

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

COURT – IV

13.

IA 1823/2022

IA 2342/2022

IN

C.P. (IB)/978(MB)2019

CORAM:

SHRI MANOJ KUMAR DUBEY
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **04.10.2022**

NAME OF THE PARTIES:

Rooshay Electricals

Vs.

Ebhrahim Essa Developers Pvt. Ltd.

SECTION 9, 12A, 60(5) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

The Court is convened through Video Conference.

1. Mr. Dananjay Sud, Ld. Counsel for the Applicant/ Resolution Professional present.

IA-1823/2022

2. This is an Application filed u/s 12A of the IBC, 2016 by the RP, under the recommendation of the Committee of Creditors (CoC), seeking withdrawal of the CIRP against the Corporate Debtor.
3. This Tribunal vide an order dated 11.04.2022 the present Petition bearing [C.P. (IB)/978(MB)2019] u/s 9 was admitted and CIRP was commenced, moratorium was declared and Interim Resolution Professional (IRP) was appointed.
4. In pursuant to the above admission Order, the appointed IRP made public announcement in Form A along with newspaper publication inviting claims against the Corporate Debtor. The CoC was constituted and first CoC meeting was held on 11.05.2022.

5. However, during the CIRP an agreement has been executed between the parties as they amicably settled the claim and the Operational Creditor submitted Form FA dated 07.06.2022 to the RP. In the second CoC meeting held on 15.06.2022, the members of CoC have accepted the Form FA and approved withdrawal of CIRP with 100% voting, minutes of the meeting is attached with the Application. The CoC has resolved to file 12A Application for withdrawal of the CIRP against the Corporate Debtor and authorised the RP to file the necessary Application with the Tribunal. The resolution of the CoC is as follows:

“RESOLVED THAT the Corporate Insolvency Resolution Process initiated by the Hon’ble NCLT, Mumbai Bench vide its order dated 11.04.2022, shall be withdrawn in accordance with the Section 12A of the Insolvency and Bankruptcy Code, 2016 read with Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and also in view of Form FA submitted by the Rooshay Electricals (the Operational Creditor).”

“FURTHER RESOLVED THAT, the IRP Arvind Kumar Pilla is hereby authorized to file an Application for the withdrawal of CIRP under section 12A of the Insolvency and Bankruptcy Code, 2016 read with Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 before the Hon’ble NCLT, Mumbai Bench on behalf of the Operational Creditor & CIRP Applicant – Rooshay Electricals”

6. In view of the above resolution and considering the totality of the circumstances, prima-facie it appears that all the requisite conditions of Section 12A of IBC have been fulfilled, as affirmed by the Resolution Professional. Accordingly, this Bench allows the withdrawal of the CIRP against the Corporate Debtor.
7. The Corporate Debtor is free from the rigours of CIRP and the erstwhile management is being reinstated to the Board. The RP is to handover

all financial and other records to the reinstated Board of the Company. RoC to be intimated the withdrawal of the CIRP and normal function of the Company.

8. Accordingly, IA-1823/2022 is **allowed** and **disposed of**. C.P. (IB)/978(MB)2019 is **dismissed** as withdrawn. File to be consigned to records.

IA-2342/2022

9. This is an Application filed by the Applicant/ Operational Creditor for making the payment of Resolution Professional, nothing remains in this Application. Hence, IA is become infructuous. IA-2342/2022 is **dismissed as infructuous**.

Sd/-
MANOJ KUMAR DUBEY
Member (Technical)

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)

/Dubey/