



DIVISION BENCH

ITEM NO. 119

NATIONAL COMPANY LAW TRIBUNAL  
ALLAHABAD BENCH  
PRAYAGRAJ

IA No. 174/2023, IA No. 183/2023  
IN CP (IB) No. 174/ALD/2019

CORAM:

1. SHRI PRAVEEN GUPTA,  
HON'BLE MEMBER (JUDICIAL)
2. SHRI ASHISH VERMA,  
HON'BLE MEMBER (TECHNICAL)

Date of Order: 18<sup>th</sup> May, 2023

Attendance-Cum-Order Sheet of the Hearing.

NAME OF THE COMPANY	M/S MAHAJAGDAMBA TUBES PVT LTD V/S M/S QUALITY STEELS PRODUCTS LTD
UNDER SECTION	9 IBC (in CIRP)

COUNSEL APPEARED THROUGH PHYSICAL HEARING:

Sh. Harish Taneja, Adv. : For the RP in IA No.174/2023, IA No.183/2023  
Sh. Ankit Sareen, Adv. : For the Suspended Director

ORDER

IA No. 174/2023

1. Sh. Harish Taneja Ld. Counsel representing the RP states that this is an IA filed for exclusion of time period during which the CIRP was put on hold. The prayer is for exclusion from 23<sup>rd</sup> November, 2022 to 22<sup>nd</sup> March, 2023. It is however, clarified by the Ld. Counsel representing the RP during the course of hearing that the CIRP was put on hold till 2<sup>nd</sup> March, 2022 therefore exclusion of the time would be limited from 23<sup>rd</sup> November, 2022 to 2<sup>nd</sup> March, 2023. There is also another prayer seeking 30 days extension of time period in CIRP.
2. The exclusion for the period 23<sup>rd</sup> November, 2022 to 2<sup>nd</sup> March, 2023 is allowed. An extension of 30 days period is also allowed accordingly. The IA stands allowed and disposed off.

-Sd-

-Sd-



**IA No.183/2023**

1. This IA has been filed U/s 12A of the Code to withdraw the Section 9 application initiated against the Corporate Debtor on the basis of the Resolution passed by the Committee of Creditors (CoC).
2. The Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor was initiated vide order dated 20.12.2021 passed by this Tribunal and Mr. Varun Goel was initially appointed as IRP, who was further appointed as RP in the first meeting of the Committee of Creditors (CoC) held on 19.01.2022. The IRP so appointed, initiated procedure for inviting claims by making publications in the newspapers namely, 'Financial Express' and 'Jansatta'. However, in the 7<sup>th</sup> meeting of CoC, the RP was replaced by way of 76.51% voting in favour of the said agenda for replacement of the RP, and accordingly application was filed U/s 27 for replacement of the RP from Sh. Varun Goel and in his place Sh. Gagan Gulati was appointed as RP in terms of an order dated 02.03.2023 passed by this Tribunal.
3. In the 12<sup>th</sup> CoC meeting, an agenda was put up for consideration of the Resolution Plan, however, the Suspended Directors of the Corporate Debtor informed the RP that the settlement talks are going on between them and the Operational Creditor.
4. Subsequently, the issue concerning withdrawal of the present petition was taken up in the 13<sup>th</sup> CoC meeting held on 19.04.2023 from 05:27 PM to 05:55 PM. The item no.3 taken up in the said meeting is as under :-

MINUTES OF THE ADJOURNED 13<sup>th</sup> MEETING OF THE COMMITTEE OF CREDITORS OF QUALITY STEEL PRODUCTS PRIVATE LIMITED HELD ON TUESDAY, 19<sup>TH</sup> APRIL, 2023 THROUGH ZOOM APP COMMENCED AT 05:27 P.M. AND CONCLUDED ON 05:55 P.M.

**ITEM NO. 3.**

TO APPROVE THE COMPLIANT RESOLUTION PLAN OF M/S BIHARIJI PACKAGING PRODUCTS PRIVATE LIMITED UNDER SECTION 30 OF IBC AND REGULATION 39 OF INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION



PROCESS FOR CORPORATE PERSONS) REGULATION, 2016.

In continuance to the discussion held in the previous meeting, the Chairman apprised the CoC members that in the last CoC meeting the issues regarding CIRP cost was resolved and it was decided by the CoC members that disputed CIRP cost amounting to INR 7,92,000 pertaining to period 23.11.2022 to 03.02.2023 shall be kept on hold in the bank account of the Corporate Debtor and shall be released as per the directions of Hon'ble NCLT. After the final discussion it was assured by Mr. Amit Jain, suspended Directors of Corporate Debtor that the total CIRP cost as provided by the RP i.e. INR 72,43,759 in the bank account of the Corporate Debtor within 1 day.

At that juncture, Mr. Amit Jain informed that the aforesaid amount of INR 72,43,759 has been deposited in the bank account of the Corporate Debtor and the same shall be reflected within few minutes in the bank account of the Corporate Debtor. After few minutes, the Chairman confirmed that the entire CIRP cost has been received and the CoC can proceed with the agenda of the CIRP of M/s Quality Steel Products Limited and therefore, it was decided to defer the agenda for the approval of Resolution Plan.

5. The 13<sup>th</sup> meeting of CoC continued thereafter on 20.04.2023 from 05:45 PM to 06:01 PM, wherein the item no.3 and the Resolution passed thereon was as under:-

MINUTES OF THE ADJOURNED 13<sup>TH</sup> MEETING OF THE COMMITTEE OF CREDITORS OF QUALITY STEEL PRODUCTS PRIVATE LIMITED HELD ON TUESDAY, 20<sup>TH</sup> APRIL, 2023 THROUGH ZOOM APP COMMENCED AT 05:40 P.M. AND CONCLUDED ON 06:01 P.M.

### ITEM NO.3

**TO DISCUSS AND APPROVE THE WITHDRAWAL OF CORPORATE INSOLVENCY RESOLUTION PROCESS AGAINST M/S QUALITY STEEL PRODUCTS PRIVATE LIMITED.**

In furtherance to the discussion held in previous meeting, the Chairman invited the deliberations from the Authorized Representative of M/s Central Bank of India regarding over the agenda of withdrawal of CIRP or some other suggestion they want to deliberate upon. Mr. Pankaj Pal, representing the Central Bank of India informed that they are ready to move ahead with the withdrawal proposal. Ms. Arushi Bhardwaj representing M/s



Advent Infraprojects Private Limited also agreed to move ahead with the said agenda for withdrawal of CIRP.

Thereafter, the Chairman laid before the CoC members the following agenda for their approval.

**“RESOLVED THAT** the Application filed under Section 9 of IBC, 2016 read with rule 5 and 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by the Applicant namely M/s Mahajagdama Tubes Private Limited vide CP(IB)-174(ND)/2019 is hereby withdrawn in pursuant to Section 12A IBC, 2016 read with Regulation 30A(1)(b) of IBBI (CIRP) Regulations, 2016.

**“RESOLVED FURTHER THAT** Mr. Gagan Gulati, Resolution Professional be and is hereby authorized to file an Application for the withdrawal of Corporate Insolvency Resolution Process of the Corporate Debtor with the Hon’ble Adjudicating Authority and to do all acts incidental thereto”.

*After detailed discussion and deliberation the CoC members decided to vote on the aforesaid agenda in the meeting itself and the aforesaid resolution was approved by both the CoC members i.e. M/s Central Bank of India holding 23.49% voting share and M/s Advent Infraprojects Private Limited holding 76.51% voting share unanimously with 100% voting in favour.*

6. As per the Resolution passed by the CoC, the agenda with regard to the withdrawal of the CIRP against the Corporate Debtor was approved by both the CoC members i.e. M/s Central Bank of India holding 23.49% voting share and M/s Advent Infraprojects Private Limited holding 76.51% voting share unanimously with 100% voting in favour. In pursuance of this Resolution passed by the CoC thereby approving the withdrawal by 100% voting, the present application has been moved U/s 12A.
7. We have perused the averments made in the application as well as the oral submissions made by the Ld. Counsel representing the RP during the course of hearing, we are inclined to accept the prayer made in the present IA U/s 12A for withdrawal of the CIRP against the Corporate Debtor in view of the commercial wisdom exercised by the CoC passing a Resolution with 100% votes permitting the withdrawal of the CIRP. Following the decision of the Hon’ble Supreme Court in case of Vallal RCK vs. Siva Industries And Holdings Ltd. & others in Civil Appeals Nos.1811-12 of 2022 dated 03.06.2022.



8. We further see that as per the 13<sup>th</sup> CoC meeting held on 19.04.2023, the CoC has also taken into consideration the disputed CIRP cost amounting to Rs.7,92,000/- pertaining to the period from 23.11.2022 to 03.02.2023 by keeping the said CIRP cost on hold in the Bank account of the Corporate Debtor subject to the final directions to be passed by this Tribunal. It may be noted that the said period from 23.11.2022 to 03.02.2023 pertains to the period when this Tribunal vide order dated 23.11.2022 has stayed the Corporate Insolvency Resolution Process and the said disputed CIRP cost is with respect to the erstwhile RP. Though it has also been recorded in the said Resolution of the CoC that the Suspended Directors of the Corporate Debtor undertook to deposit the amount of Rs.72,43,759/- within one day towards the total CIRP cost in the Bank account of the Corporate Debtor.
9. Considering the fact that the erstwhile RP was already acting in pursuance of the order dated 20.12.2021 passed by this Tribunal thereby initiating the CIRP, the period from 23.11.2022 to 03.02.2023 cannot be thus ignored in so far as the disputed CIRP cost, which is mainly towards the fees of the RP. We therefore also direct that the remaining fees of the erstwhile RP as may be coming due and was kept on hold be also released forthwith but not later than one week from the date of passing of this order.
10. In view of the foregoing discussions, we allow the IA No.183/2023 filed U/s 12A of the Code for withdrawal of the CIRP against the Corporate Debtor with the aforesaid observations towards the payment of the remaining fees of the erstwhile RP.
11. The IA No.183/2023 stands disposed off and accordingly the petition stands dismissed as withdrawn.

*-Sd-*

**(Ashish Verma)**  
**Member (Technical)**

**18<sup>th</sup> May, 2023**

*Kavya Prakash Srivastava*  
*(Stenographer)*

*-Sd-*

**(Praveen Gupta)**  
**Member (Judicial)**