

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK

IA (IB) No. 137/CB/2021

In

CP No.127/CTB/2019

In the matter of:

Application filed under section 12A of the Insolvency and Bankruptcy Code 2016
Read with 30A of Regulation of IBBI (CIRP) Regulations 2016.

In the Matter of:

DAGA POWER SYSTEMS & ENGINEERS PRIVATE LIMITED, it's
registered office at 32 Ezra Street, Room No. 505, 5th Floor, Kolkata- 700 001, West
Bengal, India;

... Applicant/Operational Creditor

Versus

SIDDHARTHA ENGINEERING LIMITED, having its registered office at Plot
No. 1015, Near NH 5, Nayapali, Bhubaneswar 751 012, Orissa, India.

Respondent/Corporate debtor

Order reserved on: 21.12.2021
Order pronounced on: 22.12.2021

Coram:

Shri P. Mohan Raj : Member (Judicial)
Shri Satya Ranjan Prasad : Member (Technical)

Appearances (through video conferencing)

For the Petitioner: Mr. S. K. Acharya, Advocate

For the Respondent: Mr. Laxmi Dhar Sahoo, Adv.

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ORDER

Per P. Mohan Raj, Member (Judicial)

1. The present application has been filed by the interim Resolution Professional of Sidhdhartha Engineering Limited (Corporate debtor) seeking permission for withdrawal of application CP No. (IB) No.127/CTB/2019, the said petition was filed by M/s Daga Power Systems & Engineers Private Limited, the petition was admitted by this Tribunal by an order dated 01.12.2021 for initiation of Corporate Insolvency Resolution Process under section 9 of Insolvency and Bankruptcy Code 2016.

2. After admission of the petition the interim resolution professional made public announcement in English morning daily "Times of India" and Oriya daily "Samaya" following the public announcement, no claim was received, but before the formation of COC the settlement was arrived between the parties viz between the Operational creditor and corporate debtor on 07.12.2021.

3. The resolution professional stated in the petition, as ordered by this Tribunal by order dated 01.12.2021 the operational creditor paid Rs.2,00,000/- to him, further the interim resolution professional stated that entire amount has been paid towards the actual expenses incurred towards the resolution process. In the petition the petitioner IRP given the estimated expenses for the resolution process till the date of filing this petition is Rs. 2,00,000/- as required under Regulation 33 and submitted Bank Guarantee to the said estimated value.

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4. Considering the factual aspects, it appears that the petitioner has

complied all the requirements under Regulation hence this Adjudicating Authority is inclined to approve this withdrawal application as provided under Regulation 30A (6). The resolution professional present and said there is no due the actual total expenses incurred including his fee is worked out at Rs. 2,00,000/- the entire amount is paid of by the petitioner. In normal course following the approval of withdrawal petition under Regulation 30A (6) there must be an order of direction by the Tribunal under sub-Rule 7 to the petitioner to deposit actual expenses incurred amount into the Bank account of corporate debtor within three days. The counsel for resolution professional and the counsel for corporate debtor request this court since the entire amount was already paid to the IRP, they want to dispense with order of deposit instead made request to pass the withdrawal order instantly. The counsel quotes the intervention of x-mas vacation and explain the necessity to dispense with the deposit order, otherwise it will seriously affect the well going concern and also employees of the company. Considering the piquant situation, the request is conceded with rider this should not be treated as precedent.

5. In these circumstances this withdrawal petition is allowed in consequence the CIRP initiated against the corporate debtor shall stand terminated.

6. The Board of directors of the corporate debtor is restored to its original position.

7. The IRP is hereby directed to hand over the books of account to the hands of restored Board of Directors and the IRP is hereby shall stand discharged. The

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moratorium which came into effect in consequence of the order of admission dated

01.12.2021 is stand cancelled. The corporate debtor is relieved from the rigorous clutches of all the action initiated in this proceeding.

8. Registry is directed to communicate this order to R.O.C. Odisha.

9. Registry is directed to return the original Bank guarantee after retaining the photo copy of the same to the petitioner, after obtaining proper acknowledgement.

10. The Registry is directed to send the copy of the order to the parties' concern forthwith.

11. Certified copy of the order be issued on payment of fee if applied for, upon compliance of all requisite formalities.

Sd

Satya Ranjan Prasad
Member (Technical)

Sd

P. Mohan Raj
Member (Judicial)

Signed on this 22nd day of December, 2021.

Kaushal