

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.1 – IA/1034(AHM)2023
In
CP(IB) 459 of 2018

Proceedings under Section 7 IBC

IN THE MATTER OF:

Bank of India

.....Applicant

V/s

Radheshayam Agro Products Pvt Ltd

.....Respondent

Order delivered on: 04/10/2023

Coram:

Mr. Shammi Khan, Hon'ble Member(J)

Mr. Sameer Kakar, Hon'ble Member(T)

PRESENT:

For the Applicant : Mr. Atul Sharma, Adv.

For the Respondent : Mr. Ketan Parikh, Adv

ORDER

This is an application filed by the RP seeking following prayers:

- i. This Hon'ble Tribunal may be pleased to allow the present application by passing directions for withdrawal of the CIRP;*
- ii. This Hon'ble Tribunal may be pleased to take on record the Sole financial Creditor/Bank of India under Section 12A of the Code read with Regulation 31A of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process of Corporate Persons) Regulations, 2016;*
- iii. This Hon'ble Tribunal may be pleased to any such other orders as this Hon'ble Tribunal may deem fit and proper.*

It is stated that order under Section 7 of the IBC, 2016 was passed in CP(IB)459/NCLT/AHM/2018 on 20.09.2019. Mr. C P Jain was appointed as the IRP in the matter. Further, vide order dated 09.12.2019 the applicant herein was appointed as the RP. Meanwhile, the Suspended Board of Directors challenged the order of CIRP commencement before the Hon'ble NCLAT. Hon'ble NCLAT, vide order dated 05.03.2020 set aside the order of admission passed by this Tribunal.

The matter was challenged before the Hon'ble Supreme Court by the Sole Financial Creditor (i.e., Bank of India) and vide final order dated 14.03.202, Hon'ble Supreme Court had quashed the order of Hon'ble NCLAT and directed the parties to appear before this Tribunal and the CIRP progressed.

Form FA is attached at page No.72 of the application which is dated 12.09.2023 and signed by Bank of India, Rajkot Branch, who is the applicant in the main CP. This Form FA was voted upon in the 9th CoC meeting held on 11.09.2023. The relevant resolution is placed on page No.68 of the application. The said resolution is extracted below:

“RESOLVED THAT the approval of members is be and hereby given to the Resolution Professional in the matter of CIRP of M/s. Radheshyam Agro Products Private Limited to file an application under section 12A for withdrawal of CIRP application which was admitted under Section 7 of IBC, 2016 filed by Financial Creditor, Bank of India. Since the One Time Settlement proposal has been sanctioned by Bank of India, being the sole CoC member and the full amount of One Time Settlement has been received by the Bank of India.”

“It is be and is hereby approved and passed by the members of CoC with a majority of 100% voting share.”

It is stated that the said Resolution was passed with 100% majority. Mr. Atul Sharma, Ld. Counsel appearing for the RP states that entire dues have been paid and nothing remains as unpaid towards the cost of CIRP.

We have perused the documents and heard the Ld. Counsel. It appears that CoC has, with 100% majority, voted on Form FA seeking withdrawal of the CIRP proceedings on the Corporate Debtor. Taking into consideration the above, withdrawal of CIRP under Section 12A is hereby allowed.

The Corporate Debtor is released from the rigour of law. The RP is released from the assignment. Corporate Debtor to function through its Board of Directors from the date of this order. The main CP(IB) 459 of 2018 and connected IAs being IA 518 of 2023 and 519 of 2023 are also closed.

File be consigned to records.

-SD-

SAMEER KAKAR
MEMBER (TECHNICAL)

-SD-

SHAMMI KHAN
MEMBER (JUDICIAL)