

**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT NO. V, MUMBAI BENCH**

IA No. 2507 of 2022

in

CP (IB) 932/MB/2021

Under Section 12A of the I&B Code, 2016
r/w Regulation 30A of the Insolvency and
Bankruptcy Board of India (Insolvency and
Bankruptcy Process for Corporate Persons)
Regulations, 2016

In the matter of

Mr. Shibu Purushothaman

...Applicant

v/s

Mr. Vishal Ghisulal Jain

....Respondent

And

IA No. 2254 of 2022

in

CP (IB) 932/MB/2021

Under Regulation 30A(1)(a) of the
Insolvency and Bankruptcy Board of India
(Insolvency Resolution Process for
Corporate Persons) Regulations, 2016 r/w
Section 12A of the I&B Code r/w 11 of the
National Company Law Tribunals Rules,
2016

In the matter of

Mr. Vishal Jain

Interim Resolution Professional of Eurolife
Healthcare Private Limited.

...Applicant

In

CP (IB) 932/MB/2021

In the matter of

Premier Road Carriers Ltd.

....Operational Creditor/Petitioner

VS

Eurolife Healthcare Private Limited

.....Corporate Debtor

Order Pronounced on: 21.09.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

IA No. 2507 of 2022

For the Applicant: Mr. Ashish Kamat a/w Darshit Dave, Ativ Patel,
Viloma Shah and Harshad Vyas i/b AVP Partners

Respondent/IRP: Mr. Aniruth Purusothaman, Advocate

IA No. 2254 of 2022

For the Applicant/IRP : Mr. Aniruth Purusothaman, Advocate

ORDER

I.A. 2507 of 2022

1. The above application is filed by the Applicant Mr. Shibu Purushothaman, Member of suspended board claiming the following reliefs;
 - a. That this Hon'ble Tribunal be pleased to pass an order allowing withdrawal of Corporate Insolvency Resolution Process against Corporate Debtor under Regulation 30A (3) of IBBI (Insolvency Resolution of Corporate Persons) Regulations, 2016;
 - b. For grant of such order and further reliefs as this Hon'ble Tribunal may deem fit in the circumstances of the matter.

I.A. 2254 of 2022

2. The above application is filed by the IRP before the constitution of the CoC claiming the following reliefs;
 - a. The Hon'ble Tribunal pass an order rejecting the captioned Interlocutory Application under Regulation 30A (6) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and reject the withdrawal of the petition bearing Company Petition (IB) No. 932 of 2021;
 - b. The Hon'ble Tribunal may pass any order(s) as it may deem fit.

I.A. 2507 of 2022 and I.A. 2254 of 2022

3. Both the above applications were listed on board today for disposal as per the order passed by the Hon'ble NCLAT dated

15.09.2022 in Company Appeal No. 981 of 2022 preferred by the member of the suspended board whereunder the Hon'ble NCLAT directed this Bench to dispose of both the above applications after making certain observations.

4. Mr. Aniruth Purusothaman, learned counsel appearing for the IRP fairly conceded across the bar that even though the prayer sought in the I.A. 2254 of 2022 is not strictly for withdrawal of CIRP order, he is not pressing for prayer clause (a) in his application i.e. I.A. 2254 of 2022, however requested this Bench to pass suitable order in terms of prayer clause (b). It is the submission of Mr. Aniruth Purusothaman, learned counsel appearing for the IRP that the Corporate Debtor was indebted to several Creditors including the ICICI Bank, Axis Bank, HDFC Bank and Exim Bank and they have already declared the accounts of the Corporate Debtor as NPAs. He also invited the attention of this bench that some more Company Petitions have been disposed of as infructuous by different Mumbai Benches of NCLT in view of passing the CIRP order in the present Company Petition.
5. In this regard, it is important to mention here the following observations of the Hon'ble NCLAT in its order dated 15th September, 2022;

“In the facts of the present case, we are of the view that Adjudicating Authority may also consider the Application (I.A. No. 2507 of 2022) filed by the Suspended Director of the Corporate Debtor and since the Application with which Form-FA was filed prior to constitution of Committee of Creditors, the said Application may be considered by the Adjudicating Authority in its discretion without any necessity to obtain concurrence of the Committee of Creditors as per Regulation 30-A of the CIRP Regulations, 2016.”

6. Since, the aggrieved petitioners have remedy to file appropriate application for revival of their respective Company Petitions and since nothing prevented the other banks and financial institutions to file section 7 Petitions against the Corporate Debtor, this Bench is left with no option except to allow the above I.A. 2507 of 2022 for the above said reasons coupled with the above observations of the Hon'ble NCLAT.
7. Accordingly, the above I.A. 2507 of 2022 is allowed by withdrawing the CIRP order dated 20.07.2022 passed against the Corporate Debtor and by relieving the Corporate Debtor from all the rigours of the moratorium. Consequently, the above I.A. 2254 of 2022 stands disposed of.

Sd/-

ANURADHA SANJAY BHATIA
MEMBER (TECHNICAL)

Sd/-

H.V. SUBBA RAO
MEMBER(JUDICIAL)