

**IN THE NATIONAL COMPANY LAW TRIBUNAL
"CHANDIGARH BENCH, CHANDIGARH"**

(Exercising the powers of Adjudicating Authority
under the Insolvency and Bankruptcy Code, 2016)

CA No. 304/2018
IN
CP(IB)No.75/Chd/Hry/2018

Under Section 9 of Insolvency
and Bankruptcy Code, 2016.

In the matter of:

Gupta Power Infrastructure Limited
having its registered office
at EN-62, Sector V, 7th Floor,
Salt Lake City,
Kolkata-700091.

...Applicant-Operational Creditor.

Vs.

Sravanthi Infratech Pvt. Ltd.,
Having its registered office
at 3rd Floor, Rider House,
136, Sector 44,
Gurgaon-122002, Haryana.

...Respondent-Corporate Debtor.

Order dated 09.08.2018

Coram: **Hon'ble Mr.Justice R.P.Nagrath, Member (Judicial)**
 Hon'ble Mr.Pradeep R.Sethi, Member (Technical)

For the Applicant	: Mr. Saurabh Bhardwaj, Advocate.
Resolution Professional	: Mr. Giridhari Lal Sharma.
For the Respondent	1. Mr. Sachit Sahijpal, Advocate
(for suspended Board of Directors)	2. Mr. Deepam Raghava, Advocate

Per: **R.P. Nagrath, Member(Judicial)**

ORDER(Oral)

CA No. 304/2018

The instant application has been filed by the operational creditor –
M/s. Gupta Power Infrastructure Limited for withdrawal of CP (IB) No.
75/Chd/Hry/2018 filed under Section 9 of the Insolvency and Bankruptcy Code,



2016 (for brevity, the Code) which was admitted on 31.05.2018 by this Tribunal. Vide Order dated 04.06.2018, Mr. Giridhari Lal Sharma, registered professional was appointed as Interim Resolution Professional, who was later on confirmed as Resolution Professional by the Committee of Creditors. This application has been filed for withdrawal of the petition under Section 9 of the Code in view of the latest amendments in the Code and the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (for short, the Regulations).

2. The Resolution Professional submits that the Committee of Creditors was duly constituted. The Committee of Creditors comprises of two Financial Creditors namely M/s. DJW Electric Power Projects Pvt. Ltd. and M/s. Rangeet Hydro Power Projects Pvt. Ltd. The Resolution Professional submits that there is no financial institution/banking institution in respect of whom default may have been committed by the corporate debtor. The Resolution Professional has stated that he also consulted the books of accounts of the corporate debtor for the purpose of collating the claims and constitution of the Committee of Creditors.

3. The instant application has been filed on the basis of resolution passed by the Committee of Creditors in its meeting held on 19.07.2018. It is submitted by the Resolution Professional and the learned counsel representing the Directors of suspended Board of Directors that in the 1st meeting of the Committee of Creditors held on 02.07.2018, the decision was taken by the Committee of Creditors for withdrawal of the petition filed under the Code. The decision was reiterated by the Committee of Creditors by 100% voting share in the 2nd meeting of the Committee of Creditors held on 19.07.2018.



4. We have heard the Resolution Professional, the learned counsel for the operational creditor and the learned counsel for the suspended Board of Directors of the corporate debtor. It is pertinent to refer to Regulation 30 A of the Regulations which reads as under:-

"30A. Withdrawal of application.

(1) An application for withdrawal under section 12A shall be submitted to the interim resolution professional or the resolution professional, as the case may be, in Form FA of the Schedule before issue of invitation for expression of interest under regulation 36A.

(2) The application in sub-regulation (1) shall be accompanied by a bank guarantee towards estimated cost incurred for purposes of clauses (c) and (d) of regulation 31 till the date of application.

(3) The committee shall consider the application made under sub-regulation (1) within seven days of its constitution or seven days of receipt of the application, whichever is later.

(4) Where the application is approved by the committee with ninety percent voting share, the resolution professional shall submit the application under sub-regulation (1) to the Adjudicating Authority on behalf of the applicant, within three days of such approval.

(5) The Adjudicating Authority may, by order, approve the application submitted under sub-regulation (4)."

5. It is admitted by the learned counsel appearing for the parties and the Resolution Professional that process for inviting the Expression of Interest was yet to be taken up, but in the very first meeting of the Committee of Creditors, the decision was taken to withdraw the petition filed under Section 9. The Resolution Professional states that the CIRP expenses incurred till the date of present application for the purpose of Regulation 31



(c) and 31(d) have been ratified by the Committee of Creditors and paid by the corporate debtor.

6. Section 12A of the Code is also reproduced hereunder:

"12A. Withdrawal of application admitted under Section 7, 9 or 10—

The Adjudicating Authority may allow the withdrawal of application admitted under Section 7 or Section 9 or Section 10, on an application made by the applicant with the approval of ninety percent voting share of the Committee of Creditors, in such manner as may be prescribed."

In the instant case, the decision has been taken by the Committee of Creditors with 100% voting share.

7. In view of the above, we allow the instant application and CP (IB) No. 75/Chd/Hry/2018 is ordered to be withdrawn. Consequently, the management of the corporate debtor shall stand restored and the Resolution Professional also stands discharged. The parties shall communicate this order to Insolvency and Bankruptcy Board of India and the Registrar of Companies.

Copy of this order be communicated to all the parties.

Sd/-
(Pradeep R. Sethi)
Member (Technical)

✓ August 09, 2018
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Sd/-
(Justice R.P. Nagrath)
Member (Judicial)

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