

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

C.P (IB)-4709/(MB)/2018
MA 2752/2019

CORAM:

SHRI V. P. SINGH
MEMBER (J)
SHRI RAJESH SHARMA
MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 27.8.2019

NAME OF THE PARTIES: Tariq Puthawala
V/s
Sonhira Stationers Pvt Ltd

Section 9 of the Bankruptcy and Insolvency Act, 2016

ORDER

70. MA 2752/2019 In C.P. (IB)-4709/(MB)/2018

MA 2752/2019 has been filed by the Resolution Professional under section 12 A of the IBC, 2016, for withdrawal of the CP 4709/2018.

The applicant contends that the Corporate Insolvency Resolution Process was initiated against the Corporate Debtor. M/s Sonhira Stationaries Private Limited, by order of this bench dated 20.6.2019,

After that in response to the public announcement, one claim was received from M/s Puthawala & Co for Rs. 54,61,408 and no other claim was received. It is further stated by the applicant that since only one claim was received from the operational creditor, i.e. Puthawala & Co. the other creditors have not been taken as part of CoC. On 31.7.2019, the applicant informed the RP that he would like to withdraw the application filed against the Corporate Debtor and accordingly he submitted the Form FA dated 23.7.2019. On receipt of the application from the Operational creditor, the RP immediately gave notice dated 31.7.2019 for calling the CoC meeting to be kept on 5.8.2019. In the second CoC meeting held on 5.8.2019, it was resolved that the RP should

apply to the adjudicating Authority for withdrawal of the application under Section 12A of IBC, 2016 on behalf of the applicant along with form FA as submitted by the RP. The copy of the minutes is annexed with the application as Annexure J.

It is further stated that the applicant has given Demand Draft of Rs.3,00,000 as the total cost of CIRP process as required under Regulation 30A(2)(b) and since there are no other costs of CIRP, as required under Section 30A(2)(b), thus no bank guarantee has been given. Copy of the Demand Draft is annexed with the application as Annexure K.

It is further stated that the CoC has approved the withdrawal of the Company Petition with 100% voting share as per Regulation 30A(5).

Since this application for withdrawal of the Company Petition under Section 12A, after admission of the petition in FORM FA, it is submitted by the RP that CIRP costs an amount of Rs.3,00,000 has been paid by way of Demand Draft. Since CoC has approved the withdrawal of the Company Petition with 100% voting share, therefore application deserves to be allowed, subject to payment of costs of Rs.1,00,000, which shall be paid by the Corporate Debtor, in the account of Prime Minister's National Relief Fund, failing which this order shall not be valid.

The costs shall be paid by 3.9.2019, and the affidavit annexing the receipt be filed .

List on 3.9.2019 for FO..

Sd/-
RAJESH SHARMA
Member (Technical)

Sd/-
V. P. SINGH
Member (Judicial)