DIVISION BENCH ITEM NO.109

NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH
PRAYAGRAJ

IA No. 357/2022 & IA No. 407/2023 IN CP (IB) No. 70/ALD/2021

CORAM:

1. **SHRI PRAVEEN GUPTA,**
   HON'BLE MEMBER (JUDICIAL)
2. **SHRI ASHISH VERMA,**
   HON'BLE MEMBER (TECHNICAL)

Date of Order: 21st November, 2023

Attendance-Cum-Order Sheet of the Hearing.

NAME OF THE COMPANY	**GOVIND RAM DEWANGAN & ORS V/S GEOSHINE MINES 2 METALS LTD**
UNDER SECTION	**7 IBC (IN CIRP)**

COUNSEL APPEARED THROUGH PHYSICAL CONFERENCING:

Sh. Shravan Chandrashekhar, Adv. *: For the Resolution Professional Sh. Anurag Nirbhaya present in person*
Sh. Shubham Agarwal, Adv. *: For the Respondent No.4 & 7*
Sh. Misbahul Haque, Adv. *: For the CoC*
Ms. Shivani Jaiswal, Adv. : *For the Respondent No.5 & 9 in IA No.357/2022*

ORDER

IA No. 407/2023

1. This application has been filed on behalf of RP under Section 12A of the Code, for withdrawal of the CIRP against the Corporate Debtor. The following prayer has been made in the present application.

a) *Allow the present application.*
b) *Pass an order for the withdrawal of the Corporate Insolvency Resolution Process initiated in respect of the Corporate Debtor namely, Geoshine Minies 2 Metals Limited and discharging the Applicant, Resolution Professional, namely Mr. Anurag Nirbhaya from performing his duties under the Insolvency and Bankruptcy Code, 2016.*

c) *Pass such other or further order/order(s) as may be deemed fit and proper in the facts and circumstances of the instant case.*

2. It is stated by the Ld. Counsel representing the RP alongwith RP in person present, that the agenda with regard to withdrawal of the CIRP against the Corporate Debtor was taken up in the 5th meeting of the CoC held on 14th August, 2023, wherein vide Resolution No. C-1 placed at page no. 271 Volume II of the present application, the Resolution has been passed by majority of 100 % voting. Thereby approving withdrawal of the CIRP. The list of 14 such creditors in class is at page no.276 and out of 14 creditors, 9 creditors have voted in favour of the Resolution No. C-1, totaling to 92.53%, taking percentage of voting class of creditors to 100 % being more than 51%.

3. The reason for withdrawal of the CIRP have been stated in the agenda item at page no. 262 as well as 263, which are as under:

LIST OF ISSUES TO BE VOTED UPON AFTER DISCUSSION

Item No. C-1:

To file an Application under Section 12A of the Insolvency and Bankruptcy Code, 2016 for the withdrawal of CIRP proceedings of the CD.

It is further apprised to the COC that in the event of carrying out further Corporate Insolvency Resolution Process, the Corporate Debtor will go into Liquidation and eventually into dissolution. Further, continuation of Corporate Insolvency Resolution Process of Corporate Debtors will be an additional burden on the COC to incur these costs without any chance of recoveries.

Hence, the RP agreed with the COC to consider for withdrawal under Section 12A of IBC-2016 and has put this Agenda under Resolution C-1.

Accordingly, Chairman proposed the following Resolution for the consideration of the Committee:

*"**RESOLVED THAT** in view of non-traceability of the Corporate debtor at this juncture and that no assets being available for resolution & as per the provisions of Section 12A of IBC, 2016, read together with Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 pursuant to the application in Form FA by the applicant of the application bearing CP (IB) No. 70/ALD/2021, approval of the Committee of Creditors be and is hereby accorded to withdraw the CIRP of M/s. Geoshine Mines 2 Metals Limited in absence of any tangible assets. **RESOLVED FURTHER THAT** Resolution Professional be and is hereby authorized to do all such acts, deeds and things as may be necessary or expedient thereto to give effect to the aforesaid resolution."*

4. On the last date of hearing, it was pointed out by the Ld. Counsel representing the RP that since there are no assets and cash reserves available with the Corporate Debtor, therefore, the RP was to forgo the CIRP cost as well as his fees. Accordingly, as per the order dated 10th November, 2023, the RP was directed to remain present in order to verify above CIRP cost as well as his fees to be foregone. Today RP is present in person and he reaffirms that in view of the peculiar facts and circumstances he is willing to forgo the CIRP cost as well as his fees including fees of the counsel.

5. In view of the above stated position and the averments made in the application as well as the Resolution passed by the CoC vide Resolution No. C-1 and the statement made by the RP, the present application is allowed and the CIRP initiated against the Corporate Debtor is permitted to be withdrawn.

6. Accordingly, IA No.407/2023 stands disposed off. All other connected IAs will also get disposed off.

-Sd-
(Ashish Verma)
Member (Technical)

-Sd-
(Praveen Gupta)
Member (Judicial)

21st November, 2023

Bipul Kumar Tiwari
(Stenographer)