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**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
COURT NO.1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 19.02.2020

PRIORITY CAUSE LIST - 1


PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala
2. Hon'ble Member (T), Shri Ashutosh Chandra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB)No. 90/BB/2019	For orders - IA 105/2020 - CIRP	Sec 9 of I&B code 2016	M/s Sycamore Foods and Technologies Pvt Ltd	CK Nandakuma r Advocate	M/s Breadworks Gourmet Foods Pvt Ltd	Shri. Parameshwara Udpa, IRP

ADVOCATE FOR PETITIONER/s:

B. Parameshwara Udpa
R.P.

FOR OPERATIONAL CREDITOR -

VARUN.S
(Law chambers of CK Nandakumar) 

ADVOCATE FOR RESPONDENT/s:

JYOTHI ANUMOLU

Appearing for Resolution Professional
Jyoti 

ORDER

Heard Mr. B. Parameshwara Udpa, learned Resolution Professional along with Ms. Jyothi Anumolu, learned Counsel for the R.P and Mr. Varun. S, learned Counsel for the Operational Creditor.

I.A No. 105/2020 is allowed by dismissing the C.P (IB) No. 90/BB/2019 by separate order.



MEMBER (T)



MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.P. (IB)No.90/BB/2019
U/s. 9 of the IBC, 2016
R/w Rules 6 of I&B (AAA) Rules, 2016

And

I.A. No.105/2020
U/s.12A of the IBC, 2016
R/w 30A of IBBI
(Insolvency Resolution Process for
Corporate Persons) Regulations, 2016

B. Parameshwara Udpa

Interim Resolution Professional
Regd Office: 827/7, 8th A Main,
4th Block, BEL Layout,
Vidyaranyapura,
Bengaluru – 560 097

- Applicant/IRP

In the matter of:

**M/s. Sycamore Foods and Technologies
Private Limited**

A-21, Maple, Tata Sherwood,
Basavanagar, Marathalli,
Bangalore – 560 037

- Petitioner/Operational Creditor

Versus

**M/s. Breadworks Gourmet Foods
Private Limited**

TR3, 4th Floor, Esteem Mall,
Bellary Road,
Bangalore – 560 024.

- Respondent/Corporate Debtor

Date of Order: 19th February, 2020

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)



Parties/Counsels Present:

For the Applicant/IRP : Shri B. Parameshwara Udpa

For the Petitioner : Shri. Varun.S

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. I.A.No.105/2020 in C.P. (IB)No.90/BB/2019 is filed by B. Parameshwara Udpa, Interim Resolution Professional ('Applicant/IRP'), U/s.12A of the IBC, 2016 R/w Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 by inter alia seeking to dismiss the main C.P (IB) No. 90/BB/2019, as withdrawn as the original Petitioner (Operational Creditor) settled the issue with the Corporate Debtor.
2. Brief facts of the case, as mentioned in the Application, which are leading to filing of the instant Application, are as follows:-
 1. C.P.(IB)No. 90/BB/2019 is filed by M/s. Sycamore Foods and Technologies Private Limited (Petitioner/Operational Creditor) U/s. 9 of IBC, 2016, R/w Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by inter-alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s. Breadworks Gourmet Foods Private Limited (Corporate Debtor) on the ground that it has committed default amount of Rs.23,00,000/- (Rupees Twenty Three Lakhs only) along with interest thereon at 18% per annum. After, considering the matter, the Adjudicating Authority has admitted



the case by an order dated 23.10.2019, by initiating CIRP and appointed IRP, imposing moratorium etc.

2. In pursuant to the admission of the case, IRP issued a Public Announcement in (Form-A) dated 02.12.2019 by calling up on the creditors of the M/s. Breadworks Gourmet Foods Private Limited to submit their claims with proof on or before 17.12.2019 to the IRP at the address mentioned therein. In pursuant to the above notification, there are no claim received by the IRP. Therefore, the IRP could not constitute Committee of Creditors. In meanwhile, the IRP has been informed that the Promoter of the Corporate Debtor has approached the Operational Creditor, and proposed repayment of the due amount in instalments, to the Operational Creditor. In Pursuant to the initiative of the Promoter of Corporate Debtor, the Operational Creditor engaged in multiple rounds of negotiation with him regarding the schedule of repayment. Consequently, the Operational Creditor and Corporate Debtor arrived at a settlement to resolve the present matter.
3. Accordingly, the IRP received Application Form FA for withdrawal submitted by the Operational Creditor by *inter alia* stating they want to withdraw the Company Petition and also paid expenses incurred by the IRP for the CIRP process till the date of the filing of instant Application for withdrawal of main Company Petition filed by Operational Creditor.
3. Heard Ms. Jyothi Anumolu, learned Counsel for the I.R.P, and Mr. Varun. S, learned Counsel for the Operational Creditor. We have carefully perused the pleadings of the Parties and extant provisions of the Code and the rules made thereunder and the Law on the issue.



4. Ms. Jyothi Anumolu, learned Counsel for the I.R.P, has submitted since there are no claims received and thus no Committee of Creditors was constituted, the Operational Creditor is entitled to withdraw the instant Company Petition, as per law. And the instant application is filed strictly in accordance with law , and thus urged Adjudicating Authority to permit the Operational Creditor/ Applicant to withdraw the main C.P (IB) No. 90/BB/2019.
5. Mr. Varun.S, learned Counsel for the Operational Creditor also affirmed that the issue has been resolved, and the Petitioner is not interested to prosecute the Company Petition and thus the instant Application may be allowed by dismissing the main Company Petition.
6. The above facts and circumstances of the case established that instant Application is filed in accordance with law, and IRP can file withdrawal Application before receiving Claims and constitution of Committee of Creditors. Therefore, we are convinced with the reasons as cited by the Applicant and thus inclined to permit Applicant to withdraw the main Company Petition.
7. By exercising powers conferred on this Adjudicating Authority, U/s 12A of the IBC, 2016, R/w Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, both I.A.No.105/2020 and C.P. (IB) No.90/BB/2019 are disposed of with following directions:

1) I.A.No.105/2020 is allowed by permitting the Applicant to withdrawn C.P. (IB) No.90/BB/2019;



2) *Accordingly, C.P. (IB) No.90/BB/2019 is dismissed as infructuous.*



**ASHUTOSH CHANDRA
MEMBER, TECHNICAL**



**RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL**

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