



SPECIAL BENCH

ITEM NO. 106

**NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH
PRAYAGRAJ**

IA No. 378/2023 IN CP (IB) No.359/ALD/2019

CORAM

- 1. SHRI H. V. SUBBA RAO,
HON'BLE MEMBER (JUDICIAL)**
- 2. SHRI ASHISH VERMA,
HON'BLE MEMBER (TECHNICAL)**

Date of Order: 29th August, 2023

Attendance-Cum-Order Sheet of the Hearing.

NAME OF THE COMPANY	PRAYAG POLYTECH PVT LTD V/S VINAY WIRE & POLY PRODUCTS PVT LTD.
UNDER SECTION	9 IBC (IN CIRP)

COUNSEL APPEARED THROUGH VIDEO CONFERENCING:

Sh. Vipul Ganda with Ms. Nirti Dua, Adv. : *For the Operational Creditor*
Sh. Vaibhav Dixit, Adv. : *For the Corporate Debtor*
Sh. Srijan Mehrotra with Sh. Anil Kr. Mehrotra, Adv. : *For the IRP*

ORDER

IA NO.378/2023

- 1.** This application has been filed U/s 12A of the Code for withdrawal of the captioned company petition bearing CP (IB) No.359/ALD/2019. The said petition was filed U/s 9 of the Code and the same was admitted by this Tribunal on 06.07.2023.
- 2.** A perusal of the last order dated 16.08.2023, it has been found that in para no.6 of the said order, it is recorded that the IRP had verified/ collated one claim which was received by the Financial Creditor namely Bank of Baroda to the tune of Rs.38.68 Crore till the last date of verification of claims i.e. 01.08.2023. However, it is further stated in para no.7 that on receiving the claim from the Financial Creditor, the applicant IRP was about to file the application for constitution of the CoC, but the applicant IRP has received an email communication dated 01.08.2023 itself from the Operational Creditor informing the applicant that the Operational Creditor and the Corporate Debtor have entered into a settlement, resulting into filing of the present application for withdrawal of the present petition.

-Sd-

-Sd-



3. It has been further noticed that on last occasion, the claim from the Bank of Baroda i.e. Financial Creditor was received on 25.07.2023 even before forming an opinion by the RP with regard to filing of an application U/s 12A, and in view of this, it has been found to be not a simpliciter 12A application, as the claim from the Financial Creditor had already been received entailing formation of CoC, and hence , it was further directed in the earlier order dated 16.08.2023 to issue notice to the Financial Creditor through IRP, so as to file the response of the Financial Creditor with regard to the present application for withdrawal of the petition itself.
4. In compliance of the said order dated 16.08.2023, a supplementary affidavit has been filed vide diary no.2325 dated 28.08.2023 annexing the email communications dated 18th & 19th August, 2023 sent by the IRP asking for the response from the Financial Creditor i.e. Bank of Baroda in regard to the withdrawal of the captioned petition. The said email communications is annexed as Annexure- SA-2. The relevant paras of supplementary affidavit is reproduced as under :-

4. *That in compliance with the directions contained in the aforesaid order dated 16.08.2023, whereby the Hon'ble Tribunal was pleased pass an order to the effect that the Applicant may seek the response of the Financial Creditor of 'VINAY WIRE AND POLY PRODUCTS PRIVATE LIMITED' (under 'CIRP') whose claim have been received by the Applicant in the aforesaid Captioned Company Petition with regard to the withdrawal of the aforesaid Company Petition.*

5. *That in pursuance of the directions contained in the aforementioned order dated 16.08.2023; the applicant has sent an email-communications 18th August, 2023 and 19th August, 2023 asking for the response from the Financial Creditor i.e. Bank of Baroda in respect of the stand of the Financial Creditor over the withdraw of the aforesaid Captioned Petition.*

The copy of the email-communications 18th August, 2023 and 19th August, 2023 are being filed herewith and marked as ANNEXURE NO. SA-2 to the present Supplementary-Affidavit.

6. *That thereafter the Applicant has received the response from the Financial Creditor i.e. Bank of Baroda vide the email communication dated 21st August, 2023 to the effect that the Financial*



Creditor has no objection with respect to the withdrawal of the aforesaid Captained Petition.

The copy of the email communication dated 21st August, 2023 is being filed herewith and marked as ANNEXURE NO.SA-3 to the present Supplementary-Affidavit.

7. That in compliance of the directions contained in the aforementioned Order dated 16.08.2023 passed by this Hon'ble Tribunal in the aforesaid Interlocutory Application (annexed as Annexure No.A-1 to the present supplementary Affidavit), the Applicant has annexed herewith the response of the Financial Creditor i.e. Bank of Baroda vide the email communication dated 21st August, 2023 (Annexed as Annexure no. SA-3 to the present Supplementary Affidavit).

- 5.** In response to the above said email communications sent by the IRP, the Financial Creditor i.e. Bank of Baroda has responded vide email dated 21.08.2023 stated that, “*in this connection we have no objection in CIRP withdrawal application filed by the operational creditor in the matter of captioned Company*”. The said email communication sent by the Bank of Baroda is annexed at page no.8 as Annexure- SA-3 with the supplementary affidavit.
- 6.** In view of the above terms, IA No.378/2023 is allowed and CP (IB) No.359/ALD/2019 is disposed of as withdrawn. Fees/charges of IRP to be paid by the Operational creditor, if any pending, as per the provision of the Code and relevant Regulations thereof

-Sd-
(Ashish Verma)
Member (Technical)

-Sd-
(H. V. Subba Rao)
Member (Judicial)

29th August, 2023

Kavya Prakash Srivastava
(Stenographer)