

NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

Item No. 2

IA 379/2024 (NEW IA) in C.P. (IB)/207(MB)2023

CORAM:

SH. PRABHAT KUMAR JUSTICE VIRENDRASINGH BISHT (Retd.)
HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **05.02.2024**

NAME OF THE PARTIES: **GUPSHUP TECHNOLOGY INDIA**
 PRIVATE LIMITED VS SAMCO
 SECURITIES LIMITED

Section 9 & 12A of the Insolvency and Bankruptcy Code, 2016

ORDER

IA 379/2024 (NEW IA) in C.P. (IB)/207(MB)2023

- 1) Mr. Ayush Rajani a/w Ms. Khushboo Shah and Ms. Mitali Bhatt, Counsel for the Applicant, Interim Resolution Professional and Ms. Vibhuti Keny a/w Ms. Shreya Singhi, Ld. Counsel for the Corporate Debtor are present.
- 2) The present Interlocutory Application has been filed by the Applicant herein, seeking withdrawal of the Corporate Insolvency Resolution Process of the Corporate Debtor, which was initiated *vide* order dt. 24.01.2024.
- 3) Ld. Counsel for the Applicant, on instructions, submits that the Petitioner has settled the matter for an amount of Rs.1,43,52,775/- and executed the full and final settlement agreement dated 25.01.2024.

- 4) Applicant further submits that since the full and final settlement agreement executed by and between the Operational Creditor and the Corporate Debtor herein, on 25.01.2024, i.e. immediately on the next date of initiation of CIRP Order against the Corporate Debtor herein, the Applicant herein has not taken out the public announcement in Form A, in terms of Section 15 of the Code.
- 5) It is also submitted that the Corporate Debtor has already made a part payment by RTGS of Rs. 75,00,000/- to the Applicant on 25.01.2024. The Petitioner has acknowledged the receipt of the same amount under the said settlement agreement, and the Corporate Debtor has also handed over the Demand Draft bearing no. 082650 for the balance amount of Rs. 68,52,775/- to the Petitioner on 25.01.2024. Apart from this, both the parties have reconciled their accounts and confirmed that a TDS amount of Rs. 2,40,363/- has been paid by the Corporate Debtor.
- 6) Further, the Petitioner, Gupshup Technology India Private Limited, has remitted the amount of Rs. 5,00,000/- in terms of the CIRP admission order dated 24 January 2024 into the Interim Resolution Professional's bank account.
- 7) In view of the above developments, the Applicant has provided Form FA dt. 29.01.2024, for withdrawal of the Corporate Insolvency Resolution Process proceedings against the Corporate Debtor. Applicant further confirms and

submits that no CIRP costs have incurred and hence, no amount is payable to the Interim Resolution Professional.

8) Hence, the present Interlocutory Application has been filed for withdrawal of CIRP proceedings of the Corporate Debtor, **Samco Securities Limited**.

9) Having considered the submissions and on perusal of averments made in the present Interlocutory Application, this Bench is satisfied and is of the considered opinion that the present Interlocutory Application is in consonance with Section 12A of the Insolvency and Bankruptcy Code, 2016 r/w Rule 11 of NCLT Rules, 2016 and r/w Regulation 30A(1)(a) of CIRP Regulations, and the same is liable to be allowed. Accordingly, this Bench allows the present Interlocutory Application, thereby allowing the Applicant to withdraw the Corporate Insolvency Resolution Process against the Corporate Debtor, Samco Securities Limited. Consequent upon withdrawal of this Petition immediately after commencement of CIRP, the IRP is directed to refund back Rs. 4,00,000/- to the Corporate Debtor out of Rs. 5,00,000/- paid by it towards meeting the initial costs. The rest of the amount can be retained by the IRP towards costs, if any incurred, and his fees.

10) Now the Corporate Debtor, **Samco Securities Limited**, is free from all the clutches and rigors of Corporate Insolvency Resolution Process proceedings. The moratorium declared under Section 14 of the Insolvency

and Bankruptcy Code, 2016 order of this Bench dt. **24.01.2024**, shall cease to operate here from.

- 11) The Applicant herein is directed to handover all the assets, records and effects whatever available with him in the physical or electro format to the suspended Directors of the Corporate Debtor forthwith.
- 12) Resultantly, the main Company Petition bearing **CP (IB) No. 207 of 2023**, stands disposed of. In view of the withdrawal of the main Company Petition, all the pending Interlocutory Applications, if any, arising out of the present Company Petition, stands closed. File be consigned to records.
- 13) There would however be no order as to costs. Ordered Accordingly.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)

Sd/-

JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)

Vedant Kedare