

2

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD**

SPECIAL BENCH - COURT I (URGENT HEARINGS THROUGH VIDEO CONFERENCE)

PRESENT: HON'BLE SHRI K ANANTHA PADMANABHA SWAMY – MEMBER JUDICIAL

HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 08.12.2020 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IS No. 1117/2020 in CP (IB) No.291/9/HDB/2019
NAME OF THE COMPANY	Sri Vatsa Hotels Ltd
NAME OF THE PETITIONER(S)	Sanitech Engineers & Consultants Pvt Ltd
NAME OF THE RESPONDENT(S)	Sri Vatsa Hotels 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 No.1117/2020, is listed today for orders.

Orders passed vide separate orders.


MEMBER (TECHNICAL)


MEMBER(JUDICIAL)

Pavani

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

IA No.1117 of 2020
in
C.P (IB) No.291/09/HDB/2019
Under Section 12A of I&B Code, 2016
r/w Rule 13 of NCLT Rules, 2016

Ms. Kalpana G.
Resolution Professional of
M/s. Sri Vatsa Hotels Limited (Panoramic Universal Limited)
H.No.16-11-19/4, G-1, Sri Laxmi Nilayam
Saleem Nagar Colony, Malakpet
Hyderabad – 500 036, Telangana.

... Applicant / Resolution Professional

In the Matter of:

M/s. Sanitech Engineers & Consultants Pvt. Ltd.
H.No.8-2-686/K/15, 4th Floor
Road No.12, Banjara Hills
Hyderabad – 500 034

... Petitioner / Operational Creditor

Vs.

M/s. Sri Vatsa Hotels Limited (Panoramic Universal Limited)
#9-1-199 to 218, Sona Arcade
St. Marys Road, Secunderabad
Telangana State – 500 003

... Respondent / Corporate Debtor

Date of order: 08.12.2020

Coram:

Hon'ble Shri K. Anantha Padmanabha Swamy, Member (Judicial)
Hon'ble Shri Arekapudi Veera Brahma Rao, Member (Technical)

Parties / Counsels Present (through video conferencing)

For the Applicant : Ms. G. Kalpana, Resolution Professional

Per: K. Anantha Padmanabha Swamy, Member (Judicial)

Heard on: 16.03.2020, 02.12.2020





ORDER

1. The Interlocutory Application bearing IA No.1117 of 2020 in CP(IB) No.291/9/HDB/2019 is filed by the Resolution Professional / Applicant herein under Section 12A of Insolvency & Bankruptcy Code, 2016 r/w Rule 13 of NCLT Rules, 2016 seeking permission to withdraw the Corporate Insolvency Resolution Process against M/s. Sri Vatsa Hotels Limited (Panoramic Universal Limited)/Corporate Debtor.

2. The Averments made in the Application are described hereunder:
 - i. It is averred that this Tribunal vide order dated 30.09.2019 admitted the Company Petition filed under Section 9 of the Insolvency & Bankruptcy Code, 2016 by M/s. Sanitech Engineers & Consultants Pvt. Ltd. / Operational Creditor against M/s. Sri Vatsa Hotels Limited / Corporate Debtor, and ordered initiation of Corporate Insolvency Resolution Process by appointing the Applicant herein as Interim Resolution Professional (IRP) and later confirmed as Resolution Professional in the 1st COC meeting held on 22.02.2020.

 - ii. It is averred the IRP issued public announcement on 02.10.2019 in Financial Express and in Namasthe Telangana inviting claims from the creditors. IRP received only one claim from the Operational Creditor, who is the petitioner herein, collated the claim and constituted Committee of Creditors (COC) with one Operational Creditor and submitted the report before this Tribunal on 23.10.2019.

 - iii. It is averred after constituting COC but before conducting 1st COC meeting, the Corporate Debtor filed an Appeal before the Hon'ble NCLAT, New Delhi in Company Appeal (AT) Insolvency No.1095 of 2019 on 07.01.2020 and the Appellate Authority passed an Order at para 9 as follows:

"In view of terms of Agreement, as reached between the parties, we in exercise of power conferred under Rule 11 of NCLAT Rules, 2016 set aside the impugned order dated 30.09.2019 passed by

AR - . . . l

4

the Adjudicating Authority and dispose of the application under Section 9 filed by the 1st Respondent – ‘M/s. Sanitech Engineers & Consultants Pvt. Ltd.’, as withdrawn. Terms of Settlement as suggested and recorded above should be treated as directions of this Appellate Tribunal and complied, failing which this Order shall stand recalled and Corporate Insolvency Resolution Process will continue. The Appellant Corporate Debtor will pay rest of the amount from total amount of Rs.3.5 lakhs, as ordered above, after adjusting Rs.1 lakh already paid to the Interim Resolution Professional. The appeal stands disposed of with aforesaid observations and actions. No costs.”

A copy of the Order in Company Appeal (AT) Insolvency No.1095 of 2019 dated 07.01.2020 is shown at page nos.24-28 of the application. The payment terms as per the Terms of Agreement are also shown at page nos.24 & 25 of the application which is also part of the above Order issued by the NCLAT.

- iv. It is averred the Corporate Debtor had in default in payment of second and third instalments which are to be paid on or before 15.01.2020 and 27.01.2020 respectively as per the Terms of Agreement and also the IRP fees and publication charges as directed by the Appellate Tribunal.
- v. It is also averred that she informed about the continuation of CIRP to the Respondents through email dated 31.01.2020 and 07.02.2020 and requested to send the required documents and necessary information for completing the CIRP.
- vi. It is averred RP had filed an application bearing IA No. 267/2020 against suspended Board of Directors of the Corporate Debtor for non-cooperation to complete the CIRP process smoothly.
- vii. It is averred after continuous follow up, the suspended Board of Directors paid the balance instalments, IRP fees and publication fees. At request of RP, the Operational Creditor given consent to withdraw the CIRP against the Corporate Debtor in Form FA.



3. We heard the Resolution Professional through video conference on 02.12.2020. The Applicant herein would contend that this Tribunal admitted the petition filed under Section 9 of I&B Code, 2016 on 30.09.2019 for initiation of CIRP and appointed IRP. However, after admission of the petition, the parties entered into Settlement Agreement and the Corporate Debtor paid the full settlement amount of Rs.9,50,000/- in three instalments and paid the IRP fees and also publication fees.

4. The Resolution Professional would further contend that Expression of Interest is yet to be published. The Operational Creditor filed Form FA to withdraw the Petition filed under Section 9 of I&B Code by complying the procedure prescribed under Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons), 2016 issued vide Gazette Notification No. IBBI/2019-20/GN/REG048, dated 25.07.2019, which reads as follows:

1. An application for withdrawal under Section 12A may be made to the Adjudicating Authority –

a) before the constitution of the Committee, by the applicant through the Interim Resolution Professional;

b) after the constitution of the Committee, by the applicant through the Interim Resolution Professional or the Resolution Professional, as the case may be;

Provided that where the application is made under clause(b) after the issue of invitation for expression of interest under regulation 36A, the Applicant shall state the reasons justifying withdrawal after issue of such invitation.

2. The application under sub-regulation (1) shall be made in Form FA of the Schedule 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.



4. Where an application for withdrawal is under clause(b) of sub-regulation (1), the Committee shall consider the application, within seven days of its receipt.
 5. Where the application referred to in sub-regulation (4) is approved by the committee with ninety percent voting share, the resolution professional shall submit such application alongwith the approval of the committee, to the Adjudicating Authority on behalf of the applicant, within three days of such approval.
 6. The Adjudicating Authority may, by order, approve the application submitted under sub-regulation (3) or (5);
 7. Where the application is approved under sub-regulation (6), the applicant shall deposit an amount, towards the actual expenses incurred for the purposes referred to in clause(a) or clause (b) of sub-regulation (2) till the date of approval by the Adjudicating Authority, as determined by the Interim Resolution Professional or Resolution Professional as the case may be, within three days of such approval, in the bank account of the Corporate Debtor, failing which the bank guarantee received under sub-regulation (2) shall be invoked, without prejudice to any other action permissible against the applicant under the Code”.
5. In view of the settlement of claim amicably between both the parties, the Applicant herein prayed the Tribunal to permit withdrawal of the Petition. This Tribunal has power under Section 12A r/w Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) 2016 to permit withdrawal of the application even after admission of the Petition.
6. Accordingly, IA No. 1117 of 2020 is allowed and Main Company Petition CP (IB) No.291/9/HDB/2019 is dismissed as withdrawn under Section 12A of Insolvency and Bankruptcy Code, 2016. The Moratorium Order under Section 14 stands vacated. The Corporate Debtor is allowed to function independently through its Board of Directors with immediate effect.
7. Since CP (IB) No.291/9/HDB/2019 is dismissed as withdrawn, IA No. 267/2020 becomes infructuous and accordingly dismissed as infructuous.


(VEERA BRAHMA RAO AREKAPUDI) (K.ANANTHA PADMANABHA SWAMY)
MEMBER (TECHNICAL) MEMBER (JUDICIAL)