

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT-VI

Item No. 607
IB-3170(ND)/2019

IN THE MATTER OF:

M/s. Itochu Plastics Pvt. Ltd.

...PETITIONER

Vs.

M/s. Bindal Polymers Pvt. Ltd.

...RESPONDENT

Section

U/s 9 of IB Code, 2016

Order delivered on 29.03.2023
(Virtual Hearing)

Coram:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)
SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner/Operational Creditor :Ms. Kavita Sarin and Mr. Deepesh Advocates

For the Commissioner VAT, Delhi :Mr. M.L. Garg, Adv. in IA/1278/2022.

For the IRP :Mr. Ahsan Ahmad and Mr. Rachit Ranjan, Adv. for Mr. Rajesh Kumar Parakh, IRP

For the IT Department :Mr. Zoheb Hossain, Sr.Standing Counsel; Mr. Parth Semwal & Mr. Sanjeev Menon, Jr. Standing Counsel

ORDER

IA/1278/2022

This application has been filed by the Resolution Professional under Section 12A of the Insolvency and Bankruptcy Code, 2016 read with Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 seeking withdrawal of the application filed under 9 of the Insolvency and Bankruptcy Code, 2016.

It is stated that the CIRP was initiated against the Corporate Debtor vide order dated 30.07.2021. The CoC members in the third CoC meeting held on 28.01.2022 expressed their difficulty in continuing the CIRP process because of the non-cooperation of the Members of the Suspended Board of Directors and therefore an agenda for filing an application for withdrawal

under Section 12A of the Insolvency and Bankruptcy Code, 2016 read with Regulation 30A(1)(B) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 was placed and the Resolution was passed by the CoC with 100% voting for filing an application for withdrawal of the CIRP. A copy of the Resolution and voting sheet are placed on record.

This Tribunal on 25.11.2022 directed the CoC Members to consider the proposal for payment of Rs.7,81,634/- towards CIRP cost to the RP and file a compliance affidavit vide order dated 02.03.2023. This Tribunal directed the RP to file an affidavit stating therein that the entire dues of the CIRP process as well as the fees of RP has been paid by the Operational Creditor. In compliance with the said order a compliance affidavit has been filed by the RP on 04.03.2023. The relevant portion of the said affidavit is extracted below:-

That the total costs of the CIRP of Bindal Polymers Private Limited is Rs. 7,81,634/-plus GST (Rs. 1,35,000/-) aggregating to Rs. 9,16,634/-and the deponent has received the total CIRP Costs and fees from the members of the Committee of creditors. That the members of the Committee of Creditors have paid the abovementioned amount as per the below mentioned table:

S.No.	Name of the COC Members	Amount Received in INR including GST
1.	<i>Itochu Plastics Pte. Ltd, Operational Creditor</i>	2,04,135/-
2.	<i>Income Tax Department, Ward 5(1), New Delhi, Room No. 379, C.R. Building, I.P. Estate, New Delhi 1 10002, Operational Creditor</i>	1,01,655/-
3.	<i>Joint Commissioner State Tax (DVAT) Department of Trade and Taxes, I.P. Estate, New Delhi - 1 10002, Operational Creditor</i>	6,10,845/-
	Total	9,16,634/-

The Ld. Counsel for the RP has submitted that the entire CIRP cost has been received and no dues are left to be paid by the Members of the Committee. In view of the submissions made by the Ld. Counsel appearing for the parties, we are satisfied accordingly the conditions as per under Section 12A and therefore we allow the present application and permit the CIRP Petition to be withdrawn as per Section 12A. IA **allowed**.

IB/3170(ND)/2019 is accordingly **dismissed as withdrawn**.

Sd/-
(Atul Chaturvedi)
Member (T)

Sd/-
(Bachu Venkat Balaram Das)
Member (J)