

In the National Company Law Tribunal
Mumbai Bench.

MA 3209/2019 in C.P.(IB)-1798/MB/2017

Under Section 12A of Insolvency & Bankruptcy Code, 2016

In the matter of

Shrishankar Menon
(Power of Attorney Holder of
Mrs. Rukmini P Nair &
Mrs. Veena S Menon) : Operational Creditors

V/s

Ram Agri Infra India Pvt. Ltd. : Corporate Debtor

AND

Mr. Manishkumar Patel : Resolution Professional.

Order delivered on: 29.11.2019

Coram:

Hon'ble Shri M.K. Shrawat, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical).

For the Petitioner(s) : 1. Ms. Rinika Jain, Advocate &
2. Mr. D.B. Pereira, Advocates for Resolution
Professional;
3. Mr. Manishkumar Patel, Resolution
Professional

For the Respondent(s) : 1. Mr. Santosh Kori, Adv. For Suspended
Director.

Per M.K. Shrawat, Member (Judicial).

ORDER

1. The present M.A. 3209/2019 was filed by the Resolution Professional Mr. Manishkumar Patel and the prayers are as under:-

"(a) Approve the withdrawal of C.P. (IB)-1798/(MB)/2017 filed under Section 9 of the Insolvency And Bankruptcy Code, 2016 against the Corporate Debtor – Ram Agri – Infra India Private Limited (CIN No : U70101GJ2009PTC057554), in accordance with section 12A of The Insolvency and Bankruptcy Code, 2016, as having been duly approved in the 8th CoC Meeting dated 24th September, 2019 with 100% voting share."

2. A Petition u/s.9 was submitted by the Power of Attorney holder Mr. Shrishankar Menon on behalf of Mrs. Rukmini P. Nair and Mrs. Veena S. Menon in the capacity of Operational Creditor against M/s. Ram Agri Infra India Pvt. Ltd., Corporate Debtor,

Mumbai which was "Admitted" On 28.12.2018 with direction to commence Corporate Insolvency Resolution Process by appointing Mr. Manishkumar Patel as Interim Resolution Professional, pertaining to an Operational Debt of Rs.10,97,445/-.

3. The Committee of Creditors was formed with (i) Financial Creditor viz. Central Bank of India for Rs.45,18,835/- and (ii) Operational Creditor, Mr. Shrishankar Menon (Power of Attorney Holder for (1) Mrs. Rukmini P Nair and (2) Mrs. Veena S. Menon) for Rs.12,13,568/-. In this Miscellaneous Application (**MA 3209/2019**) the Resolution Professional Mr. Manishkumar Patel has submitted that the Financial Claim in respect of Third party Corporate Guarantee given by the Company to Central Bank of India for a loan given to Mr. Sanju Kashyap, who is one of the directors of Ram Agri-Infra India Pvt. Ltd., the Corporate Debtor.

4. In the 8th Committee of Creditors meeting held on 24.09.2019, the Central Bank of India, Financial Creditor, informed that they have entered into One Time Settlement Agreement with Mr. Sanju Kashyap. The Financial Creditor also provided Letter received from Mr. Sanju Kashyap for One Time Settlement offer dated 20.09.2019. The Financial Creditor also gave Letter dated 24.09.2019 to Resolution Professional requesting him to "withdraw" the Company Petition, the same was put for voting when it was unanimously approved and following resolution was passed:-

"RESOLVED THAT as per the provisions of Section 12A of the Insolvency and Bankruptcy Code, 2016 read with Regulation 30A of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) 2016, CoC hereby unanimously approves to withdraw the company Petition CP (IB) 1798/(MB)/2017 filed under Section 9 of the Insolvency and Bankruptcy Code.

5. The Applicant/ Resolution Professional has stated that Mr. Sanju Kashyap, Suspended Director has duly paid the CIRP cost of Rs.6,69,077/- which has been duly credited into his bank account as approved at the 8th CoC meeting. The 8th CoC meeting held on 24.09.2019 has unanimously (by 100% voting share) approved the withdrawal of C.P.(IB)-1798/(MB)/2017 as claim of the Financial Creditor has been agreed to be settled at a one-time settlement at Rs.26,50,000/- Principal amount being Rs.25,68,717/-

plus interest and the claim of the Operational Creditor has been duly settled at Rs.13,75,000/-.

6. In the 4th Committee of Creditors meeting, the Suspended Director presented a Letter from Mr. Shrishankar Menon, POA holder for Operational Creditors Mrs. Rukmini Nair and Mrs. Veena S. Menon, in satisfaction of his claim at Rs.13,75,000/-. The claim of the Operational Creditor has been settled at Rs.13,75,000/-.

7. The Resolution Professional further submitted that the Financial Creditor in the 8th Committee of Creditors meeting held on 24.09.2019 unanimously approved the withdrawal of Company Petition CP(IB)-1798/(MB)/2017 filed u/s.9 of the IB Code in accordance with the provisions of 12A of The Code read with Regulation 30A of Corporate Insolvency Resolution Process Regulation.

8. The Original Petitioner Mr. Shrishankar Menon also submitted Form FA (Application for Withdrawal of Corporate Insolvency Resolution Process) dated 08.03.2019 reproduced below:-

"To
The Adjudicating Authority
NCLT, National company Law Tribunal, Mumbai

[Through the Resolution professional /Manishkumar Patel]
Ram Agri Infra India Pvt. Ltd.
Ram House, thaltej, Ahmedabad, 3800054

Subject: Withdrawal of Application admitted for corporate insolvency resolution process of Ram Agri Infra India Pvt. Ltd.

I, Shrishankar Memon, through Power of Attorney holder of Mr. Rukmini P. Nair and Mrs. Veena S. Menon, had filed an application bearing C.P. No. C.P./IB/1798/MB/2017 on 22.12.2017 before the Adjudicating Authority under Section 9 of the Insolvency and Bankruptcy Code, 2016. The said application was admitted by the Adjudicating Authority on 28.12.2018 bearing C.P. No. C.P./IB/1798/MB/2017.

2. I hereby withdraw the application bearing C.P. No. C.P.(IB) 1798(MB) 2017 filed by me before the Adjudicating Authority under Section 9 of the Insolvency and Bankruptcy Code, 2016.

3. I request the Committee of Creditors to approve my application for withdrawal.

4. I authorize the resolution professional to file this application of withdrawal with the Adjudicating Authority on my behalf, if it is approved by the Committee of Creditors with ninety percent voting power."

9. The Resolution Professional has stated that on 16.03.2019 he received Form FA from the Operational Creditor under Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Applicant/ Resolution Professional was informed that the claim of the Financial Creditor is being settled at Rs.47,75,000/- and the claim of the Operational Creditor at Rs.13,75,000/- and there are no other outstandings.

10. The Applicant/ Resolution Professional has finally affirmed that in the light of the payment received by the Petitioner in the capacity of "Operational Creditor" and the claim of the Financial Creditor has been agreed to be settled at a one-time settlement with Interest for a total sum of Rs.26,50,000/- (Principal amount being Rs.25,68,717/-) . In case of defiance of the terms of the settlement and undertaking given, liberty is hereby granted to the Creditor to mention the default. Considering the fact that the requisite Form FA prescribed under Regulation 30A is duly approved by Committee of Creditors by 100% voting in favour of the withdrawal of the Petition and that the Resolution Professional had affirmed that the CIRP cost has been paid, hence the withdrawal of CP(IB)-1798/(MB)/2017 as prescribed u/s. 12A is hereby permitted. **M.A. 3209/2019 is allowed.**

Sd/-
(CHANDRA BHAN SINGH)
Member (Technical)
29-11-2019
ug

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