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**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD**

SPECIAL BENCH - COURT 1 (URGENT HEARINGS THROUGH VIDEO CONFERENCE)

**PRESENT: HON'BLE SHRI K ANANTHA PADMANABHA SWAMY – MEMBER JUDICIAL
HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 12.10.2020 AT 10:30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No. 900/200 in CP (IB) No. 441/9/HDB/HDB/2019
NAME OF THE COMPANY	SNS Starch Ltd
NAME OF THE PETITIONER(S)	Vasavi & Co.,
NAME OF THE RESPONDENT(S)	SNS Starch Ltd
UNDER SECTION	9 OF IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

The matter is taken up through videoconference. Order is pronounced in IA No.900 of 2020 vide separate order.


**MEMBER
(TECHNICAL)**


**MEMBER
(JUDICIAL)**

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**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAED BENCH-I**

Application under Section 12A of IBC, 2016 read with Regulation 30A(1)(a) of the Insolvency and Bankruptcy Code (Corporate Insolvency Resolution Process) Regulation, 2016

I.A. NO. 900 of 2020

In

C.P (IB). NO. 441/09/HDB/2019

In the matter of

M/S VASAVI & CO. VERSUS M/s SNS STARCH LIMITED

Mr. Kurapati Singarayya Chowdary
Interim Resolution Professional (IRP),
IBBI/IPA-003/IP-N000149/2017-2018/11728
M/s SNS Starch Limited.
O/o: Block II, 2nd Floor,
311/A, Road No. 12, MLA Colony, Banjara Hills,
Hyderabad – 500 034.

Applicant/
Interim Resolution Professional

Date of order: 12.10.2020

Coram:

Hon'ble Shri K. Anantha Padmanabha Swamy, Member (Judicial)
Hon'ble Shri Veera Brahma Rao Arekapudi, Member (Technical)

Appearance:

For Applicant: Shri A. Chandra Shaker, Advocate

Heard on: 08.10.2020

**PER: SHRI VEERA BRAHMA PAO AREKAPUDI
MEMBER (TECHNICAL)**

1. The Application is filed by the Interim Resolution Professional, the Applicant herein under Section 12A of IBC, 2016 Read with Regulation 30A (1) (a) of IBBI (CIRP) Regulations, 2016 seeking permission to withdraw the Corporate Insolvency Resolution Process against M/s SNS STARCH LIMITED/ Corporate Debtor.

2. The averments apropos to the Application are that this Tribunal vide order dated 02.09.2020 admitted the petition filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 by M/s Vasavi & Co/ Operational Creditor and ordered initiation of Corporate Insolvency Resolution Process against Corporate Debtor by appointing the Applicant herein as Interim Resolution Professional.
3. Pursuant to his taking over charge as IRP, the Applicant herein is stated to have initiated necessary steps as directed in the Order and as per the provisions of IBC, 2016 and rules made thereunder viz., Public Announcement in Form-A on 05th September, 2020 inviting claims from creditors, which was published in Financial Express, Telangana edition in English Language and Nava Telangana in Telugu Language being the Vernacular language.
4. It is averred, in the meantime, aggrieved by the admission order of this Tribunal, one of the promoters of the Corporate Debtor Mr. Sanjay Jalan, S/o Late SN Jalan, preferred an appeal on 07.09.2020 before Hon'ble NCLAT, New Delhi. The Hon'ble NCLAT passed Interim order dated 17.09.2020 directing the IRP to go ahead with the Corporate Insolvency Resolution Process and granted stay in constituting the Committee of Creditors for 10 days, besides stating that the interim order shall stand vacated in the event of failure to settle the claim of Operational Creditor,. Copy of the NCLAT order is annexed and marked as annexure - 2.
5. Subsequent to the interim order cited supra, both the parties resolved the matter amicably by entering into a compromise settlement agreement on 22.09.2020 which is annexed at page nos 12-15. The Applicant further



stated that the entire claim amount of Rs. 1,04,72,633/- has been settled towards full and final settlement by the Corporate Debtor/M/s SNS Starch Limited by way of following Demand Drafts

i. DD No. 503029 dated 15.09.2020 issued by ICICI Bank, Desitekayal branch for Rs.64,16,888/- (Rupees Sixty Four lacs Sixteen thousand Eight hundred and eighty eight) being the principal portion claimed by Operational creditor

ii. DD No. 503028 dated 15.09.2020 issued by ICICI Bank, Desitekayal branch for Rs. 40,55,745/- (Rupees Forty lacs fifty five thousand Seven hundred and forty five only) towards interest portion claimed by Operational Creditor. Photo copy of the Demand drafts is enclosed and marked as **Annexure -4**

6. The operational creditor filed Form-FA dated 22.09.2020 as required under Section 12A of I&B Code, 2016 R/w Regulations 30 A(1a) of the Insolvency and Bankruptcy Board of India Regulations, 2016. Copy of Form FA dated 22.09.2020 is annexed at page-17-18 of the Application. Hence, the Applicant sought directions of this Tribunal to withdraw the company petition.

7. We heard the Counsel for Interim Resolution Professional through video conference. The Counsel for Interim Resolution Professional/ Applicant herein would contend that this Tribunal admitted the petition filed under Section 9 of IBC, 2016 on 02.09.2020 for initiation of CIRP against Corporate Debtor and appointed IRP. The Counsel would contend, in response to public announcement, a total of 21 claims were received by IRP, but CoC was not yet constituted. In the meantime, one of the promoters of Corporate Debtor approached Hon'ble NCLAT and preferred an appeal on

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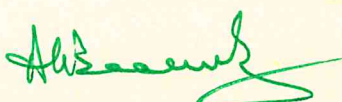
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07.09.2020 and after hearing the parties, Hon'ble NCLAT issued an interim-order on the appeal dated 17.09.2020 directing the IRP to continue with the CIRP, however, with a condition not to constitute CoC for 10 days for enabling the parties to reach a settlement and in the event parties fail to reach an amicable settlement, the interim order would stand vacated. As seen from the records, the Corporate Debtor settled the full claim amount of Rs. 1,04,72,633/-of Operational Creditor by way of two Demand Drafts, copies of which are annexed and marked as Annexure-4. We have seen the final order passed by Hon'ble NCLAT on 28.09.2020, wherein Appellant was directed to prefer an Application to the Adjudicating Authority for withdrawal of the petition. Copy of the Hon'ble NCLAT is annexed and marked as **annexure - 8. The extract of Hon'ble NCLAT order dated 28.09.2020 is reproduced as under:-**

“In view of the fact that the claim/dispute between the parties had been settled fully and finally, this Tribunal, at this stage opines that nothing survives for Adjudication in the present Appeal and accordingly he same is disposed of. Before parting with the case, this Tribunal, deems it fit and proper in directing the Applicant/Operational Creditor to file necessary withdrawal Application before the ‘Adjudicating Authority’ (NCLT) Hyderabad, as per Section 12 A of the I &B Code, within four days from today. On such Application being filed by the Applicant/Operational Creditor, the same shall be disposed of by the ‘Adjudicating Authority’ (NCLT) Hyderabad within a week thereafter”

8. The procedure prescribed under Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons), 2016 has been followed.
9. Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2019 reads as follows:

(1) An application for withdrawal under section 12A may be made to the Adjudicating Authority -



- (a) *before the constitution of the committee, by the applicant through the interim resolution professional;*
- (b) *after the constitution of the committee, by the applicant through the interim resolution professional or the resolution professional, as the case may be: Provided that where the application is made under clause (b) after the issue of invitation for expression of interest under regulation 36A, the applicant shall state the reasons justifying withdrawal after issue of such invitation.*
- (2) *The application under sub-regulation (1) shall be made in Form FA of the Schedule accompanied by a bank guarantee-*
- (a) *towards estimated expenses incurred on or by the interim resolution professional for purposes of regulation 33, till the date of filing of the application under clause (a) of sub-regulation (1); or*
- (b) *towards estimated expenses incurred for purposes of clauses (aa), (ab), (c) and (d) of regulation 31, till the date of filing of the application under clause (b) of sub regulation(1).*
- (3) *Where an application for withdrawal is under clause (a) of sub-regulation (1), the interim resolution professional shall submit the application to the Adjudicating Authority on behalf of the applicant, within three days of its receipt.*
- (4) *Where an application for withdrawal is under clause (b) of sub-regulation (1), the committee shall consider the application, within seven days of its receipt.*
- (5) *Where the application referred to in sub-regulation (4) is approved by the committee with ninety percent voting share, the resolution professional shall submit such application along with the approval of the committee, to the Adjudicating Authority on behalf of the applicant, within three days of such approval.*
- (6) *The Adjudicating Authority may, by order, approve the application submitted under sub-regulation (3) or (5).*
- (7) *Where the application is approved under sub-regulation (6), the applicant shall deposit an amount, towards the actual expenses incurred for the purposes referred to in clause (a) or clause (b) of sub-regulation (2) till the date of approval by the Adjudicating Authority, as determined by the interim resolution professional or resolution*
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professional, as the case may be, within three days of such approval, in the bank account of the Corporate Debtor, failing which the bank guarantee received under sub-regulation (2) shall be invoked, without prejudice to any other action permissible against the applicant under the Code. ”

10. In view of settlement entered into between both the parties and the CIRP cost including the IRP fees till date paid by the Corporate Debtor, the Applicant prayed the Tribunal to permit the Operational Creditor to withdraw the Petition.
11. By exercising the power conferred upon the Adjudicating Authority under Section 12A Read with Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) 2016 permission can be granted to the Applicant / Operational Creditor to withdraw the application
12. Accordingly IA No. 900/2020 is allowed. CP (IB) No.441/9/HDB/2019 is disposed of as withdrawn under Section 12A of Insolvency and Bankruptcy Code, 2016.
13. The Moratorium under Section 14 stands vacated. The Corporate Debtor is allowed to function independently through its Board of Directors with immediate effect.


VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)


K. ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)

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