



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

COURT – IV

23. IA-3325/2023 IN C.P. (IB)/750(MB)2021

CORAM:

SHRI PRABHAT KUMAR
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON 03.08.2023

NAME OF THE PARTIES: Laxmi Organic Industries Limited
Vs.
Prithviraj Plastics Private Limited

SECTION: 9, 12A OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016.

ORDER

IA-3325/2023

1. Mr. Devul Dighe, Ld. Counsel for the Applicant/IRP present. None present for the Respondent.
2. This is an Application filed by the Applicant/IRP under Section 12A of the Insolvency & Bankruptcy Code, 2016 r/w Regulation 30(A) of the IBBI Regulations, 2016, r/w Rule 11 of NCLT, 2016 seeking withdrawal of the Company Petition bearing [C.P.(IB)/750(MB)2021]. The Company Petition was filed u/s 9 and was admitted on 09.05.2023 by this Tribunal, whereby the CIRP commenced, and a moratorium was declared. The Applicant herein was appointed as Interim Resolution Professional (IRP) of the Corporate Debtor.
3. The Ld. Counsel for the Applicant states that intimation as well as copy of CIRP commencement order was communicated to the Applicant by the registry on 10th May 2023. The Applicant states that the Public Announcement was made by IRP for inviting claims for all creditors and stakeholders on 13th May 2023 and the last date for submission of claims is 24th May 2023.



4. The suspended director of the Corporate Debtor Mr. Dinesh Sitaram Bhagwat filed an appeal before Hon'ble NCLAT being Company Appeal (AT) (Ins) No. 708 of 2023. The Hon'ble NCLAT vide its order dated 26th May 2023 stayed the constitution of CoC of the Corporate Debtor. The stay order on the constitution of CoC was continued by an order dated 6th July 2023 passed by the Hon'ble NCLAT and it continues to be in operation till the date of filing of the present application.
5. The Applicant further states that the suspended director Mr. Dinesh Sitaram Bhagwat gave its settlement proposal to the Org. Petitioner/Operational Creditor and the said proposal was accepted by the Org. Petitioner. The parties accordingly entered into a settlement agreement dated 20th July 2023, which is duly executed by both the parties.
6. The Applicant states that under the said settlement agreement dated 20th July 2023, the Org. Petitioner has been paid an entire amount of Rs.5,00,00,000/- (Rupees Five Crores only) as full and final settlement amount as against the dues of the Org. Petitioner/Operational Creditor for which the captioned Company Petition under Section 9 was filed by it.
7. The Applicant also states the Org. Petitioner/Operational Creditor has given its acceptance to settlement agreement dated 20th July 2023 and has duly executed the same. The Applicant states that under the said consent terms/settlement agreement, the Org. Petitioner has agreed to withdraw CIRP process with respect to the corporate debtor initiated vide order dated 9th May 2023. The Org. Petitioner/Operational Creditor has also issued a Form FA dated 24th July 2023 for withdrawal of CIRP against the Corporate Debtor.
8. The Applicant further states that since, the settlement is prior to the Constitution of CoC, hence there is no requirement of vote of 90% or more



of creditors by voting rights in terms of provisions of Section 12A of the IBC for withdrawal of CIRP process with respect of the Corporate Debtor.

9. In view of the above settlement and considering the totality of the circumstances, *prima-facie*, it appears that all the requisite conditions of the 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.
10. The Corporate Debtor is taken out of the rigours of CIRP and the erstwhile management is being reinstated to the Board. The Moratorium in this case comes to an end with immediate effect. RoC to be intimated the withdrawal of the CIRP and normal function of the Company.
11. The RP is directed to handover all financial and other records to the reinstated Board of the Company. The Corporate Debtor will settle the dues of the RP/IPR, if not settled as yet. The IRP/RP is discharged.
12. Accordingly, IA-3325/2023 is **allowed** and **disposed of**. In view of the withdrawal of CIRP proceedings the C.P.(IB)/750(MB)2021 is **dismissed as withdrawn**. File to be consigned to records.

Sd/-
PRABHAT KUMAR
Member (Technical)

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)