

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH, KERALA**

IBA/40/KOB/2020

(Under Section 9 (6) of Insolvency and Bankruptcy Code 2016)

Order delivered on 12th day of March, 2021

Coram:

Hon'ble Shri Ashok Kumar Borah, Member (Judicial)

In the matter of

M/s Flexi Plast Industries through
its Partner Suresh Sharma,
Khasra No.60/1, Pali Beawar Highway
Sojat City, 306104, Pali District
Rajasthan

..... Applicant/Operational Creditor

Vs.

M/s KKR Agro Mills Private Limited
Registered Office at III/678,
Chelamattom Okkal, PO. Kalady
Ernakulam District, Kerala-683550.

.....Respondent/Corporate Debtor

Parties/Counsel present (through video conferencing)

For the Operational Creditor	: Shri Jack Thalakkottur, Advocate
For the Corporate Debtor	: Shri R. Krishnakumar, Advocate

ORDER

This IBA has been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency & Bankruptcy (Application to

Adjudicating Authority) Rules, 2016 by M/s Flexi Plast Industries (Operational Creditor) through its Partner Shri Suresh Sharma against M/s KKR Agro Mills Private Limited (Corporate Debtor) for recovery of an amount of Rs. 6,79,377/- as the Corporate Debtor defaulted in payment of the debt to the Operational Creditor.

2. The Respondent filed a counter affidavit in the matter opposing the reliefs sought in the application. However, when the matter came up for hearing on 3rd March, 2021, the learned counsel for the applicant/operational creditor stated that he is filing a memo to withdraw the application with liberty to institute a fresh application in respect of the subject matter. Today the Registry placed before me the Withdrawal Application filed by M/s Flexi Plast Industries (Operational Creditor) in which it is stated that the counter affidavit brought to the applicant's notice a payment of Rs. 6,00,000/- made on 1.8.2019 by the Corporate Debtor which has been wrongly credited to the account of M/s KKR Product and Marketing Private Limited. Hence the applicant admits that there has been an error in accounting the payment of Rs. 6,00,000/- paid on 1.8.2019. Now the balance due from the respondent/corporate debtor is Rs. 79,337/- which remains unpaid. In view of the above aspect, the applicant sought permission to withdraw the IB Application No.40/KOB/2020 with liberty to initiate a fresh application/suit or pursue any other legal remedies in respect of the subject matter of the application.

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3. The learned counsel for the Respondent/Corporate Debtor did not oppose the prayer for withdrawal of the application with liberty.

4. In view of the above, IBA/40.KOB/2020 is disposed of as withdrawn with liberty to the applicant to institute a fresh application before the appropriate forum, if they are so advised.

Dated the 12th day of March, 2021

Sd/-

(Ashok Kumar Borah)
Member (Judicial)