



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT-IV

I.A. NO. 700 OF 2024
IN
C.P (IB) NO. 663/ND/2021

IN THE MATTER OF:

BRAHM DATT VERMA

...APPLICANT/RESOLUTION PROFESSIONAL

AND IN THE MATTER OF:

FOX MANDAL & CO.

...OPERATIONAL CREDITOR

VERSUS

BLUE MARLIN BUILDCON LIMITED

...CORPORATE DEBTOR

Order Delivered on: 29.02.2024

CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM, HON'BLE MEMBER
(JUDICIAL)

DR. SANJEEV RANJAN, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the RP : Mr. Brahm Datt Verma, Resolution Professional

ORDER

PER: MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (JUDICIAL)

1. This is an application filed by the Resolution Professional of the Corporate Debtor viz., M/s Blue Marlin Buildcon Limited under section 12A of the Insolvency and Bankruptcy Code, 2016 r/w Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process



for Corporate Persons) Regulations, 2019 seeking withdrawal of the Company Petition filed in IB/663/2021 by the Operational Creditor.

2. The brief facts which emerge out of the perusal of the Application reflect as follows: -

- a. Based on an Application filed by the Operational Creditor viz., Fox Mandal & Co. under Section 9 of the IBC, 2016 against the Corporate Debtor, this Tribunal while admitting the Petition had initiated the CIRP in relation to the Corporate Debtor on 16.10.2023 and appointed the Applicant as the IRP.
- b. The Public announcement was made in “Business Standard” (English Delhi Edition) and “Jansatta” (Hindi Delhi Edition) on 21.10.2023 for inviting claims from the creditors. Pursuant to the public announcement four claims were received out of which one claim was rejected as the same was barred by limitation. In addition to this, three claims were admitted provisionally.
- c. In 1st COC meeting which was held on 17.11.2023, the Authorized Representative of the Operational Creditor informed that they are in the process of settlement with the Corporate Debtor. Therefore, by 99.2% of the voting share the COC has passed the resolution for withdrawal of the main petition. The relevant extract of the resolution passed by the COC members is reproduced below: -



“RESOLVED THAT the Resolution Professional Mr. Brahm Datt Verma be and is hereby authorized to file an application for withdrawal of the case with the Adjudicating Authority in Form FA as prescribed under Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016”.

- d. Subsequently, the Operational Creditor and the Corporate Debtor entered into a settlement agreement dated 04.12.2023 whereby the dispute between both the parties was finally settled.
 - e. It is also averred in the application by the applicant/RP that the agreed fee and expenses incurred on/by the IRP/RP has duly paid in full and as such there is no need to file the Bank Guarantee as prescribed under Regulation (2)(a) of Regulation 30A of the IBBI CIRP Regulation, 2016.
3. Learned Counsel for the Resolution Professional is present. Perusal of the annexures filed along with the Application shows that the Settlement Agreement as between the Operational Creditor and the Corporate Debtor has been filed in Annexure-4 wherein it is reflected as part of the Settlement Agreement a payment of Rs. 22,50,000/- has been received by the Operational Creditor vide RTGS dated 04.12.2023 and the Operational Creditor hereby admits the receipt of the same. Further, in terms of the Settlement Agreement, the parties have agreed to file an application under section 12A of the IBC, 2016 through the Resolution Professional. Perusal



of the Form FA shows that the Operational Creditor in IB/663/2021 also expresses its willingness to withdraw the main Application.

4. Taking into consideration the said submissions made by the Learned Counsel for the Resolution Professional as well as the averments contained in the Application, this instant Application i.e., **IA/700/ND/2024 stands allowed** and, in the circumstances, IB/663/2021 stands withdrawn. Consequently, the CIRP initiated against the Corporate Debtor also stands withdrawn.
5. The RP is directed to hand over the management to the Board of Directors whose power stood suspended by virtue of the initiation of the CIRP by this Tribunal while admitting the Petition in IB/663/2021 vide order dated 16.10.2023 and whose powers stand restored consequent to the withdrawal of CIRP in relation to the Corporate Debtor viz., M/s Blue Marlin Buildcon Private Limited.

Sd/-
DR. SANJEEV RANJAN
MEMBER (TECHNICAL)

Sd/-
MANNI SANKARIAH SHANMUGA SUNDARAM
MEMBER (JUDICIAL)