

24

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

SPECIAL BENCH (URGENT HEARINGS THROUGH VIDEO CONFERENCE)
PRESENT: HON'BLE SHRI RATAKONDA MURALI— MEMBER JUDICIAL
HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI—MEMBER TECHNICAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 08.09.2020 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No. 593/2020 in CP (IB) No. 75/9/HDB/2019
NAME OF THE COMPANY	SRK Constructions & Projects Pvt Ltd
NAME OF THE PETITIONER(S)	ThyssenKrupp Industries India Pvt Ltd
NAME OF THE RESPONDENT(S)	SRK Constructions & Projects Pvt Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

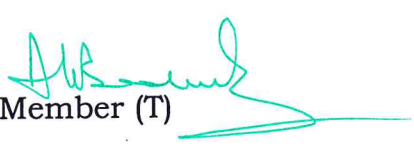
Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

IA 593/2020 is listed for orders today. Orders pronounced vide separate orders.


Member (T)


Member (J)

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

IA No.593/2020
CP (IB) No. 75/9/HDB/2019

Under Section 12A of I&B Code, 2016
Read with Regulations 30 A of the IBBI Regulations, 2016

IN THE MATTER OF
M/s. THYSSENKRUPP INDUSTRIES INDIA PVT. LTD.

BETWEEN

M/s. THYSSENKRUPP INDUSTRIES INDIA PVT. LTD.

#154 C, Mittal Tower, 15th Floor, 210,
Nariman Point, Mumbai, Maharashtra-400 021, India.

Also at

Survey No.212 to 215, IDA, Phase -II,
Cherlapally, Hyderabad-500 051.

...Applicant/
Operational Creditor

Mr.Kranthi Kumar Kedari,
IRP for M/s. SRK Constructions & Projects Private Limited

...Applicant

VERSUS

M/s SRK Constructions & Projects Private Limited

Regd Office: # 8-2-293/82/A/732-A/1, 4th Floor,
Sasi Icon, Road NO.36, Jubilee Hills,
Hyderabad- 500 033, Telangana State, India.

...Corporate Debtor

Date of order: 08.09.2020

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Hon'ble Shri Veera Brahma Rao Arekapudi, Member (Technical)

Parties / counsels present:

For the Applicant: Mr.Subramanyam Yadav, Counsel


Resolution Professional: Mr.Kranthi Kumar Kedari.

**Per: Hon'ble Shri Veera Brahma Rao Arekapudi,
Member(Technical)**

Heard on: 07.09.2020.

ORDER

1. The Application is filed by the Applicant/Operational Creditor represented through Resolution professional under Section 12A of I&B Code , 2016 Read with Regulation 30A of Insolvency and Bankruptcy Board of India(Insolvency Resolution Process for corporate persons) Regulations, 2016 seeking permission to withdraw the Company Petition i.e CP(IB)No.75/9/HDB/2019.
2. The brief averments made in the Application are as follows:
 - a) It is averred that this Tribunal vide order dated 16.12.2019 admitted the petition filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 filed by the Operational Creditor and ordered initiation of Corporate Insolvency Resolution Process against corporate debtor and appointed IRP.
 - b) It is averred that one of the promoter/shareholder of M/s. SRK Constructions& Projects Private Limited represented by its Authorized Signatory filed an appeal under Section 61(1) of the I&B Code, 2016 Challenging the Order of the Hon'ble NCLT, Hyderabad passed on 16.12.2019.



- c) It is averred that the Hon'ble NCLAT passed an interim order 30.01.2020 by giving certain directions to the Interim Resolution Professional as under:

" In the meantime, the appellant will allow the IRP formally to take over the charge of the assets and the records.

The IRP will ensure that the Company remains a going concern, and will take the assistance of the (Suspended) Board of Directors. The persons who are working will perform their duties including the paid directors. The person who is authorised to sign the Bank Cheques may issue cheques only after authorisation of the 'IRP' with counter signature of the IRP at the back side of the cheques. In such cases, the Bank shall release the payment. The 'IRP' will place this order before the Banks, in which accounts of the corporate debtor are maintained. The Bank Accounts of the corporate debtor be allowed to be operated for day to day functioning of the Company such as for payment of current bills of the suppliers, salaries and wages of the workers/ employees, electricity bills, etc."

- d) It is averred that in compliance of the order of Hon'ble NCLAT, IRP has not constituted the COC. Meanwhile Applicant herein and the corporate debtor entered into settlement and provided Demand Drafts amounting to Rs.54, 08,292/-. The same are enclosed as Annexure -2. The applicant has also submitted application in Form FA for withdrawal of the Company petition.
- e) It is further averred that the IRP has not to constitute COC in compliance of the direction of the Hon'ble NCLAT. The IRP is required to submit application received in FORM FA to the Adjudicating Authority



within three days. FORM FA is enclosed as Annexure-3. The applicant has paid expense as required under Sub-regulation (2) of the said Regulation 30 A of the IBBI Regulations, 2016 through Demand Draft which was accompanied with FORM FA.

3. Heard Counsel for Interim Resolution Professional. It is the case of the Interim Resolution Professional that this Tribunal admitted the petition filed under Section 9 of IBC, 2016 on 16.12.2019 for initiation of CIRP, granting moratorium and appointment of IRP.
4. This Application is filed under Section 12A of I & B Code, 2016, Read with Regulation 30 A of the Insolvency and Bankruptcy (Corporate insolvency Resolution process) Regulations, 2016. The Petition filed under Section 9 by the Operational Creditor was admitted by this tribunal on 16.12.2019 and ordered Corporate Insolvency Resolution Process against Corporate Debtor. Interim Resolution Professional reported to the Tribunal that Parties settled the matter by virtue of deed of settlement dated 25.07.2020 and requested the Tribunal to withdraw the Petition.
5. Applicant stated that an amount of Rs. 54,08,292/- is paid by the Respondent/corporate debtor to the applicant/operational creditor as full and final settlement of the dispute as per the settlement agreement dated 25.07.2020.
6. Applicant stated that a Memo is filed along with the order of the Hon'ble NCLAT stating that appeal preferred has been withdrawn. We have seen the order of the Hon'ble NCLAT.
7. It is further stated that the Applicant has paid expense as required under Sub-regulation (2) of the said Regulation 30 A of the IBBI Regulations, 2016 through Demand Draft which was accompanied with FORM FA. Applicant further has stated that it has enclosed the copy of the settlement



Agreement along with Form FA. Thus the procedure prescribed under Regulation 30A (1) (a) of IBBI (Insolvency Resolution Process for Corporate Persons), 2016 has been followed. This Adjudicating Authority has power under Section 12A Read with Regulation 30A (1)(a) of IBBI (Insolvency Resolution Process for Corporate Persons) 2016 to permit for withdrawal of the application even after admission of the Petition. By exercising the power U/s 12A of I&B Code the application filed by applicant is allowed and the CIRP started against corporate debtor and moratorium order issued there under stands withdrawn and the corporate debtor is allowed to function independently through its Board of Directors with immediate effect.

8. Accordingly, this Application is allowed and CP(IB)no.75/9/HDB/2019 stands closed.


VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)


RATAKONDA MURALI
MEMBER (JUDICIAL)

Pavani