

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

IA(IBC)/2434/CHE/2023 in CP(IB)/85(CHE)/2023

*(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 **Unimac Plastic Technology Pvt. Ltd.***

Satyadevi Alamuri

Resolution Professional of

M/s. Unimac Plastic Technology Private Limited
23, Lake Area, 3rd Cross Street,
Nungambakkam, Chennai – 600 034

...Applicant

-Versus-

1. Bank of India

Guindy Branch

Sole member of CoC

Unimac Plastic Technology Private Limited

111, Mount View, Mount Road,

Guindy, Chennai – 600 032

2. Shriram Finance Limited

14A, South Phase,

Industrial Estate, Guindy,

Chennai – 600 032

...Respondent

Order Pronounced on 19th February 2024

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Applicant : *A.S. Arvind, Advocate*

For Respondent : *P. Elayarajkumar, Advocate*
For R2

ORDER

(Heard through video conferencing mode)

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) *Allow the withdrawal of Corporate Insolvency Resolution Process initiated against Unimac Plastic Technology Private Limited under Section 12A of IBC, 2016.*
- (ii) *Direct the Respondents to pay Rs.3,91,470/- towards fees and expenses incurred by the Interim Resolution Professional.*
- (iii) *Pass any further order that this Hon'ble Tribunal deems fit and thus render justice.*

2. The Corporate Insolvency Resolution Process in relation to the Corporate Debtor was initiated by this Tribunal vide order dated

31.08.2023. The Applicant herein was appointed as the Interim Resolution Professional (IRP).

3. It is stated that the Applicant caused paper publication on 13.09.2023 in Financial Express and Makkal Kural and the advertisement was also uploaded in the IBBI website. It is stated that Bank of India, Guindy Branch filed its claim on 25.09.2023 and after verification, the COC was constituted with Bank of India, Guindy Branch as the sole Financial Creditor with 100% voting. The 2nd Respondent i.e. the Financial Creditor who filed the Section 7 Petition has not preferred to file any claim with the IRP.

4. It is stated that the 1st CoC meeting was held on 9.10.2023 and in the said meeting the Applicant updated the COC regarding the status of the CIRP Process, the Corporate Debtor and the Appeal filed by the suspended Director before NCLAT in Company Appeal (AT) No. 346/2023. The COC deferred the agenda to ratify the expenses incurred by the Applicant, remuneration to be paid to the Applicant and appointment of Resolution Professional since, the suspended director informed that there was possibility of settlement.

5. It is stated that the 2nd COC meeting was held on 10.11.2023. Even in the said meeting, the COC decided to defer all the agendas. The Applicant informed the COC that since he is not receiving any details from the suspended director, the Applicant has to file an application before NCLT u/s. 19(2) of IBC for non-cooperation and not furnishing the information. It is stated that the Applicant filed an application under 19(2) of IBC for non-cooperation and direction to the suspended director to produce certain documents in IA(IBC)/2222(CHE)/2023 and the same is pending before this Tribunal.

6. It is stated that, at this stage, the Applicant received the Form FA for withdrawal of CIRP through email on 08.12.2023. However, the Form FA was not accompanied by the Bank guarantee as per sub-regulation (2) of Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

7. It is stated that the 3rd COC meeting was held on 15.12.2023 and in the said meeting, the COC deferred the agenda for ratifying the

expenses incurred and the fee of the IRP. The withdrawal of CIRP was also one of the agenda in the 3rd COC meeting. The Applicant informed the COC that under Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, an application for withdrawal ought to be accompanied by a bank guarantee for meeting the CIRP expenses, however only the form FA has been provided by the suspended director and the bank guarantee has not been provided by the suspended director. However, the resolution for withdrawal of CIRP was put to vote. The Resolution for withdrawal of CIRP under Section 12A of IBC was approved by the COC with 100% voting and the COC authorized the Applicant herein to file necessary application in this regard. The minutes of the 3rd COC meeting and voting sheet are enclosed as Annexure 5 and 6 respectively.

8. It is stated that the Applicant fee has been due from 12.10.2023. Even the CIRP expenses such as Paper publication, sending notices to the suspended directors and statutory authorities, courts and other expenses for the application filed u/s. 19(2) of IBC have not been paid by the COC or the suspended director. Further, the expenses for this

Application to withdraw CIRP has not been paid by the COC or the suspended director. Under such circumstances, the Applicant has sought directions against the Respondent to pay the fees and expenses incurred by the IRP.

9. Heard the submissions made by the Learned Counsel for the parties and perused the record.

10. In relation to the fees and expenses of the IRP, a memo has been filed by the Applicant on 02.02.2024, which is as follows;

It is humbly submitted as follows:-

1. The abovementioned application is filed for the following reliefs:

"a. Allow the withdrawal of Corporate Insolvency Resolution Process initiated against Unimac Plastic Technology Private Limited u/s 12A of IBC, 2016.

b. Direct the Respondents to pay Rs. 3,37,470 towards fees and expensed incurred by the Interim Resolution Professional."

2. It is submitted that while filling of the application, the Applicant's fee and expenses was not paid by the Respondents. Therefore, the Applicant had prayed for payment of Applicant's fee and expenses of Rs.3,37,470. However, during the 1st hearing of the above-mentioned application on 9.1.2024, 2nd Respondent proposed to pay Rs.2,61,358/-as Applicant's fee and expenses and the same is recorded in the previous order dated 9.1.2024. Subsequently, both the Applicant and the Respondent have agreed on Rs.2,61,358/-as Applicant's fee and expenses and the same has already been paid by the Respondents.

3. It is submitted that in light of above, the prayer number b is resolved. It is further submitted that the resolution for withdrawal of Corporate Insolvency Resolution Process was approved by the COC with 100% voting in favour of withdrawal. Therefore, this Hon'ble Tribunal may permit the withdrawal of Corporate Insolvency Resolution Process initiated against Unimac Plastic Technology Private Limited. Further, this Hon'ble Tribunal directed Applicant to serve copy of the Application on 1st Respondent and file Affidavit of Service. The same has also been complied with.

In light of above, it is humbly prayed that this Hon'ble Tribunal maybe pleased to take the memo on record and thus render justice.

11. The memo filed by the Applicant / IRP is taken on record. The fee and the expenses of the IRP has been paid in full.

12. The CoC in its 3rd meeting held 15.12.2023 has unanimously voted for withdrawal of CIRP in relation to the Corporate Debtor and as per Regulation 30A of the IBBI (Insolvency Resolution Process of Corporate Persons) Regulations, 2016 the Form FA has been placed along with this Application.

13. 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)2434/CHE/2023 stands **allowed**. In the circumstances,

CP(IB)/85(CHE)/2023 stands **withdrawn**. Consequently, the CIRP initiated against the Corporate Debtor also stands withdrawn.

14. The Applicant 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)/85(CHE)/2023 vide Order dated 31.08.2023. The Corporate Debtor is released from all rigours of the IBC, 2016. The Applicant is discharged from all his responsibilities. The Corporate Debtor shall operate through its own Board.

15. Accordingly IA(IBC)2434/CHE/2023 stands **allowed**. CP(IB)/85(CHE)/2023 stands **dismissed as withdrawn**. All the connected Applications stands **closed**. File be consigned to records.

-Sd-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)

Raymond