

**NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI SPECIAL BENCH**

(Virtual Hearing)

PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 09.10.2023 AT 02:00 P.M.

TC/CP. Nos.	CA/IA No.	Section / Rule	Name of Parties
TCP(IB)/49/9/AMR/2019	Main Case	9 of IBC	Posco Daewoo Corporation Vs Mohana Cotton Ginning Pvt Ltd
	IA(IBC)/365/2023	U/s 12A of IBC, 2016 r/w Reg. 30A of IBBI (CIRP) Reg's, 2016	Mr. Immaneni Chaitanya Kiran, IRP of M/s. Mohana Cotton Ginning Private Limited
	IA(IBC)/352/2023	U/S 60(5) OF IBC, 2016 r/w Rule 11 of NCLT Rules, 2016	M/s. Mohana Cotton Ginning Private Limited Vs. Mr. Chaitanya Kiran Immaneni, IRP and M/s. Posco Daewoo Corporation (OC)

**ORDER**

In view of the orders passed in IA (IBC)/365/2023, the TCP(IB)/49/9/AMR/2019 is dismissed as infructuous.

**IA(IBC)/365/2023:**

Mr.T.Uma Sankar, Ld. Counsel for the Applicant present. Heard the counsel. IA(IBC)/365/2023 is allowed, vide separate orders.

**IA(IBC)/352/2023:** Ms.Manjusha B, Ld. Counsel for the Applicant present. In view of the orders passed in IA (IBC)/365/2023, this IA become infructuous. Hence, IA(IBC)/352/2023 is dismissed as infructuous.

Sd/-

**JUSTICE TELAPROLU RAJANI  
MEMBER JUDICIAL**



**NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI SPECIAL BENCH**

**IA(IBC)/365/2023  
in  
TCP (IB)/49/9/AMR/2019**

**Under Section 12A of the Insolvency and Bankruptcy Code, 2016 Read  
with Regulation 30 A of the Insolvency and Bankruptcy Code  
(Corporate Insolvency Resolution Process) Regulations, 2016**

In the matter of  
**M/s. MOHANA COTTON GINNING PRIVATE LIMITED**

**BETWEEN:**

Mr. Immaneni Chitanya Kiran,  
Interim Resolution Professional for  
M/s. Mohana Cotton Ginning Private Limited,  
Regd.No. IBBI/IPA-002/IP-NO1257/2023-2024/14280,  
40-26-22, Mohiddin Street, Opp. BSNL Exchange, \\  
Labbipeta, MG Road Vijayawada,  
Krishna, Andhra Pradesh-520010;  
e-mail: [cimmaneni@outlook.com](mailto:cimmaneni@outlook.com);  
Mobile: (+91) 9951789558.

...Applicant/IRP

**Order dated: 09.10.2023**

Coram:

**Justice Telaprolu Rajani, Member (Judicial).**

Parties/Counsels present:

For the Applicant: Mr.T.Uma Phani Shakar, Adovate along with  
Mr. Immaneni Chitanya Kiran, IRP.



**ORDER**

**Per: Justice Telaprolu Rajani, Member (Judicial).**

1. This Application is filed by the Applicant/ Insolvency Resolution Professional (IRP) under Section 12A of the Insolvency and Bankruptcy Code, 2016 Read with Regulation 30-A of the Insolvency and Bankruptcy Code (Corporate Insolvency Resolution Process) Regulations, 2016 seeking to withdraw the TCP (IB)/49/9/AMR/2019, which is admitted by this Tribunal vide its order dated 01.09.2023. Though Section 12A only permits the application to be filed with approval of ninety nine percent voting share of the Committee of Creditors, which means that it has to be filed only after the constitution of Committee of Creditors (CoC), Regulation 30A(1)(a) of the IBC (CIRP) Regulations, 2016 permits such application to be filed before inviting the Expression of Interest (EoI). The Regulation 30-A of the IBC (CIRP) Regulations, 2016, is re-produced under:

*“30-A Withdrawal of application –*

- (1) An application for withdrawal under Section 12-A may be made to the Adjudicating Authority –*
  - (a) before the constitution of the committee, by the applicant through the Interim Resolution Professional”*
- (2) The application under sub-regulation (1) shall be made in Form FA of the 67[Schedule-I] 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."*

2. The IRP states that the application under Section 12A was submitted to him. It is further submitted that complete fee under Regulation 30A (1) (c) & (d) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 was received. Hence Bank Guarantee as prescribed under Section 30A (2) need not be filed along with the Application and he filed Form - FA. The same is recorded. Considering that Regulation 30A (1) (c) & (d) are complied with, the Bank Guarantee as prescribed under Regulation 30A (2) is dispensed with. A judgment of the *Supreme Court between Abhishek Singh vs. Huhtamaki PPL Ltd & Anr*, can be taken support of while allowing with this Application. In the said judgment also the facts reflect that the application under section 12A was filed before the constitution of Committee of Creditors (CoC). The Supreme Court observed that in the circumstances mentioned therein, the NCLT should have exercised its inherent powers to meet the ends of justice. It is further observed that Regulation 30A of IBBI



Regulations provide complete mechanism for dealing with the applications filed under such provision. Since the expenses of the IRP are taken care of under the said provision and safeguards provided under Regulation 30A of IBBI Regulations are fulfilled by the Operational Creditor (OC) and since there is no complaint in that regard by the IRP, there need not be any demur to allow this Application. Hence, I.A (IBC)/365/2023 is allowed and permission is granted to withdraw the Petition. Consequently, TCP(IB)/49/9/AMR/2019 is dismissed as withdrawn.

Accordingly, TCP(IB)/49/9/AMR/2019 along with I.A(IBC)/365/2023 are disposed of.

Sd/- Dated 09.10.2023

**JUSTICE TELAPROLU RAJANI  
MEMBER JUDICIAL**

*Swamy Naidu (PS)*