

**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
COURT NO.1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 11.09.2019

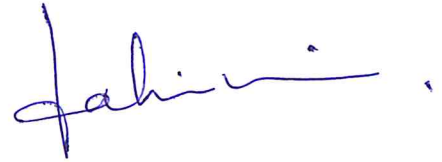
CAUSE LIST - 2

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala
2. Hon'ble Member (T), Dr Ashok Kumar Mishra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB)No. 123/BB/2018	For hearing IA 398/19	Sec 7 of I&B code 2016	Indiabulls Consumer Finance Limited	FX & Co. Advocates	Sri Giri Travels Pvt Ltd	Pavan Kumar Agarwal RP Vishwajith Sadanada, Advocate for RP

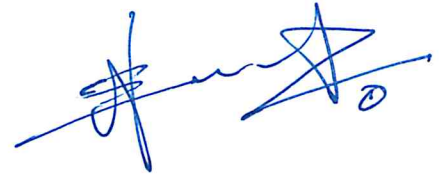
ADVOCATE FOR PETITIONER/s:

Fahim Unnisa
for FX & Co,



ADVOCATE FOR RESPONDENT/s:

Vishwajith SADANANDA
Advocate for IRP
900 80 33257



ORDER

Heard Ms. Fahim Unnisa, learned Counsel for the Petitioner and Shri Vishwajith Sadananda, learned Counsel for IRP.

I.A.No.398 of 2019 in C.P.(IB)No.123/BB/2018 is allowed by separate order.


MEMBER(T)

Puja


MEMBER(J)

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

C.P.(IB)No.123/BB/2018
U/s. 7 of the IBC, 2016
R/w Rules 4 of I&B (AAA) Rules, 2016

And

I.A.No.398/2019
U/s. 12A of the IBC, 2016
R/w Regulation 30A of IBBI
(Insolvency Resolution Process for
Corporate Persons) Regulations, 2016

Mr. Pawan Kumar Agrawal

*Interim Resolution Professional of
M/s.Sri Giri Travels Private Limited
L-2/37A, Ground Floor,
DDA Flats, Kalkaji,
New Delhi – 110 019.*

- Applicant/IRP

In the matter of:

M/s.Indiabulls Consumer Finance Limited

(Formerly known as IVL Finance Limited)

Reg. Office: M-62 & 63,
First Floor, Connaught Place,
New Delhi – 110 001.

- Petitioner/Financial Creditor

Versus

M/s.Sri Giri Travels Private Limited,

Regd. Office: GFS 03, Ground Floor,
Shakti Niwas, No.918, Shop No.23,
9th Cross, Near Pai Showroom,
26th Main, Sector-1, HSR Layout,
Bangalore – 560 102.

- Respondent/Corporate Debtor

Date of Order: 11th September, 2019



- Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

Parties/Counsels Present:

For the Applicant/IRP : Shri Vishwajith Sadananda
For the Petitioner/Financial Creditor: Ms. Fahim Unnisa

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. I.A.No.398/2019 in C.P.(IB)No.123/BB/2018 is filed by Mr. Pawan Kumar Agrawal, Interim Resolution Professional (herein after referred to as 'Applicant/IRP'), U/s 12A of the IBC, 2016, R/w Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, by inter alia seeking to permit the Applicant/IRP to withdraw the main Company Petition.
2. Brief facts of the case, as mentioned in the Application, which are leading to filing of the instant Application, are as follows:-
 - (1) C.P.(IB)No.123/BB/2018 is filed by M/s.Indiabulls Consumer Finance Limited ('Petitioner/Financial Creditor') U/s 7 of the IBC, 2016, R/w Rule 4 of the I&B (AAA) Rules, 2016, by inter alia seeking to initiate CIRP in respect of M/s.Sri Giri Travels Private Limited ('Respondent/Corporate Debtor') on the ground that it has committed default for an amount of Rs.37,08,571/- (Rupees Thirty Seven Lakhs Eight Thousand Five Hundred and Seventy One only). Accordingly Adjudicating Authority admitted the case by an order dated

27.03.2019, by initiating CIRP and appointing IRP namely Mr. Pawan Kumar Agrawal, moratorium etc.

- (2) Accordingly, the Interim Resolution Professional, has published Form A i.e. public announcement under Regulation 6, dated 31.03.2019 and thus IRP collected and verified the claims from creditors and formed the CoC. The first meeting was conducted on 27.04.2019, where no RP has been appointed by the Committee and the existing IRP resumed the office as IRP. The IRP believes that many Financial Creditors are unaware of NCLT order for initiation of CIRP and there exist charges as per ROC record, in this situation IRP has communicated with nine prospective Financial Creditors as per records available. Out of nine Financial Creditors, 2 Financial Creditors i.e. M/s.Fullerton India Credit Company Limited and M/s.City Union Bank Limited have filed their claims. Their claims have been verified by the IRP and CoC has been reconstituted and notified by CoC within its second meeting dated 21.05.2019.
- (3) It is also stated that the IRP has conducted another CoC meeting on 15.07.2019, 19.07.2019 & finally 06.08.2019 where M/s.Indiabulls Consumer Finance Limited submitted Form FA dated 03.08.2019, under Regulation 30A of IBBI (Insolvency Resolution Process of Corporate Persons) Regulations 2016 to RP for withdrawal of application filed under Section 7 of Code. The Corporate Debtor has settled the outstanding dues with each of three Financial Creditors and all the Financial Creditors have voted for the withdrawal application. Thus, the CoC on 06.08.2019, with 100% voting,



resolved to withdraw the Company Petition and authorised the RP to file an application for withdrawal of C.P.(IB)No.123/BB/2018 before the Adjudicating Authority.

(4) It is further stated that there is no requirement of bank guarantee, as per sub-regulation (2) of regulation 30A, as there is no outstanding amount as per sub-regulation (2) of regulation 30A i.e.

a) *Towards estimated expenses incurred on or by the interim resolution professional for purposes of regulation 33, till the date of filing of the application under clause (a) of sub-regulation (1) ; or*

b) *Towards estimated expenses incurred for purposes of clauses (aa), (ab), (c) and (d) of regulation 31, till the date of filing of the application under clause (b) of sub-regulation (1).*


3. Heard Shri Vishwajith Sadananda, learned Counsel for the Interim Resolution Professional and Ms. Fahim Unnisa for Petitioner/Financial Creditor. We have carefully perused the pleadings of the parties and extant provisions of the Code and the law.
4. Shri Vishwajith Sadananda, the Interim Resolution Professional, while reiterating various averments made in the Application, has further submitted that as per Gazette of India, Extraordinary, Part III, Section 4, Published by Authority, Insolvency and Bankruptcy Board of India, Notification dated 25th July, 2019, with regard to the Regulation '30A. Withdrawal Application', the Applicant can make an application for withdrawal,

through Interim Resolution Professional before constitution of the Committee of Creditors.

Therefore, the Applicant contended that he is entitled to withdraw the main Company Petition under Section 12-A of the IBC 2016, R/w Regulation 30A of the Code, as detailed supra.

5. Therefore, we are convinced that the Application is filed in accordance with law and thus are convinced with the reasons cited by the Applicant. Hence, we are inclined to allow the Application as prayed for.
6. By exercising powers conferred on this Adjudicating Authority U/s 12A of the IBC, 2016, R/w Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, we hereby allowed I.A.No.398/2019 by permitting the Applicant to withdraw the main Company Petition. Accordingly, C.P.(IB) No.123/BB/2018 is disposed of as infructuous. No order as to costs.


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL

Puja