

**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD**  
**COURT - 2**



ITEM No.301  
**IA/1052(AHM)2023**  
**in**  
**CP(IB)/232(AHM)2021**

**Order under Section 12A IBC r.w Rule 11 of NCLT Rules, 2016**

**IN THE MATTER OF:**

VIRENDRA MAURYA IRP OF SORICH FOILS LIMITED

.....Applicant

.....Respondent

**Order delivered on 08/11/2023**

**Coram:**

**Mrs. Chitra Hankare, Hon'ble Member(J)**

**Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)**

**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

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**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD (COURT - II)**

**IA No. 1052 / NCLT / AHM / 2023**

**IN**

**CP(IB) No. 232 / NCLT / AHM / 2021**

**(Under Section 12A of the Insolvency and Bankruptcy  
Code, 2016 Read with Rule 11 of the NCLT Rules)**

**Mr. Virendra Maurya**

**(IRP of Sorich Foils Limited)**

**.... Applicant**

**AND IN THE MATTER OF**

**Mr. Rasiklal Vadilal Sandesara**

**(Karta of Sandesara Rasiklal Vadilal HUF**

**HUF is proprietor of Aditya and Aditya)**

**... Operational Creditor**

**Versus**

**Sorich Foils Limited**

**... Corporate Debtor**

**Order pronounced on 08.11.2023**



**Coram:**

**MRS. CHITRA HANKARE**

**HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY**


**HON'BLE MEMBER (TECHNICAL)**

**Present:**

For the Applicant : Mr. Kamlesh Vaidankar

**ORDER**

1. This is an Application filed by the Interim Resolution Professional (RP) u/s 12A for withdrawal of Corporate Insolvency Resolution Process (herein after referred as "CIRP") of the Sorich Foils Limited on 02.09.2023 numbered as IA-1052/2023.
2. The brief facts which emerge out of the perusal of the Application reflect as follows: -
  - a. The CIRP was initiated against the Corporate Debtor order dated 31.07.2023. Vide the said order. Mr. Lokesh Khadraia (appointed IRP) (having Registration No. IBBI/PA-001/1P-P-02070/2020-21/13228 was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor. However, owing to the failure of the



IRP to renew its Authorisation for Assignment from the IBBI, it is unable to carry out the functions of an IRP. After receiving the email dated 04.08.2023 from the appointed IRP stating his inability to carry out the functions of IRP, the Applicant filed an Interlocutory Application bearing IA No. 880(AHMI/2023 to replace the appointed IRP with Mr. Virendra Maurya (IBBI registration number IBBI/IPA-001/IP-P02627/2021-2072/14022 as IRP which was approved vide dated 23.08.2023 for the IA no. 880(AHM)/2023 was passed by the Hon'ble Tribunal appointing Mr. Virendra Maurya (IBBI registration number IBBI/PA-001/IP-P02627/2021-2022/14022 as the IRP to carry out the functions as mentioned under the Insolvency and Bankruptcy Code.

- b. Before the CIRP process could proceed further by the newly appointed IRP, the Applicant was approached by the Corporate Debtor for an amicable settlement. The parties hereto have arrived at an amicable settlement to resolve the differences and the Corporate Debtor offered to make payment of the outstanding dues as per the Settlement Agreement dated 07.08.2023 executed by and between the parties hereto. Therefore, the Applicant has decided to withdraw the insolvency proceeding against the Corporate Debtor under Section 12A.



- c. By Email dated 28.08.2023, the Operational Creditor approached IRP with the CIRP Admission and IRP Appointment Order. The Operational creditor have submitted signed FORM FA dated 24.08.2023 requesting the IRP to file the 12A withdrawal application before the Hon'ble Tribunal.
3. 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- C dated 07.08.2023 wherein it is reflected as part of the Settlement Agreement a payment of Rs.30,00,000/- (Rupees Thirty Lakh Only) has been agreed to be accepted by the Operational Creditor in various tranches out of which Rs.5,00,000/- has already been received. Further, in terms of the Settlement Agreement, the parties have agreed to file an Application under Section 12A of the IBC, 2016 by the IRP. Perusal of the Form FA shows that the Operational Creditor in IA/1052/2023 also expresses its willingness to withdraw the main Application.
4. Hon'ble Supreme Court in its order in appeal filed in **Abhishek Singh Vs Huhtamaki Ppl Ltd & Another 2023 SCC OnLine SC 349** has held that a plea for the withdrawal of the CIRP can be allowed by the Adjudicating Authority even prior to the establishment of the COC.



5. Taking into consideration the said submissions made by the Learned Counsel for the Applicant/IRP as well as the averments contained in the Application and also based on the Affidavit filed by the IRP/Applicant that the CoC is yet to be constituted in relation to the CIRP of the Corporate Debtor, this instant Application stands allowed and in the circumstances, IA/1052/2023 stands withdrawn. Consequently, the CIRP initiated against the Corporate Debtor also stands withdrawn.
6. The IRP as per Regulation 30A of IBBI (Regulation Process for Corporate Persons) Regs., 2016 should have filed this application within 3 days of receipt of application for withdrawal by the operational creditor. The delay of 5 days is condoned as special case. The IRP is directed to hand over the management by appropriate procedure to the Board of Directors whose powers stood suspended by virtue of the initiation of the CIRP by this Tribunal while admitting the Petition in CP(IB)/232/2021 vide Order dated 31.07.2023 and whose powers stand restored consequent to the withdrawal of CIRP in relation to the Corporate Debtor viz., Sorich Foils Limited. Considering the above facts application is allowed subject to costs of Rs.50,000/-.

### **ORDER**

- a. Application is allowed.



- b. Applicant is allowed to withdraw CIRP against the Corporate Debtor ordered dated 31.07.2023.
- c. Operational Creditor to deposit costs of Rs.50,000/- in the Prime Minister's National Relief Fund within a period of 10 days from the date of this order.

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**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

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**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**