

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT NO. V

M.A. 521 of 2020

IN

C.P. (IB) 2248/MB/2019

Under Section 12A of IBC, 2016.

In the matter of

Berger Paints India Limited

Berger House, 129, Park Street, Kolkata,

West Bengal – 700 017

.....Petitioner

Vs

Tuljai Industrial Products Private Limited

Flat No. 402-F, Marvel Ritz, Tupe Patil

Road, Opposite DSK Toyota, Hadapsar,

Pune, Maharashtra – 411 028

..... Corporate Debtor

M.A. No. 736 of 2019

Udaykumar Bhaskar Bhat

... Applicant

Order delivered on: 20.02.2020

Coram:

Hon'ble Smt. Suchitra Kanuparthi, Member (J)

Hon'ble Shri. Chandra Bhan Singh, Member (T)

For the Applicant: Mr. Impala Ken, Advocate.

Per: Suchitra Kanuparthi, Member (J)

ORDER

1. This is a miscellaneous application filed by the Resolution Professional ("RP") seeking an Order under Section 12A of the Insolvency and Bankruptcy Code ("Code") for withdrawal of the Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor.

2. A Petition under Section 7 of Code was "Admitted" vide Order dated 11.11.2019 in respect of a Debt amount of Rs. 16,78,747/- including interest and one Mr. Udaykumar Bhaskar Bhat was appointed as Interim Resolution Professional.

3. The RP has carried out public announcement on 28.11.2019 and received a claim from the Operational Creditor, thereafter the Committee of Creditors ("CoC") was constituted consisting of a sole operational creditor and the first CoC meeting was held on 23.12.2019.

4. In the second CoC meeting held on 04.02.2020, there was a discussion regarding withdrawal of CIRP against the Corporate Debtor and the minutes of meeting at item no. 3 is as follows;

"The Resolution Professional informed the Committee that the all the costs of Insolvency Resolution Process have been received and hence a Bank Guarantee as stipulated in the Regulations has not been obtained. The committee unanimously approved the resolution and advised the RP to submit the same to the AA which is the Hon'ble NCLT Mumbai bench."

5. The Second CoC meeting thus resolved that the Application for withdrawal of CIRP against the Corporate Debtor be approved and the RP was authorized to present their application for withdrawal of CIRP against the Corporate Debtor. Form FA dated 27.01.2020 has also been filed.

6. The Counsel representing the RP also submitted that the sole member of Committee of Creditors being Operational Creditor has received the outstanding sum due and thus approved withdrawal of Petition.

7. This Bench has perused the minutes of CoC meeting dated 04.02.2020 and Form FA filed by the applicant and upon being satisfied with the application which is in accordance with Section 12A and Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2019.

8. On hearing the counsel for the applicant and on going through the pleadings in the application, this Bench is of the view that this is a fit case to exercise the inherent power of Rule 11 of the NCLT Rules and recalls the order in CP 2248 of 2019.

9. Therefore, this Miscellaneous Application No. 521 of 2020 is "allowed" with a liberty to the Petitioner that in case of any infringement in the terms of the Settlement, the default if any, be informed to this Court for necessary action.

10. The IRP is discharged and directed to hand over the Corporate Debtor to the erstwhile Directors who can function independently. The Corporate Debtor is relieved from the rigor of the Code and the Corporate Debtor will function under the supervision of the Board of Directors

11. Petition is disposed of as "**withdrawn**".

SD/-
Chandra Bhan Singh
Member (T)

SD/-
Suchitra Kanuparthi
Member (J)