



IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

IA No. 5490/2022
IN
CP (IB) No.1012(PB)/2020

In the matter of

Mr. Rabindra Kumar Mintri

Interim Resolution Professional of
Tulsiani Constructions and Developers Private limited

In the matter of

Mr. Rajiv Garg

...

Financial Creditor

Versus

Tulsiani Constructions And Developers Private Limited

...

Corporate Debtor

Order pronounced on: 19.12.2022

Coram:

Chief Justice (Retd.) Ramalingam Sudhakar : Hon'ble President

Shri Avinash K. Srivastava : Hon'ble Member (Technical)

Appearances :

For the IRP: Ms. Kanika Sachdeva, Advocate

Md. Hasim, Advocate

For Financial Creditor: Ms. Gunjan Mittal, Advocate

For the Suspended Management: Mr. P Nagesh , Sr. Advocate

Ms. Simran Jyot, Advocate

ORDER


Per: Avinash Kumar Srivastava, Member (Technical)

1. The present application has been filed by the Interim Resolution Professional of Tulsiani Constructions and Developers Private Limited under Section 12A of IBC, 2016 r/w Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and Rule 11 of the



NCLT Rules, 2016 by the applicant herein for seeking following reliefs:

- a. *Pass appropriate orders allowing the financial creditor to withdraw the Section 7 application commenced against the corporate debtor i.e Tulsiani Constructions and Developers Private Limited, in terms of the Admission order dated 07th October, 2022 in Company Petition No. IB 1012(PB)/2020, under the provisions of Section 12 A of IBC, 2016 read with Regulation 30 A of IBBI (Insolvency Resolution Process of the Corporate Persons) Regulations, 2016 read with Rule 11 of NCLT Rules, on the condition that the Corporate debtor, the Corporate debtor Group (as defined under the terms of settlement) and the confirming parties (as defined under the terms of settlement) shall unconditionally comply with all the covenants of the terms of settlement dated 07.11.2022.*
 - b. *Pass an order to discharge the present applicant from the duties of the IRP of the Corporate Debtor.*
 - c. *Pass an order to reinstate and restore back the powers of the Suspended Board of Directors of the Corporate debtor*
 - d. *Such further and other reliefs as this Hon'ble Tribunal may deem fit in the facts, nature and circumstances of the present case.*
2. In the present matter, the CIRP was initiated on 07.10.2022 and the applicant was appointed as IRP.
 3. Thereafter, an appeal was filed by the erstwhile management before the Hon'ble NCLAT in which the Hon'ble NCLAT *vide* order dated 02.11.2022 directed the applicant not to constitute the COC.
 4. It is averred that, subsequently on 07th November, 2022 a settlement deed was executed between the applicant financial creditor and the erstwhile management of the corporate debtor. The copy of Form FA alongwith the



settlement deed is also annexed as Annexure A4 of the application.

5. We have gone through the application and heard the submissions made by the Ld. Counsel appearing for the IRP.
6. It is also averred by the counsel for the IRP that the IRP has been reimbursed with all the cost and expenses under Regulation 30A(2) and Regulation 33 of the CIRP Regulation and thus, we find that all the compliances for the withdrawal of the application has been complied with.
7. Therefore, the present IA NO.5490/2022 is allowed and the prayer (a) is partially allowed, only in respect to the withdrawal of the CIRP of the corporate debtor without taking into record the terms of settlement agreement entered into between the parties. Accordingly, (IB) No.1012 (PB)/2020 is ordered to be dismissed as withdrawn without any liberty to file fresh.
8. Consequently, moratorium U/s 14 of the Code comes to an end. The IRP/ RP is discharged from his duties from the present CIRP and the Corporate Debtor is released from all the rigours of law and is allowed to function independently through its Board of Directors with immediate effect.
9. Further, it is observed that there was another company petition namely (IB) No. 286(PB)/2019, filed against the same corporate debtor which was disposed of with the direction to the applicant therein to file its claim before the IRP appointed in this petition. As the matter got settled between the parties and CIRP has been closed in the present matter, the other applicant would need to file application for revival of Company petition if the cause of action survives in its case.

As



10. Therefore, in the interest of justice we hereby direct the corporate debtor to pay the court fees to the applicant for such application which is needed to be filed for revival of that company petition.
11. (IB) No. 1012(PB)/2020 is closed. File be consigned to record.
12. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.
13. Copy of this order be also served upon the applicant in (IB) No. 286(PB)/2019, in order to enable it to file the application for revival of the petition as required.

RAMALINGAM SUDHAKAR
PRESIDENT

AVINASH K. SRIVASTAVA
MEMBER(TECHNICAL)