor and to put for voting the necessary resolution under section 12A read with regulation 30A of the regulations *ibid*, for withdrawal of the underlying company petition.
11. Ordered accordingly.

Sd/-  
**Ravikumar Duraisamy**  
Member (Technical)

Sd/-  
**Rajasekhar VK**  
Member (Judicial)

28.04.2020