

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

MA 1231/2018 in
C.P.(IB)-1268/NCLT/(MB)/MAH/2017

CORAM: Present : SH. M.K. SHRAWAT
MEMBER (J)

SH. CHANDRA BHAN SINGH,
MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 19.09.2019.

NAME OF THE PARTIES: Jai Ambe Enterprise
V/s.
S.N. Plumbing Pvt. Ltd.

SECTION OF THE COMPANIES ACT : U/s. 12A of Insolvency & Bankruptcy Code, 2016.

ORDER

1. This Application is submitted on 23.10.2018 by Resolution Professional seeking an Order u/s.12A of the Insolvency Code.

2. A Petition u/s.9 of IB Code was "Admitted" vide Order dated 16.08.2017 in respect of a Debt amount of Rs.13,76,525 (excluding Taxes as may be applicable). and Mr. Sanjay Kumar Ruia was appointed as IRP. The said IRP was subsequently replaced by one Mr. Ajay Agrawal (Resolution Professional of S.N. Plumbing Pvt. Ltd.) vide Interim Order dated 25.07.2018. This case has a past unpleasant history of disciplinary action by IBBI against the said IRP.

3. Along with this Application, Minutes of meetings of **First**, **Second** and **Third** Committee of Creditors meeting dated 18.09.2018, 24.09.2018 and 16.10.2018 are annexed. In the **Third** Committee of Creditors meeting dated 16.10.2018 it was *inter alia* decided to withdraw the Petition u/s. 12A of The Code, reproduced below:-

"2. To consider extension of time to comply with the requirement of withdrawal of application Under Section 12 A approved in the Meeting dated 24-09-2018 on account of illness of the Mr. R Panicker, ex-Director of CD. The time line are set to expire shortly.

It was informed to CoC, that in terms of its decision in Meeting of 24-09-2018 to accept the request for withdrawal of application under Section 12A of IBC, 2016, RP was required to move the application to NCLT Mumbai, however this could not be done as the compliance of making payment of CIRP costs was not carried out. Mr. Panicker, had informed he was very sick and advised rest, hence the delay.

Mr. Panicker confirmed that he was sick and would produce the medical certificate in support.

CoC agreed to immediately comply by making payment of CIRP costs as per NCLT's Order of 25-07-2018 to the earlier RP, Mr. Sanjay Ruia and also pay the present RP the CIRP cost up to date instead of issuing BG towards the costs. Immediately on such compliance, it was decided that the RP would move NCLT, Mumbai to allow withdrawal of application by Jai Ambe Enterprise.

CoC reiterated it had considered the request for application to withdraw as the earlier call for EOI, was considered null and void as only seven days time, instead of the prescribed 30 days was given and by Interim Order dated 25-07-2018 the option to issue afresh EOI, was open. Therefore, as the request for withdrawal under Section 12A of IBC, 2016 was received before the issue of revised/ fresh EOI, it was within the rule to pass resolution (which was passed by CoC, in meeting of 24-09-2018) to allow withdrawal of application by Jai Ambe Enterprise.

It was decided to move NCLT, Mumbai, for withdrawal of application under Section 12 A."

4. The Committee of Creditors was further informed that "*payment was received from Reliance and credited to the account of S N Plumbing P Ltd, with CSB. The RP had advised/permitted CSB to make payment of CIRP costs from the CC account of CD.*" Apart from this information, further an information has been placed on record that the dues are settled with M/s. Jai Ambe Enterprises (Petitioner) and thereupon executed requisite Form FA for withdrawal of the Petition; as also recommended by the Committee of Creditors.

5. After due deliberation by the members of the Committee of Creditors and considering the Regulation 30A of Corporate Insolvency Resolution Process Regulations, all of them have consented to close the Corporate Insolvency Resolution Process proceedings against the Corporate Debtor M/s. S N Plumbing Pvt. Ltd. by 100% vote of approval.

6. Since the members of the Committee of Creditors have approved for withdrawal of Petition after following the conditions laid down under Regulation 30A of Corporate

Insolvency Resolution Process Regulation, therefore, this Miscellaneous Application is "allowed".

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

Sd/-
CHANDRA BHAN SINGH
Member (Technical)
Date : 19.09.2019
ug

Sd/-
M.K. SHRAWAT
Member (Judicial)