

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

IA No. 862/2020
In CP (IB) No.672/7/HDB/2019
Under section 12A of IB Code, 2016.

In the matter of :

M/s. PVK ENGINEERS PRIVATE LIMITED

Between:

PVK Engineers Private Limited
#Plot No.270E/A, Road No.10,
Jubilee Hills, Hyderabad – 500 033,
Represented by its Interim Resolution Professional
Mr. Sri Vamsi Kambhammettu.

Applicant/
Corporate Debtor

And

M/s. Abhirama Steels Limited.
Having its Regd. Office at Sy. No.272/1,
Chityal (V), Pargi (Mentioned), Vikarabad,
(Dist) – 501 501. Represented by its Managing Director
Sri. Abhishek Palaparthi.

...Respondent/
Financial Creditor

Date of Order: 13.10.2020

Parties/Counsels present:

For the Applicant/Corporate Debtor : Mr. VVSN Raju,
Mr. Praveen Jain,
Mr. A.V.Padma Reddy,
Mr. A. Sravanti, counsels.

For the Respondent/Financial Creditor: Mr. Mayur Mundra, counsel

Per: K. Anantha Padmanabha Swamy, Member Judicial

ORDER

1. Under consideration is a Interlocutory Application bearing IA No. 862 of 2020 in CP (IB) No.672/7/HDB/2019 filed by Interim Resolution Professional (IRP) under section 12A of the Insolvency and Bankruptcy Code, 2016, on behalf of the Financial Creditor, seeking to set aside the

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order dated **21.09.2020** passed by this Adjudicating Authority in CP (IB) No.672/7/HDB/2019.

2. The following are the brief facts of the case as stated by the Applicant:
 - a) That the Application bearing CP (IB) No.672/7/HDB/2019 filed by Financial Creditor (M/s. Abhirama Steels Limited) and the same was admitted by this Adjudicating Authority vide order dated 21.09.2020 for initiation of CIRP against the Corporate Debtor (M/s. PVK Engineers Private Limited) under section 7 of IB Code, 2016 and appointed Mr. Sri Vamsi Kambhammettu as the Interim Resolution Professional (**IRP**).
 - b) That pursuant to the order passed by this Adjudicating Authority on 21.09.2020, the Corporate Debtor has settled their dues with the Financial Creditor and subsequent to which the Financial Creditor had submitted a Form FA dated 24.09.2020 to the Interim Resolution Professional. That the Financial Creditor has also issued a Demand Draft in favor of the Interim Resolution Professional for an amount of ₹50,000/- towards the CIRP costs. Accordingly, the Financial Creditor has requested the Interim Resolution Professional to file the instant application for withdrawal.
 - c) That the Applicant has made necessary arrangement to defray the expenses incurred by RP up to the filing of the said application.
 - d) That the present application is being made bona fide and in the interest of justice, equity and good conscience and further 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. 672/7/HDB/2019.
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. 862 of 2020 is hereby allowed. Petition bearing CP (IB) No. 672/7/HDB/2019 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.



K. ANANTHA PADMANABHA SWAMY
MEMBER JUDICIAL

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