

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

MA 3604/2019

in CP (IB)-1497/MB-IV/2019

Under section 12A of the Insolvency
& Bankruptcy Code, 2016

Indrajit Mukherjee

.... Interim Resolution Professional/
Applicant

In the matter of

Scorpion Express Private Limited
...Operational Creditor

Versus

Gufic Bioscience Limited
...Corporate Debtor

Order Pronounced on 03.12.2019

Coram:

Mr. Rajasekhar V.K. : Hon'ble Member (Judicial)
Mr. Ravikumar Duraisamy : Hon'ble Member (Technical)

Appearances:

For the Applicant : Mr. Shyam Kapadia, Counsel
a/w Ms. Sonali Pawar and
Mr. Indrajit Mukherjee, IRP.

For the Corporate Debtor : Mr. Ajit Singh Tawar,
Advocate a/w Ami Shah, CS.



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ORDER

Per: Rajasekhar V K, *Member (Judicial)*

1. This is a Miscellaneous Application filed under section 12A of the Insolvency & Bankruptcy Code, 2016 (IBC) by Mr. Indrajit Mukherjee, the Interim Resolution Professional (IRP) appointed vide order dated 25.10.2019 of this Adjudicating Authority, for withdrawal of the Company Petition [CP(IB)-1497/MB/2019] filed under section 9 of the Insolvency & Bankruptcy Code, 2016 (IBC) by Scorpion Express Private Limited against Gufic Bioscience Limited for initiating CIRP. This MA is listed on 28.11.2019, the Counsel for the Corporate Debtor prayed the Bench to consider and to pass appropriate orders on an urgent basis.
2. This MA is filed for seeking relief to allow the Operational Creditor, the original applicant to withdraw the Company Petition No. 1497/2019 and to order that the CIRP ordered in Gufic Bioscience Limited vide orders dated 22.10.2019 and 25.10.2019 be recalled and to pass such orders as this Adjudicating Authority may deem fit and proper.

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3. We heard the Mr. Shyam Kapadia, Ld. Counsel on behalf of the IRP Mr. Indrajit Mukherjee and Mr. Ajit Singh Tawar, Ld. Counsel for the Corporate Debtor a/w Ms. Ami Shah, Company Secretary of the Corporate Debtor present in person. Ld. Authorised Representative for the IRP submitted that subsequent to the order dated 25.10.2019, the IRP has taken charge and has also issued public advertisement on 04.11.2019 in Financial Express (English) and Tarun Bharat (Marathi). IRP has also submitted Form FA in accordance with section 12A of the IBC r/w Regulation 30(A) of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016. The Operational Creditor and Corporate Debtor have executed Consent Terms on 25.10.2019. Pursuant to the said Consent Terms dated 25.10.2019, the Operational Creditor has received a sum of Rs.34,03,572/- as full and final settlement amount. The Operational Creditor has received settlement amount of Rs.34,03,572/- vide Cheque no. 086338 dated 25.10.2019.

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4. In response to a question posed by the Bench, Counsel for the IRP has submitted that no claims have been received from anyone in response to the public advertisement issued by the IRP, except for a claim from the Sales Tax Department of the Government of West Bengal, which in any case is already under appeal before the appropriate authority under that Government.
5. During the hearing it is submitted by the Operational Creditor and by the Corporate Debtor that all the disputes between the parties have been amicably settled, the prayer sought in the MA may be considered favourably and the relief be granted on an urgent basis. Considering the facts and circumstances, the submission made and the available record, we are of the considered opinion that the prayer sought by the IRP in the current MA be allowed.
6. Accordingly, we hereby pass an order that the CIRP initiated vide order dated 22.10.2019 and 25.10.2019 in CP 1497/2019 is recalled and IRP is discharged from his role as IRP. We further direct the IRP to hand over the records/books to the management of the Corporate Debtor.

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7. It is also worthwhile to record that before admitting the Petition, the Bench has given considerable time for settlement of the claim of the Operational Creditor. However, both parties argued the matter and an order was passed after granting sufficient opportunities. Immediately after the order was passed, on 08.11.2019, the present MA under section 12A of the IBC for withdrawal of the CIRP has been filed.
8. Considering the judicial time spent on the matter and the conduct of the Corporate Debtor, we are inclined to levy a cost of Rs.2,00,000/- (Rupees two lakh only) which is to be paid into the account of the "Prime Minister's National Relief Fund" within ten days from today and proof thereof to be submitted in the Court.
9. MA 3604/2019 is disposed of accordingly.

Sd/-

RAVIKUMAR DURAISAMY
Member (Technical)

03.12.2019

Sd/-

RAJASEKHAR V.K.
Member (Judicial)

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On 04/12/2019

[Signature]
Assistant Registrar
National Company Law Tribunal Mumbai Bench

