

NATIONAL COMPANY LAW TRIBUNAL KOCHI BENCH

CORAM: **SHRI P. MOHAN RAJ, HON'BLE MEMBER (JUDICIAL)**
SHRI SATYA RANJAN PRASAD, HON'BLE MEMBER (TECHNICAL)

PETITION No./IA No.	CP(IB)/22/KOB/2022
SECTION	7 IBC
NAME OF PARTIES	KERALA STATE INDUSTRIAL DEVELOPMENT CORPORATION LTD V/S KUMARAKOM AQUA SERENE PVT LTD
PETITIONERS ADVOCATE/ PROFESSIONAL	SANDEEP KUMAR S, MIDHUNA K C
RESPONDENTS ADVOCATE/ PROFESSIONAL	PRADEEP JOY, PRATHAP PILLAI

Office
Notes

Video Conference

8th Dec 2022

O R D E R

IA(IBC)/433/KOB/2022 IN IA(IBC)425/KOB/2022

Learned counsel Ms Midhuna KC appears on behalf of the Applicant/RP.

Learned RP Mr. E.P. Madhusudhanan is also present in person.

This is an application filed by the RP seeking exemption from attaching Bank Guarantee under Regulation 30A (2) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

The learned counsel for the RP submits that an application for withdrawal of CIRP has already been filed and the Financial Creditor has paid the Resolution Professional the cost involved in the CIRP including RP fees.

In view of the submissions, this application is allowed.

IA(IBC)425/KOB/2022 IN CP(IBC)/22/KOB/2022

Learned counsel Ms Midhuna KC appears on behalf of the RP. Learned RP Mr. E.P. Madhusudhanan is also present in person.

This is an application for withdrawal of petition admitted into CIRP filed under Section 7 of IBC, 2016. This application is filed under Section 12A of IBC, 2016 R/W Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 along with prayer to grant liberty to Financial Creditor to approach this Tribunal in order to revive and restore the Application CP(IB)/22/KOB/2022 if in any case of any default made by Corporate Debtor to adhere to the conditions for OTS settlement within 31.12.2022 or to file a fresh section 7 application for initiating CIRP against the Corporate Debtor.

It is noted that this application has been filed after constitution of the Committee of Creditors. The applicant states that the Board of the Financial Creditor at its meeting held on 24.09.2022 and Committee of Creditors meeting dated 26.10.2022 with 100% voting decided to withdraw the petition.

Further, IA(IBC)/433/KOB/2022 has been filed by the RP stating that the Financial Creditor has paid the Resolution Professional the cost involved in the CIRP including RP fees.

Taking into consideration of the submissions made by the RP and also based on the resolution passed on 26.10.2022 by the Committee of Creditors as per Section 12A of IBC, 2016 read with Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for the withdrawal of the CIRP and also in view of the fact that the fees of the RP has been paid in full, this application stands allowed and, in the circumstances, CP(IB)/22/KOB/2022 stands withdrawn. The CIRP initiated against the Corporate Debtor stands withdrawn and the CD is relieved from the rigors of the CIRP Proceedings. Consequently, the RP/Applicant is directed to hand over the management to the Board of Directors whose powers stood suspended by virtue of the initiation of the CIRP by this Tribunal while admitting the Petition CP(IB)/22/KOB/2022. However, we are not inclined to grant liberty as prayed for by the applicant. Applicant is allowed to in simplicitor withdraw this application.

Accordingly, IA(IBC)425/KOB/2022 stands allowed.

IA(IBC)/338/KOB/2022IN CP(IBC)/22/KOB/2022

Learned counsel Mr. Jacob Mathew Manalil appears on behalf of the applicant. Respondent/RP is represented by learned counsel Ms Midhuna KC. Learned RP Mr. E.P.Madhusudhanan is also present in person.

In view of the Order passed today in IA(IBC)425/KOB/2022, this application has become infructuous and accordingly application is dismissed.

CP(IB)/22/KOB/2022

Learned counsel Ms Midhuna KC appears on behalf of the RP. Learned RP Mr. E.P.Madhusudhanan is also present.

Heard the matter.

Taking into consideration the submissions made by the RP and also based on the resolution passed by the Committee of Creditors for the withdrawal of the CIRP and also in view of the fact that the fees of the RP has been paid in full, the CIRP initiated against the Corporate Debtor stands withdrawn. Consequently, The RP is directed to hand over the management to the Board of Directors whose powers stood suspended by virtue of the initiation of the CIRP by this Tribunal while admitting the Petition CP(IB)/22/KOB/2022 and whose powers stand restored consequent to the withdrawal of CIRP.

Accordingly, CP(IB)/22/KOB/2022 stands disposed of as withdrawn.

Sd /-

Satya Ranjan Prasad
Member (Technical)

Sd /-

P. Mohan Raj
Member (Judicial)