

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH - I, CHENNAI

IA(IBC)/1631/CHE/2023 in CP/IB/221/(CHE)2022

(Application filed under Section 12A of the Insolvency and Bankruptcy Code, 2016
and Read with Rule 11 of NCLT Rules, 2016)

In the matter of Sun Bio Naturals India Private Limited

Mrs. Chaya Gupta

Resolution Professional of

M/s. Sun Bio Naturals India Private Limited

911, Apollo Premier, near Vijar Nagar Square

Indore, Madhya Pradesh – 110 019

...Applicant

Order Pronounced on 27th September 2023

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)

VENKATATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Applicant : *Guru Dhananjay, Advocate*
Abhishek Naik, Advocate

ORDER

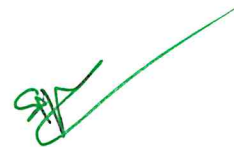

Per: SANJIV JAIN, MEMBER (JUDICIAL)

This is an Application filed under Section 12A of the Insolvency and Bankruptcy Act, 2016 (hereinafter the "IBC, 2016") read with Rule 11 of the National Company Law Tribunal Rules, 2016 (hereinafter the "NCLT Rules"), seeking relief as follows;

- (i) *pass an order of withdrawal of Insolvency Application being CP(IB)/221(CHE)/2022, thereby terminating the Corporate Insolvency Resolution Process of the Corporate Debtor, M/s. Sun Bio Naturals India Private Limited;*
- (ii) *pass a consequent order discharging / relieving the Applicant, Mrs. Chaya Gupta from the duties as Resolution Professional*
- (iii) *pass any such order(s) / directions(s) as may deem fit to this Hon'ble Tribunal considering the facts and circumstances of the case.*

2. The Corporate Insolvency Resolution Process in relation to the Corporate Debtor was initiated by this Tribunal vide order dated 06.06.2023. The Applicant herein was appointed as the Interim Resolution Professional (IRP).

3. Thereafter, the Applicant issued public announcement in Form-A on 10.06.2023 in "Financial Express" (English) and in "Makkal Kural", (Tamil) in Chennai Editions and invited claims to be filed by the Creditors of the Corporate Debtor. It is submitted that the IRP has received claims from two Financial Creditor namely, "Drip Capital Inc." and "IndusInd Bank".



4. In the meantime, the suspended Director of the Corporate Debtor preferred an Appeal before Hon'ble NCLAT in Company Appeal (AT)(CH)(Ins) No. 177/2023.

5. Further, in the 1st CoC meeting convened on 05.07.2023, the Suspended Director of the Corporate Debtor apprised that he is willing to settle with the Financial Creditor.

6. In the 3rd CoC meeting held on 21.08.2023, it was unanimously resolved by the members of the CoC for withdrawal of CIRP of the Corporate Debtor under Section 12A. The following Resolution was passed;

RESOLVED THAT the members of the COC be and is hereby approves the withdrawal of CIRP of the CD under section 12A of the IBC, 2016 read with Regulation 30A (1) (b) of the IBBI (Insolvency resolution Process of the Corporate Persons) Regulations 2016

RESOLVED FURTHER THAT the RP be and is hereby authorises to file an Application with Adjudicating Authority to give effect to the above resolution.

RESOLVED FURTHER THAT the members of the COC be and is hereby approves the cost for to be incurred towards the said withdrawal process as CIRP cost".

The members of the CoC approved the agenda voting 100% in favour in the meeting

7. The said settlement which was arrived between the parties was also taken note by the Hon'ble NCLAT vide its order dated 21.09.2023 as follows;

The Learned Counsel Mr R. Swarnavel appearing for the 'Appellant' in Comp App (AT) (CH) (Ins) No.177/2023, brings to the notice of this 'Tribunal' that the matter was settled between the Parties resting upon the Mutual Compromise being arrived at between them and this fact has not been disputed, on behalf of the Respondent and 2nd Respondent side.

Recording the above said fact, the matter' has been settled between the 'Parties', resting upon the Mutual Compromise', and acceding to the said request of Learned Counsel of the Appellant', the instant Comp App (AT) (CH) (Ins) No.177/2023 is dismissed as withdrawn'. No costs'. The Connected pending IA Nos.574 & 575/2023 are closed.

It is open to the 'Resolution Professional/Insolvency Professional' to approach the 'Adjudicating Authority", in regard to the payment, pertaining to the proceedings conducted by the 2nd Respondent and it is open to the 2 Respondent, to file an Application(if not filed already), before the 'Adjudicating Authority', and if any filing of the same prior to this Order', then, the said 'Application', is to be taken to a logical conclusion and the "Adjudicating Authority', is entitled to pass Orders' on merits, after providing due opportunities to the respective Parties, by adhering to the 'Principles of Natural Justice',

8. Heard the submissions made by the Learned Counsel for the Applicant.

9. Upon perusal of minutes of the 3rd CoC dated 21.08.2023, it is seen that the entire CIRP cost has been paid to the RP. Form FA duly signed by the Financial Creditor is attached at Page No.52 of the application. The Applicant also states that the entire CIRP expenses have been received.

10. Taking into consideration the said submissions made by the Learned Counsel for the Applicant/RP as well as the averments contained in the Application, instant Application IA(IBC)1631/CHE/2023 stands **allowed** and, in the circumstances, CP(IB)/221(CHE)/2022 stands **withdrawn**. Consequently, the CIRP initiated against the Corporate Debtor also stands withdrawn.

11. The IRP is directed to hand over the management to the Board of Directors whose powers stood suspended by virtue of the initiation of the CIRP by this Tribunal while admitting the Petition in CP(IB)/221(CHE)/2022 vide Order dated 06.06.2023. The Corporate

Debtor is released from all rigours of the IBC, 2016. The IRP is discharged from all his responsibilities. The Corporate Debtor shall operate through its own Board.

12. Accordingly IA(IBC)1631/CHE/2023 stands **allowed** CP(IB)/221(CHE)/2022 stands **dismissed as withdrawn**. File be consigned to records.



VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)



SANJIV JAIN
MEMBER (JUDICIAL)

Raymond