



**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH - I, CHENNAI**

IA(IBC)/1999/CHE/2023 in IBA/470/2020

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

In the matter of Thiruchitambalam Project Limited

G. Mukundan

Resolution Professional of

M/s. Thiruchitambalam Projects Limited

Reg. No. IBBI/IPA-001/IP-P01419/2018-2019/12162

At 29A, First Main Road,

Eri Scheme, Mogappair,

Chennai – 600 037

...Applicant

Order Pronounced on 22nd November 2023

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)

VENKATATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Applicant : G. Mukundan, RP

ORDER

This is an Application filed under Section 12A of the Insolvency and Bankruptcy Act, 2016 (hereinafter the “IBC, 2016”) read with Rule 11 of the National Company Law Tribunal Rules, 2016 (hereinafter the “NCLT Rules”), seeking relief as follows;



- (i) *Pass an order of withdrawal of Order of Corporate Insolvency Resolution Process against the Corporate Debtor under Section 12A of the Insolvency and Bankruptcy Code, 2016 read with Regulation 30A of IBBI (CIRP) Regulations, 2016 pursuant to the Form FA dated 04.10.2023 submitted by the sole Operational Creditor seeking withdrawal of the CIRP proceedings.*
- (ii) *Pass such other order / directions as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice.*

2. The Corporate Insolvency Resolution Process in relation to the Corporate Debtor was initiated by this Tribunal vide order dated 02.09.2021. The Applicant herein was appointed as the Interim Resolution Professional (IRP).

3. It is stated that the Applicant conducted the CIRP as per the procedure enshrined under the provisions of IBC, 2016. Since the 180 days CIRP period in respect of the Corporate Debtor came to an end, the Applicant moved an Application seeking Liquidation of the Corporate Debtor. This Tribunal vide its order dated 09.01.2023 in IA(IBC)/1120(CHE)/2022 ordered for Liquidation of the Corporate Debtor.



4. The suspended Directors of the Corporate Debtor preferred an Appeal before Hon'ble NCLAT in Company Appeal (AT)(Ch)(Ins) No. 291 of 2023 as against the order of Liquidation dated 09.01.2023 passed by this Tribunal. The Hon'ble NCLAT vide its order dated 27.09.2023 has passed the following order;

A 'Joint Memo', is filed by the 'Appellant', and the '2nd Respondent' / 'Committee of Creditors', represented by its 'Sole Creditor' dated 22.09.2023, before this 'Tribunal', that the 'Appellant' and the '2nd Respondent' (Sole Creditor in the 'Committee of Creditors'), had settled the matter themselves, and a joint request is made for setting aside the Order dated 09.01.2023 in IA(IBC)/1120(CHE)/2022 in IBA/470/2020, passed by the 'Adjudicating Authority' / 'National Company Law Tribunal', Division Bench – I, Chennai, whereby and where under, an 'Order of Liquidation' of 'Corporate Debtor', was passed. Further, the '2nd Respondent' / 'Sole Creditor' is to 'withdraw' the Application in IA No.470/2020 before the 'National Company Law Tribunal', Division Bench – I, Chennai, as per the ingredients of the I&B Code, 2016 and its Regulations Section 12A of the I & B Code, 2016 and its Regulations.

It is informed by both sides that as per the Section 12A of the I & B Code, 2016, the Application was not preferred before the 'Adjudicating Authority' / 'National Company Law Tribunal', Division Bench – I, Chennai.

Considering the fact, the 'Appellant', and 'Sole Creditor in CoC' / '2nd Respondent', had 'settled the matter between themselves', the instant Comp App (AT) (CH) (Ins) No.291/2023 is 'dismissed as withdrawn'. No Costs. However, the 'Sole Creditor' / '2nd Respondent' is permitted to file a Section 12A Application, under the I & B Code, 2016, before the 'National Company Law Tribunal', Division Bench – I, Chennai and the said Application is directed to be filed within 'one week' beginning from 03.10.2023 (Tuesday). When such, an 'Application' / 'Petition', being filed, by the concerned person/party, then the same after scrutiny, shall be taken on file, and the 'National Company Law Tribunal', Division Bench



– I, Chennai, shall 'dispose' of the same, in the manner known to 'Law' and in accordance with 'Law'.

With the aforesaid observations/directions, the instant Company Appeal (AT) (CH) (Ins) No.291/2023 stands 'disposed of'. The connected pending IA Nos. 885/2023 & 886/2023 are closed.

Before parting with the instant 'Appeal', the Resolution Professional / IRP is permitted to file an Application (IA) before the 'Adjudicating Authority' in respect of his Legal fees and Legal costs, if any, and the said Application/ Petition will be decided by the 'Adjudicating Authority' / 'Tribunal' on merits, of course, in a fair, just, and in a dispassionate manner, uninfluenced and untrammelled with any of the observations made by this 'Tribunal', in the instant 'Appeal'.

5. The Learned Counsel for the Applicant has submitted that the CIRP costs and the fee of the Applicant / RP have been paid in full. Further, it is stated that the Operational Creditor has handed over the Form FA to the Applicant on 04.10.2023.
6. Heard the submissions made by the Learned Counsel for the Applicant.
7. The Hon'ble NCLAT vide its order dated 27.09.2023 has observed that the parties have settled the matter and directed this Tribunal to consider the Section 12A Application in accordance with Law.



8. As per Regulation 30A of the IBBI (Insolvency Resolution Process of Corporate Persons) Regulations, 2016 the Form FA has been placed along with this Application. It is stated in Form FA by the Applicant that the entire fees of the RP has been settled and there is no outstanding.

9. Taking into consideration the said submissions made by the Learned Counsel for the Applicant/RP as well as the averments contained in the Application, instant Application IA(IBC)1999/CHE/2023 stands **allowed**. In the circumstances, IBA/470/2020 stands **withdrawn**. Consequently, the CIRP initiated against the Corporate Debtor also stands withdrawn.

10. The Applicant is directed to hand over the management 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 IBA/470/2020 vide Order dated 02.09.2021. The Corporate Debtor is released from all rigours of the IBC, 2016. The Applicant is discharged from all his responsibilities. The Corporate Debtor shall operate through its own Board.

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11. Accordingly IA(IBC)1999/CHE/2023 stands **allowed**.
IBA/470/2020 stands **dismissed as withdrawn**. All the connected
Applications stands **closed**. File be consigned to records.

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

SANJIV JAIN
MEMBER (JUDICIAL)

Raymond