IN THE NATIONAL COMPANY LAW TRIBUNAL

BENGALURU BENCH

I.A No. 03 of 2021
U/s 12A of the I & B Code, 2016
R/w Regulation 30A of IBBI
(CIRP)Regulations, 2016
&
CP (IB) No. 319/BB/2019
U/s.7 of the IBC, 2016
R/w Rule 4 of the I&B (AAA) Rules, 2016

In the matter of :

Mr. Addanki Haresh
Resolution Professional of
M/s. Indlab Equipments Private Ltd

No.36/1, 2nd Floor,
Munivenkatappa Complex,
Bellary Road, Ganganagar,
Bengaluru – 560 032.... Applicant/RP

Date of Order:19thJanuary, 2021

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present (through Video Conference):

The Applicant/RP : Mr. K.Addanki Haresh,

ORDER

Per: Rajeswara Rao Vittanala, Member (Judicial)

1. I.A No. 03 of 2021 in CP (IB) No. 319/BB/2019 is filed by Mr. Addanki Haresh,RP of the Corporate Debtor(Applicant/RP) U/s 12A of the I & B Code, 2016 R/w Regulation 30Aof IBBI (CIRP) Regulations, 2016 by inter-alia seeking to allow the Applicant to withdraw C.P. (IB) No. 319/BB/2019 and consequently terminate the CIRP process in respect of the Corporate Debtor.

2. Brief facts of the case, which are relevant to the issue in question, are as follows:

(1) Initially, the Main Petition bearing C.P. (IB)No. 319/BB/2019 filed by M/s Sir M. Visvesvaraya Co-Operative Bank Ltd, under Section 7 of the I & B Code, 2016 for initiation of Corporate Insolvency Resolution Process(CIRP)in respect of the Corporate Debtor, was admitted by this Adjudicating Authority vide order dated19.02.2020, by initiating CIRP, appointing the Applicant as IRP, imposing moratorium etc. Subsequently the IRP causes a public announcement in "Business Standard" (English Paper) and "Samyuktha Karnataka" (Kannada Paper) on 29.02.2020. In pursuant to the above, the COC in its first meeting dated 19.03.2020 appointed the Applicant as Resolution Professional and the same was approved by the Tribunal by an order dated 10.08.2020.

(2) Accordingly the Applicant has received the following claims from the Creditors of the Corporate Debtor as of 28.12.2020:

Category of Creditors	No. of claims	Amount of Claim received	Amount of Claim Admitted	Amount not Admitted
Financial Creditors	2	3,82,83,005	3,73,13,820.75	9,69,184.25
Operational Creditors	3	1,45,692.00	1,45,692.00	0
Workmen & Employees	0	0	0	0
Total	5	3,84,28,697.00	3,74,59,512.75	9,69,184.25

The Committee of Creditors consists of the following:

Name of the Creditors	**Voting Share Percentage (%)**
Sir M Visvesvaraya Co-Operative Bank Limited	89.47
Bank of Baroda Ltd – Yelahanka Branch	10.53
Total	**100%**

(3) In terms of notification issued, there is no resolution plan received. On 01.12.2020 the 9th Meeting of COC was held, wherein Sir M Visvesvaraya Co-operative Bank and Bank of Baroda were present. In the said meeting, the Applicant Bank, informed the Members, that the Bank proposes to have a settlement with the suspended Directors of the Corporate Debtor,

pursuant to which they have proposed to apply for withdrawal of the Application. However, the proposal was not put to vote due discrepancy. At the 10th Meeting of COC held on 14.012.2020, wherein the Applicant Bank informed the Members that the Bank has arrived for Onetime Settlement regarding their outstanding claim. Therefore the Applicant Bank proposed for withdrawal of CIRP under the provisions of Section 12A of IBC.

(4) The RP has conducted the CIRP process over the period of 10 months since 19th February, 2020. However, due to impact of COVID-19, and specifically since the Corporate Debtor caters to the needs of School and Educational Institutions which were closed form March, 2020 till the date of submission of this Application, no Resolution Applicant has shown any interest in submission of any EOI. The Corporate Debtor presently employs 13 employees and Liquidation of the Corporate Debtor would affect their employment. The Suspended Directors are confident that, once the Application for withdrawal is permitted by the Adjudicating Authority, and the proposed reopening of the Schools, Colleges and Educational Institution by the Government, the Business would improve.The Applicant Bank has entered into a Onetime Settlement with the suspended Directors, and has submitted the requisite Form FA for withdrawal, which was approved by the COC with 89.47% majority. The other Member of COC, viz., Bank of Baroda was present at the 10th COC meeting and in principle agreed to approve the Application, but did not participate in the E-voting Process. However, Bank of Baroda have no objection for withdrawal of Application as per their letter dated 28.12.2020.

(5) Hence the present Application.

3. Heard Shri. Addanki Haresh, Learned RP, **<u>through Video Conference</u>**. We have carefully perused the pleadings, and the extant

provisions of the Code, the Rules made there under, and the law on the issue.

4. As detailed supra, inspite of best efforts made by the Applicant, by way of notifications, there was no expression of interest received, and in the meanwhile, the Financial Creditors of Corporate Debtor have settled the issue with the suspended Directors. It would be ideal to make best efforts to restore the Company instead of putting it under liquidation. The instant Application has been filed in accordance with law. Therefore, instead of continuing the CIRP, it would be just and proper to allow the Application so as to withdraw the main Company Petition.

5. In the result, **I.A No. 03 of 2021** is allowed by permitting the Applicant to withdraw CP. Consequently, CP (IB) No. 319/BB/2019 is dismissed as redundant.

ASHUTOSH CHANDRA
MEMBER, TECHNICAL

RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL

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राष्ट्रीय कम्पनी विधि अधिकरण बेंगलूरु बेन्च National Company Law Tribunal Bengaluru Bench

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Rajeshwari.M