26

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH

PRESENT: HON'BLE SHRI K ANATHA PADMNABHA SWAMY– MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 27.02.2019 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA NO. 158/2019 in CP (IB) NO. 342/9/HDB/2018
NAME OF THE COMPANY	Subhodaya Digital Entertainment Pvt Ltd
NAME OF THE PETITIONER(S)	Star India Private Limited
NAME OF THE RESPONDENT(S)	Subhodaya Digital Entertainment Pvt Ltd
UNDER SECTION	9 OF IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
G. MURALI	RP	gmurali34@gmail.com	G. Murali

Counsel for Respondent(s):

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

ORDER

Order pronounced in open court. IA allowed vide separate order.

MEMBER JUDICIAL

Rk

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD

IA No.158 of 2019 in

CP (IB) No.342/9/HDB/2018

In the matter of M/s. SUBHODAY DIGITAL ENTERTAINMENT PRIVATE LIMITED.

Between:

M/s. Star India Private Limited,

Star House, Urmi Estate,

95, Ganpatrao Kadam Marg,

Lower Parel (W), Mumbai – 400 013.

...Applicant/
Operational Creditor

And

M/s. Subhodaya Digital Entertainment Private Limited,

Through its Resolution Professional: G. Murali,

Plot No.71, Tarangini Residency, NH 7,

Spring field's Colony, Jeedimetla village,

Hyderabad – 500 055.

...Respondent/
Corporate Debtor

Date of order: 27.02.2019.

Parties/Counsel present:

For the Applicant/Corporate Debtor:

Mr. G.Murali, Resolution Professional.

PER: K. ANANTHA PADMANABHA SWAMY
MEMBER JUDICIAL

ORDER

1. The present Applicant bearing IA No.158/2019 is filed by IRP under section 12-A of the Insolvency and Bankruptcy Code, 2016 R/w Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016, inter-alia seeking permission to withdraw the present petition i.e., CP (IB) No.342/9/HDB/2018, as the approval is given by 100% of CoC as per the code.
2. The brief facts of the case are as follows:-
3. The Operational Creditor i.e., Star India Pvt Ltd. has filed the original Application under section 9 of the IBC, 2016, bearing CP (IB) No.342/9/HDB/2018 and was admitted for CIRP vide order dated 20.12.2018. Further IRP made paper publication about initiation of the CIRP of Corporate Debtor i.e., Subhodaya Digital Entertainment Private Limited by issuing public notice in newspaper and invited claims against the Corporate Debtor in accordance with section 15 of the IB Code, 2016. The original Petitioner i.e., Star India Pvt Ltd has filed its claim as per Form-B and the claim of the Applicant was verified and then duly accepted by the Interim Resolution Professional.
4. The Operational Creditor submitted Form-FA dated 21.02.2019 as per the Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 to the IRP for

withdrawal of present petition filed under 9 of IBC. The copy of Form –FA is enclosed as Annexure-B of the Application.

5. During the 2nd CoC meeting held on 24.02.2019, the sole member of CoC having 100% voting share approved for withdrawal of the Application bearing CP (IB) No.342/9/HDB/2018. The extract of said resolution is as below:-

   "the Resolution Professional has placed before the Committee the Form FA received from M/s. Star India Private Limited, Operational Creditor, and the letter received from Corporate Debtor Company informing about the settlement arrived by them with the Operational Creditor. The Committee noted the withdrawal application received from M/s. Star India Private Limited under section 12A of the IB Code, 2016.

   The Committee, after discussion, resolved to approve the withdrawal application submitted by M/s. Star India Private Limited, the Operational Creditor, with 100% voting share."

6. The IRP also filed a memo enclosing no due certificate stating that all cost covered under clauses (c) and (d) of Regulation 31 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 have been paid by the Operational Creditor i.e., Star India Private Limited to IRP and nothing was due and payable to IRP, either towards his remuneration/fees or reimbursement of expenses incurred

by IRP as part of the Corporate Insolvency Resolution Process cost.

7. Heard and perused the record.
8. The present Application is filed under section 12A of the code R/w. Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016.

   The section 12A of the Code is read as follows:-

   "The Adjudicating Authority may allow the withdrawal of Application admitted under section 7 or section 9 or section 10, on an Application made by the Applicant with the approval of 90% voting share of the Committee of Creditors, in such manner as may be prescribe".

   Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016 is read as follows:-

   30A. Withdrawal of application.

   (1) An application for withdrawal under section 12A shall be submitted to the interim resolution professional or the resolution professional, as the case may be, in Form FA of the Schedule before issue of invitation for expression of interest under regulation 36A.

   (2) The application in sub-regulation (1) shall be accompanied by a bank guarantee towards estimated cost incurred for purposes of clauses (c) and (d) of regulation 31 till the date of application.

   (3) The committee shall consider the application made under sub-regulation (1) within seven days of its constitution or seven days of receipt of the application, whichever is later.

(4) Where the application is approved by the committee with ninety percent voting share, the resolution professional shall submit the application under sub-regulation (1) to the Adjudicating Authority on behalf of the applicant, within three days of such approval.

(5) The Adjudicating Authority may, by order, approve the application submitted under sub-regulation (4)."

9. The instant Application filed by IRP seeking permission to withdraw the main petition i.e., CP (IB) No. 342/9/HDB/2018. It is clear that the provisions of Regulation 30A are complied as Form FA is scheduled before issuing expression of interest, the cost of CIRP is already paid by the Operational Creditor, a memo is filed by IRP enclosing no dues certificate of CIRP cost. The committee has also considered the application under Regulation 30(A)(1) within seven days from date of Form FA i.e., on 21.02.2019 with 100% approval of CoC and same is placed within three days from the approval of the CoC in its meeting held on 24.02.2019.

10. This Adjudicating Authority is empowered under section 12A to approve the application for withdrawal. This Adjudicating Authority by exercising its power under section 12A of the code R/w. Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016, allowed the prayed made in the application for withdrawal.

11. Consequently, application filed by IRP is to be allowed and moratorium order passed under section 14 shall cease to exist.

12. In the result IA No.158/2019, is allowed and CIRP (Corporate Insolvency Resolution Process) in CP (IB) No.342/9/HDB/2018, stands withdrawn, and CIRP stands closed.

K.ANANTHA PADMANABHA SWAMY
MEMBER JUDICIAL