

NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH COURT VI
SPECIAL BENCH

Item No. 02.

IA(I.B.C)/ 508(MB)2024 IN C.P. (IB)/354(MB)2022

CORAM

SMT. MADHU SINHA
HON'BLE MEMBER (TECHNICAL)

SHRI K. R. SAJI KUMAR
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **28.02.2024**

NAME OF THE PARTIES : **Capri Global Capital Limited**

Vs

Silver Jubilee Motors Limited

For IRP : Adv. Pridhi Singla (Applicant IRP in IA 508/24)

IBC under Sec 12A r/w Reg. 30A(1)(a) of IBBI CIRP Regulations

ORDER

IA(I.B.C)/508(MB)2024

1. This IA has been filed by the applicant/FC in CP(IB)/354(MB)/2022 through the Interim Resolution Professional (IRP) for withdrawal of the CP, under Section 12A of the Insolvency and Bankruptcy Code, 2016 (IBC) r/w Regulation 30A(1)(a) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) and Rule 11 of the National Company Law Tribunal Rules, 2016 (NCLT Rules). Heard the arguments of Ld. Counsel for the IRP.

2. We had admitted the CP for insolvency commencement of the CD *vide* order dated 12.01.2024. It has been stated by the IRP that the parties have settled their dispute to the effect that the over-dues subsisting in the loan account of the CD with the FC have been regularised and taken out of Non-Performing Account status by paying Rs. 1,67,98,963/. The FC has issued Account Regularisation Confirmation Letter dated 27.01.2024 to the CD, which is Annexure-6 to this IA. Further, the FC has filed Form FA dated 27.01.2024 for withdrawal of the CP as Annexure-7. This IA has been filed on the 18th day of insolvency commencement date, being 12.01.2024, and 15th day of the date of receipt of the admission order.
3. The IRP has submitted that public announcement was made under Section 15 of the IBC on 18.01.2024, fixing the last date of receipt of claims as 29.01.2024. While the claims as received from the creditors were under the stage of verification, Form FA has been submitted by the FC on 27.01.2024, and thus, the Committee of Creditors has not been constituted. It is also submitted by the IRP that this IA has been filed on 30.01.2024, i.e., within three days from the date of receipt of Form FA as required under Regulation 30A(3) of the CIRP Regulations.
4. We have perused the documents attached to the IA and heard the Ld. Counsel for the IRP. It is clarified by the Ld. Counsel that this IA has been filed by the same National Legal Manager of the FC, who was duly authorised to file the CP and, hence, he is the applicant within the meaning of Section 2(1)(a) of the CIRP Regulations competent to submit

Form FA on behalf of the FC. Further, no bank guarantee as mentioned in terms of Regulation 30A(2)(a) of the CIRP Regulations r/w paragraph 3 of Form FA is required in the present IA as the FC had already provided five lakh rupees to the IRP for meeting the initial expenses, as per the admission order dated 12.01.2024 itself, and that the IRP has filed his statement of expenditure accounting for his professional fees and other expenses. Besides this, no other amount remains payable towards insolvency resolution process costs within the meaning of Section 5(13) of the IBC.

5. Having considered the spirit of the judgment of the Hon'ble Supreme Court in Civil (A) No. 2241/2023 in *Abhishek Singh Vs. Huhtamaki PPL Ltd, & Ors.*, and upon hearing the Ld. Counsel for IRP, we are satisfied that Form FA submitted by the FC is in compliance of all legal formalities under the provisions of the IBC and the CIRP Regulations. Therefore, we hold that this is a fit case to exercise our inherent powers under Rule 11 of the NCLT Rules and to allow withdrawal of the CP. In the result, this IA is allowed and the CP is allowed to be withdrawn.
6. As from today, the CD is free from the rigour of CIRP ordered on 12.01.2024 and the moratorium under Section 14 of the IBC shall cease to operate as on the date of this order. The IRP is directed to release and handover all the assets, documents, records and things taken control of by him in physical or electronic format to the suspended directors of the CD forthwith.

7. The IRP is directed to return the balance amount of Rs. 55704/-, out of the five lakh rupees deposited with him, to the FC forthwith. CP(IB)/354(MB)/2022 stands disposed of as withdrawn.

8. Ordered accordingly.

Sd/-
MADHU SINHA
MEMBER (TECHNICAL)

Sd/-
K. R. SAJI KUMAR
MEMBER (JUDICIAL)

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