

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

I.A No. 06 of 2021
U/s 12A of the I & B Code, 2016
r/w Regulation 30A Of IBBI
(CIRP) Regulations, 2016
&
CP (IB) No. 371/BB/2019
U/s.9 of the IBC, 2016
R/w Rule 6 of the I&B (AAA) Rules, 2016

Between:

Mr. Addanki Haresh

Interim Resolution Professional
Dr. Wiesner Test and Automation Pvt Ltd
No.365A, 1st Main, 1st Cross,
Badrappa Layout, Maruthi Nagar,
Bangalore – 560 094

.... Applicant/IRP

Date of Order: 18th January, 2021

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present (through Video Conference):

For the Applicant/IRP : Mr. Addanki Haresh,

ORDER

Per: Rajeswara Rao Vittanala, Member (Judicial)

1. I.A No. 06 of 2021 in CP (IB) No. 371/BB/2019 is filed by Mr. Addanki Haresh, IRP of the Corporate Debtor(Applicant/RP) U/s 12A of the I & B Code, 2016 r/w Regulation 30A of IBBI (CIRP) Regulations, 2016 by inter-alia seeking to permit him to withdraw the main Company Petition.
2. Brief facts of the case, which are relevant to the issue in question, are as follows:

(1) Initially, the main Petition bearing C.P. (IB) No. 371/BB/2019 filed by M/s Symbiotic Automation Systems Pvt Ltd filed U/s 9 of Code was admitted on 17th March , 2020, by initiating CIRP in respect

of the Corporate Debtor, appointing the Applicant as IRP, imposing moratorium etc.

(2) Pursuant to the same, the Applicant held Six (6) meetings of Committee of Creditors (CoC). After the 1st meeting of CoC, the IRP received and admitted a claim from State Bank of India for Rs.6.50Lacs, which was admitted to the extent of Rs.5.96Lacs. Accordingly, the CoC was reconstituted with the sole Financial Creditor, and the same was intimated to the Adjudicating Authority on date 31st August 2020. At the 6th meeting of the CoC, which was held on 6th January, 2021, the IRP listed out the activities conducted by him during the past 9 months of CIRP. The IRP also informed the members that, he received an application in prescribed Form FA dated 2nd January, 2021 from the original application of initiation of CIRP viz., Symbiotic Automation Systems (P) Ltd (Symbiotic). M/s Symbiotic felt that, since even after a period of 9 months of initiation of CIRP, there was not much progress in CIRP for various reasons, which in-turn may lead to the Liquidation of the Corporate Debtor, the Applicant proposed to withdraw their application filed with the Adjudicating Authority. Accordingly, they submitted application in prescribed Form FA, and requested the COC to approve withdrawal of the CIRP process. The Members discussed the Application for withdrawal by the Applicant, and the following resolution was put to Vote by the Members. Since all the Members of CoC were present, the Resolution was put to vote, and, the same was unanimously approved by the CoC and directed the Applicant to file the instant Application.

3. Heard Shri. Addanki Haresh, Learned IRP, **through Video Conference**. We have carefully perused the pleadings, and the extant provisions of the Code, the Rules made thereunder, and the law on the issue.



4. As per provisions of Code, the name of IRP has to be suggested for consideration by Adjudicating Authority and he/she has to submit willingness and fee agreed, and half of agreed fee has to be paid by the original Petitioner, who has filed Petition. The Applicant has not stated that what is agreement with original Petitioner with regard to his fee. In the absence of Agreement in that regard, the Adjudicating Authority cannot decide his fee. However, we are inclined to allow the Application for withdrawal, which was filed in accordance with law.
5. In the result, I.A No. 06 of 2021 in CP (IB) No. 371/BB/2019 is allowed by permitting the Applicant to withdraw CP. Consequently, CP and pending IAs stands dismissed as redundant.

ASHUTOSH CHANDRA
MEMBER, TECHNICAL

RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL

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