

DIVISION BENCH

ITEM NO.108

NATIONAL COMPANY LAW TRIBUNAL

ALLAHABAD BENCH

PRAYAGRAJ

IA No. 352/2022 & IA No. 408/2023 IN CP (IB) No. 68/ALD/2021

CORAM:

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

Date of Order: 21st November, 2023

Attendance-Cum-Order Sheet of the Hearing.

NAME OF THE COMPANY	GOVIND RAM DEWANGAN & ORS V/S MILANI TECHNO ENGINEERING LTD.
UNDER SECTION	7 IBC (IN CIRP)

COUNSEL APPEARED THROUGH PHYSICAL CONFERENCING:

Sh. Shravan Chandrashekhar, Adv. : *For the Resolution Professional Sh. Anurag Nirbhaya present in person*

Sh. Misbahul Haque, Adv. : *For the CoC*

Sh. Shubham Agarwal, Adv. : *For the Respondent No.4 & 8*

Ms. Shivani Jaiswal, Adv. : *For the Respondent No.6 & 7 in IA No.352/2022*

ORDER

IA No. 408/2023

- 1.** This application has been filed on behalf of RP under Section 12A of the Code, for withdrawal of the CIRP against the Corporate Debtor. The following prayer has been made in the present application.
 - a) Allow the present application.*
 - b) Pass an order for the withdrawal of the Corporate Insolvency Resolution Process initiated in respect of the Corporate Debtor namely, Milani Techno Engineering Limited and discharging the Applicant, Resolution Professional, namely Mr. Anurag Nirbhaya from performing his duties under the Insolvency and Bankruptcy Code, 2016.*

c) *Pass such other or further order/order(s) as may be deemed fit and proper in the facts and circumstances of the instant case.*

2. It is stated by the Ld. Counsel representing the RP alongwith RP in person present, that the agenda with regard to withdrawal of the CIRP against the Corporate Debtor was taken up in the 5th meeting of the CoC held on 14th August, 2023, wherein vide Resolution No. C-1 placed at page no.246 Volume II of the present application, the Resolution has been passed by majority of 100 % voting thereby approving withdrawal of the CIRP. The list of the creditors in class is at page no. 251 comprising of 18 such creditors, which have voted in favour of the Resolution No. C-1.
3. The reason for withdrawal of the CIRP have been stated in the agenda item at page no. 237 as well as 238, which are as under:

LIST OF ISSUES TO BE VOTED UPON AFTER DISCUSSION

Item No. C-1:

To file an Application under Section 12A of the Insolvency and Bankruptcy Code, 2016 for the withdrawal of CIRP proceedings of the CD.

It is further apprised to the COC that in the event of carrying out further Corporate Insolvency Resolution Process, the Corporate Debtor will go into Liquidation and eventually into dissolution. Further, continuation of Corporate Insolvency Resolution Process of Corporate Debtors will be an additional burden on the COC to incur these costs without any chance of recoveries.

Hence, the RP agreed with the COC to consider for withdrawal under Section 12A of IBC-2016 and has put this Agenda under Resolution C-1.

Accordingly, Chairman proposed the following Resolution for the consideration of the Committee:

“RESOLVED THAT *in view of non-traceability of the Corporate debtor at this juncture and that no assets being available for*

resolution & as per the provisions of Section 12A of IBC, 2016, read together with Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 pursuant to the application in Form FA by the applicant of the application bearing CP (IB) No. 68/ALD/2021, approval of the Committee of Creditors be and is hereby accorded to withdraw the CIRP of M/s. Milani Techno Engineering Limited in absence of any tangible assets.

RESOLVED FURTHER THAT Resolution Professional be and is hereby authorized to do all such acts, deeds and things as may be necessary or expedient thereto to give effect to the aforesaid resolution.”

4. On the last date of hearing, it was pointed out by the Ld. Counsel representing the RP that since there are no assets and cash reserves available with the Corporate Debtor, therefore, the RP was to forgo the CIRP cost as well as his fees. Accordingly, as per the order dated 10th November, 2023, the RP was directed to remain present in order to verify above CIRP cost as well as his fees to be foregone. Today, RP is present in person and he reaffirms that in view of the peculiar facts and circumstances, he is willing to forgo the CIRP cost as well as his fees including fees of the counsel.
5. In view of the above stated position and the averments made in the application as well as the Resolution passed by the CoC vide Resolution No. C-1 and the statement made by the RP, the present application is allowed and the CIRP initiated against the Corporate Debtor is permitted to be withdrawn.
6. Accordingly, IA No.408/2023 stands disposed off. All other connected IAs will also get disposed off.

**-Sd-
(Ashish Verma)
Member (Technical)**

**-Sd-
(Praveen Gupta)
Member (Judicial)**

21st November, 2023

*Bipul Kumar Tiwari
(Stenographer)*