NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II

Video Conference

CORAM: HON'BLE BHASKARA PANTULA MOHAN–MEMBER JUDICIAL
CORAM: HON'BLE DR.BINOD KUMAR SINHA-MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, HYDERABAD BENCH, HELD ON 17.02.2022 AT 10:30 AM THROUGH VIDEO CONFERENCE

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/13/2022 in CP (IB) No.124/9/HDB/2020
NAME OF THE COMPANY	Techno Unique Infratech Pvt Ltd
NAME OF THE PETITIONER(S)	Janssica Equipment and Marketing Co.
NAME OF THE RESPONDENT(S)	Techno Unique Infratech Pvt Ltd
UNDER SECTION	9 of IBC

ORDER

IA (IBC)/ 13/2022

Order pronounced vide separate sheets. This Application U/s 12A of IBC stands allowed.

This CP (IB) No. 124/9/2020 is allowed.

MEMBER (T)

MEMBER (J)

Nilesh

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD

IA No.13/2022
In
CP(IB) No.124/9/HDB/2020

In the matter of:-
M/s. TECHNO UNIQUE INFRATECH PRIVATE LIMITED

Between:

Mr. Medi Yadaiah, Interim Resolution Professional,
H.No.8-16-30/2, Sowbhagyanagar Colony,
SBH Venture-3, L.B. Nagar, Hyderabad-500 074.
Telangana State.

...Applicant/IRP

Date of order: 17.02.2022

Coram: Shri Bhaskara Pantula Mohan, Member Judicial.
Dr. Binod Kumar Sinha, Member Technical.

Parties/Counsels Present:

For the Applicant: Mr. Ch. Srinivasulu, Advocate
Mr. Medi Yadaiah, IRP

[Per Bench]

ORDER

1. Under consideration is a Interlocutory Application bearing IA No. 13 of 2022 in CP (IB) No.124/9/HDB/2020 filed by Interim Resolution Professional (**IRP**) under section 12A of the Insolvency and Bankruptcy Code, 2016, on behalf of the Financial Creditor, seeking to pass an order granting withdrawal of the Application admitted under Section 9 of the Code.

2. The following are the brief facts of the case as stated by the Applicant:

a) That the Application bearing CP (IB) No.124/9/HDB/2020 filed by Operational Creditor (M/s. Janssica Equipment and Marketing Company) and the same was admitted by this Adjudicating Authority vide order dated 03.12.2020 for initiation of CIRP against the Corporate Debtor (M/s. Techno Unique Infratech Private Limited) under section 9 of IB Code, 2016 and appointed Mr. Medi Yadaiah as the Interim Resolution Professional (**IRP**).

b) That the IRP has received claims from the two Financial Creditors as under:-

Sl No.	Date	Name of the Claimant	Amount Claimed (in Rs.)
01	30.12.2021	The Karur Vyasa Bank Ltd.	1,33,41,58,138.80
02	31.12.2021	Techno Infratech Projects (India) Pvt Ltd	41,35,00,000
		Total	174.7658138.80

c) That in the meantime, the Operational Creditor has arrived at settlement with the Corporate Debtor and entered into Joint Compromise memo. That the Operational Creditor has submitted duly signed Form FA as per schedule, complying with the requirements laid down in Regulation 30A of the IBBI (CIRP) Regulations, 2016 to Interim Resolution Professional on 03.01.2021.

d) That the Corporate Debtor has handed over a Demand Draft for Rs.2,02,138/- to IRP towards CIRP/estimated CIRP expenditure.

e) That the Hon'ble Supreme Court in Swiss Ribbons case clarified that NCLT can exercise its discretionary powers under Rule 11 of

NCLT Rules, 2016 and permit settlement of dues of the creditor before constitution of CoC. In the instant case also the Applicant/IRP has not constituted CoC, meanwhile both the parties have entered into Compromise and Operational Creditor sent Form-FA for withdrawal of the Company Petition.

Reiterating above, counsel for the Applicant prayed to allow the Application as prayed for.

3. Heard and perused the record.

4. The instant Application is filed by the Interim Resolution Professional seeking to allow the present Application and accord permission to withdraw the Company Application bearing CP (IB) No.124/9/HDB/2020.

5. It is pertinent to note here that the Board vide Gazette Notification No. IBBI/2019-20/GN/REG048 dated 25.07.2019 have substituted Regulation 30A with a new Regulation 30A which is extracted hereunder:

"30A. Withdrawal of application.

1. An application for withdrawal under section 12A may be made to the Adjudicating Authority-

a. before the constitution of the committee, by the applicant through the interim resolution professional;

b. after the constitution of the committee, by the applicant through the interim resolution professional or the resolution professional, as the case may be;

Provided that where the application is made under clause (b) after the issue of invitation for expression of interest under regulation 36A, the applicant shall state the reasons justifying withdrawal after issue of such invitation.

2. The application under sub-regulation (1) shall be made in Form FA of the Schedule accompanied by a bank guarantee-

a. towards estimated expenses incurred on or by the interim resolution professional for purposes of regulation 33, till the date of filing of the application under clause (a) of sub-regulation (1); or

b. towards estimated expenses incurred for purposes of clauses (aa), (ab), (c) and (d) of regulation 31, till the date of filing of the application under clause (b) of sub-regulation (1).
3. Where an application for withdrawal is under clause (a) of sub-regulation (1), the interim resolution professional shall submit the application to the Adjudicating Authority on behalf of the applicant, within three days of its receipt.
4. Where an application for withdrawal is under clause (b) of sub-regulation (1), the committee shall consider the application, within seven days of its receipt.
5. Where the application referred to in sub-regulation (4) is approved by the committee with ninety percent voting share, the resolution professional shall submit such application along with the approval of the committee, to the Adjudicating Authority on behalf of the applicant, within three days of such approval.
6. The Adjudicating Authority may, by order, approve the application submitted under sub-regulation (3) or (5).
Where the application is approved under sub-regulation (6), the applicant shall deposit an amount, towards the actual expenses incurred for the purposes referred to in clause (a) or clause (b) of sub-regulation (2) till the date of approval by the Adjudicating Authority, as determined by the interim resolution professional or resolution professional, as the case may be, within three days of such approval, in the bank account of the corporate debtor, failing which the bank guarantee received under sub-regulation (2) shall be invoked, without prejudice to any other action permissible against the applicant under the Code."

6. It is observed that the provisions of Regulation 30A are duly complied as Form FA is submitted before issuing Expression of Interest. As on date there is no outstanding fees payable to the IRP and further necessary arrangements have been made to defray the CIRP Cost.
7. This Adjudicating Authority is empowered to allow the prayer for withdrawal by exercising its power U/s 12A of the IB Code, 2016, R/w Regulation 30A of Insolvency & Bankruptcy Board of India (Insolvency Resolution Process of Corporate Persons) Regulations 2016. Having satisfied with the submissions put forth by the Applicant and having seen that the Applicant has complied with all the requirements as

contemplated under Regulation 30A *supra*, this Adjudicating Authority is inclined to allow the Application.

8. In the result, IA No. 13 of 2022 is hereby allowed. Petition bearing CP (IB) No.124/9/HDB/2020 is allowed to be withdrawn in terms of provisions of section 12A of the Code, read with relevant Rules and Regulation 30A and CIRP stands closed. The Moratorium order passed u/s. 14 of the IB Code, 2016 shall also cease to have effect from the date of this order.

Dr. Binod Kumar Sinha
Member Technical

Bhaskara Pantula Mohan
Member Judicial

Santi/SKRathi