



IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, BENGALURU
(Through web-based video conferencing platform)

ITEM No.11
I.A No. 153/2023 &
I.A No. 474/2023 in
C.P (IB) No.18/BB/2021

IN THE MATTER OF:

Excelsior Leathers Private Limited ... Petitioner
Vs.
M/s. Samar Lifestyle Private Limited ... Respondent

Order under Section 9 of I& B Code, 2016

Order delivered on: 03.08.2023

CORAM:

JUSTICE (RETD.)T. KRISHNAVALLI
HON'BLE MEMBER (JUDICIAL)

SHRI.PRABHAT KUMAR
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant: Mr. Aditya Gouri

ORDER

I.A. No. 474/2023

1. Heard Learned Counsel for the Applicant.
2. The present Application has been filed by Shri Suresh Kannan, Resolution Professional of M/s. Samar Lifestyle Private Limited (hereinafter as 'Applicant') under Section 12A of the I & B Code, 2016 r/w Regulation 30A (1) (b) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, seeking to allow the instant Application by disposing off the present Petition in C.P.(IB)No.18/BB/2021 filed by Excelsior Leathers Private Limited against the Corporate Debtor under Section 9 of the I & B Code,2016 as withdrawn.
3. The learned Counsel for the RP submits that the Company Petition was admitted by this Adjudicating Authority vide Order dated 07.06.2022 in C.P.(IB)No.18/BB/2021. It is stated that in the light of the



discussions made in the 3rd meeting of the CoC held on 04.11.2022 an agenda for withdrawal of the present petition was tabled by the Applicant for voting and the same was approved by the members of the CoC by a voting share of 100%. Pursuant to the resolution passed, the suspended director of the Corporate Debtor vide email dated 15.11.2022 proposed a settlement to the Operational Creditor for an amount of Rs. 54.17 lakhs. The suspended director further informed about the resolution passed by the members of the CoC in its 3rd meeting dated 04.11.2022 and requested the Operational Creditor to provide the Form-FA to the Applicant in accordance with Section 12A Code r/w Regulation 30A of the CIRP Regulation. However, upon denial of the Operational Creditor to submit the Form-FA to the applicant, the suspended director filed an application I.A No. 153 of 2023 before this Adjudicating Authority to permit the withdrawal of the present petition in accordance with Section 60 (5) of the Code. Upon hearing the brief arguments of the parties, the Hon'ble Tribunal directed the parties to maintain the status-quo with regard to the CIRP of the Corporate Debtor.

4. However, during the pendency of the Application, the suspended Director of the Corporate Debtor along with its sister concerns of the Corporate Debtor amicably settled the dispute and thereby, entered into a Memorandum of Settlement dated 28.04.2023 with the Operational Creditor. Vide Memorandum of Settlement dated 28.04.2023, SSPL on behalf of the Corporate Debtor paid the Operational Creditor a sum of amounting to Rs. 83,30,687/- as full and final settlement in respect of all or any dues outstanding of the Corporate Debtor after adjusting of dues of the Operational Creditor with SSPL and ILWPL. In view of the settlement arrived between the Operational Creditor and the Corporate Debtor, the Operational Creditor in accordance with Regulation 30A of the CIRP Regulation executed the Form-FA on 28.04.2023 and sent the same to the Applicant.
5. It is further submitted that the Operational Creditor in compliance of Regulation 30A (2) of the CIRP Regulations under Form FA dt.28.04.2023 stated that the entire expenses incurred by the Applicant during the CIRP of the Corporate Debtor shall be borne by the Corporate Debtor and



the CIRP costs incurred by the Applicant till 30.04.2023 has been paid by the Corporate Debtor to the applicant.

6. Since the conditions for withdrawal of CIRP U/s.12A of the Code have been satisfied, this Adjudicating Authority has no objection for withdrawal of this Petition. Therefore, the instant Application is hereby allowed.
7. Consequently, the Corporate Debtor is hereby released from the rigours of CIRP and the RP so appointed, is directed to handover the charge of the assets and affairs of the Corporate Debtor back to the Suspended Members of the Board of Directors of Corporate Debtor. Subsequently, RP is discharged from his duties of the Corporate Debtor, and moratorium shall be ceased to have effect, from the date of this order.
8. Accordingly, **I.A.No.474 of 2023** stands disposed of as withdrawn and consequently, the Petition bearing **C.P.(IB)No.18/BB/2021** stands closed along with pending I.As, if any.

I.A. NO. 153/2023

1. This application is filed on 07.12.2022 by Shri Mr.Paveet Amin Girishbhai, Director of Samar Lifestyle Private Limited, the Corporate Debtor under Section 60 (5) of the I & B Code, 2016 r/w Rule 11 of the NCLT Rules, 2016 interalia seeking to allow the present application and dispose of the present company petition filed by Excelsior Leathers Private Limited under Section 9 of the I & B Code, 2016 as withdrawn.
2. Heard the Ld. Counsel for the Applicant.
3. In view of the order passed in I.A No. 474 of 2023, the present I.A become infructuous. Therefore, **I.A No. 153 of 2023 is disposed of as infructuous.**

Sd/-
PRABHAT KUMAR
MEMBER (TECHNICAL)

Sd/-
T.KRISHNAVALLI
MEMBER (JUDICIAL)