

COURT-IV

CP(IB)-4663(MB)/2018

SMT. SUCHITRA KANUPARTHI
MEMBER (Judicial)

NAME OF THE PARTIES: Aviaxpert Pvt. Ltd.
V/s
Sovika Aviation Services Pvt. Ltd.

ORDER

1. **IA-805/2021:** Mr. Animesh Bisht, Ld. Counsel for the Union Bank present.
Mr. Mayank Bagla, Ld. Counsel for the Resolution Professional present.
Mr. Bijendra Kumar Jha, Resolution Professional present in person.
Ms. Saloni Kapadia and Mr. Chittkrishna Thakkar i/b Cyril Amarchand
Mangaldas, Ld. Counsel for the for the Committee of Creditors present.
Mr. Chandni Dewani i/b Vashi & Vashi, Ld. Counsel for the Respondent
present.
2. **IA-256/2021:** This is an application filed by RP for exclusion and extension of
time. Resolution Professional has filed for exclusion of 138 days from 16.07.2020
to 30.11.2020 and also sought extension of time in view of the lockdown

5. IA-2308/2020, IA-256, 444 & 805/2021
in CP(IB)-4663(MB)/2018

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imposed by State of Maharashtra. **IA-256/2021** is **allowed** and a period of 138 days from 16.07.2020 to 30.11.2020 is excluded from the CIRP period.

3. **IA-2308/2020:** This is an Application filed by the Resolution Professional seeking admission of claim of an Operational Creditor. The claim is admitted and the IA is now **infructuous**.
4. **IA-444/2021:** This is an application filed by the Resolution Professional seeking admission of claim of another Operational Creditor, the same is also **infructuous**.
5. **IA-805/2021:** This is an Application filed by the Resolution Professional seeking withdrawal of CIRP under section 12A. The CoC in its 7th meeting held on 19.03.2021 have resolved to withdraw the CIRP against the Corporate Debtor as follows (minutes of the CoC meeting is reproduced below):

"RESOLVED THAT the withdrawal of application by Avia Xpert Private Limited, being the applicant Operational Creditor, u/s 12A of Insolvency and bankruptcy Code, 2016, be and is hereby approved."

"Voted in favour: UBI (100% voting power)

Voted against : Nil

Abstained from voting: Nil"

6. Further, the sole Member of CoC i.e. Union Bank of India has also resolved to ratify the entire expenses towards CIRP cost, the entire payment of CIRP cost is ensured by way of undertaking. The resolution of CoC is as follows:

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“RESOLVED THAT salary and other expenses incurred during the period 28th January, 2021 to 15th March, 2021 amounting to Rs. 16,65,241/- (Rupees Sixteen Lakhs Sixty-Five Thousand Two Hundred and Forty-One only) be and is hereby ratified and the same shall be treated as CIRP Cost.”

Voted in favour : UBI (100% voting power)
Voted against : Nil
Abstained from voting : Nil

7. The Resolution Professional has also enclosed with the Petition the Form FA filed by the original Operational Creditor.
8. It is also argued that sole CoC member has entered into OTS agreement with the Corporate Debtor and the schedule of payment is as follows:

Sr. No.	Schedule of Payment	Amount (in Rs)
1.	Upfront Amount	2,00,00,000.00
2.	On or before 31 st March 2021	23,00,00,000.00
3.	On or before 30 th September 2021	5,00,00,000.00
4.	On or before 31 st March 2022	8,87,85,127.55
5.	On or before 30 th September 2022	8,87,85,126.00
6.	On or before 31 st March 2023	8,87,85,126.00
Total		56,63,55,379.55

9. The Resolution Professional, CoC member and the Counsel appearing for the CoC member confirm that two payments of the schedule have already been paid and received by the sole CoC member.

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10. It is also noticed that there are two claims of the Operational Creditors viz.
- (i) Air India SATS Airport Services Pvt. Ltd. to the tune of Rs.24.40 lakh
 - and (ii) claim of Transport India 3PL to the tune of Rs. 18.02 lakh. The Resolution Professional submits that the claim of the Operational Creditors will be taken care in due course.
11. In view of the resolution passed by the CoC to withdraw the CIRP against the Corporate Debtor, after settlement of original claim of Rs. 64 crores by entering into a settlement agreement between the parties, this application for withdrawal is allowed and CIRP against the Corporate Debtor is set aside. This Bench further orders that -
- (a) the CIRP against the Corporate Debtor is set aside.
 - (b) the Corporate Debtor is free from rigors of CIRP.
 - (c) the Board of Directors of the Company is re-instated and the moratorium declared on the Company is ceased to exist.
 - (d) the Resolution Professional to handover all records including accounts of the Company back to the Directors of the Company. He is relieved from the responsibilities of RP.
 - (e) the bank accounts of the Company will be operated by the Directors of the Company as before the commencement of the CIRP.
 - (f) that to inform RoC, Mumbai the lifting of moratorium imposed on the Company.
12. The IA-805/2021 is **allowed** and disposed of in above terms.

Sd/-
RAJESH SHARMA
Member (Technical)

Sd/-
SUCHITRA KANUPARTHI
Member (Judicial)