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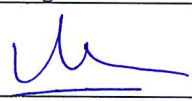
**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL


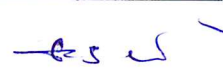
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 26.09.2018 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No.398/2018 in CP(IB) No.95/9/HDB/2018
NAME OF THE COMPANY	Laxmi Sai Steel Pvt Ltd
NAME OF THE PETITIONER(S)	Oswal Smelters Pvt Ltd
NAME OF THE RESPONDENT(S)	Laxmi Sai Steel Pvt Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
For Cr. Bhupesh - Md. Nozeeruddin Khan	Adv.	9700625440	

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
Mr. V.V.S.N. RAJU Mr. A.B.N. RAJ] counsel for RP	Advocate	9866446467 9100077202	
Mr. K. Venkateswarlu	RP	KAREVENKATESW ARLU @N MALLA	

ORDER

Orders passed in IA 398/2018 vide separate orders.


Member (J)

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**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

IA No. 398/2018
In
CP (IB) No. 95/9/HDB/2018

In the matter of

Oswal Smelters Private Limited
Having its registered office at
No.1034, 3rd Floor,
Dr. Raj Kumar Road, 1st Main,
4th Block Rajajinagar,
Bangalore- 560010.

...Petitioner/
Operational Creditor

VERSUS

M/s. Laxme Saai Steel Private Limited
Having Registered Office at
Flat No. GA/2, Dolphin Apartment,
R.K.Beach Road,
Behind Taj Residency,
Visakhapatnam,
Andhra Pradesh- 530002

...Respondent/
Corporate Debtor

Order pronounced on 26th September, 2018

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Hon'ble Shri Ratakonda Murali, Member (Judicial)

Counsels / parties present:

For the Applicant:	Manjusha, Advocate
For the Respondent:	G.S. Jagannath, Advocate,
IRP:	G.Kalpana, CA.

Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)

ORDER

1. Resolution Professional filed this application under section 12A of IBC, herein referred as code seeking permission for withdrawal of application filed under section 9 of the code.

2. Averments in the application in brief:

- a. It is averred that this Tribunal vide order dated 13.07.2018 admitted the application in CP (IB) No. 95/9/HDB/2018, and appointed K. Venkateswarlu as IRP.
- b. It is averred in the application that in accordance with the order of the Tribunal the IRP formed the COC and conducted three COC meetings on 11.08.2018, 07.09.2018, 11.09.2018 respectively. Minutes of such COC meetings are filed herewith and meeting called on 10.09.2018 was adjourned to 11.09.2018 due to the non-availability of corum. The copy of minutes of COC meetings was annexed here with at pg:12.
- c. It is averred that in the second COC Meeting held on 07.09.2018, the IRP had received provisional balance sheet as at 31.03.2018 and as at 13.07.2018 from the suspended member of board of director of the corporate debtor.
- d. It is averred the operational creditor , M/s. Oswal Smelters Private Limited and other financial creditor and operational creditor M/s. Dovefin Microfinance Private Limited and M/s. V Win Impex Submitted Form FA dated 17.08.2018 and 29.08.2018 respectively under Regulation 30A of the Insolvency and Bankruptcy Board of India,(Insolvency Resolution Process for Corporate Persons) Regulations, 2016 to the IRP for withdrawal of application filed u/s. 9 of IBC along with no objection letters dated 29.08.2018. The copy of Form FA submitted by Operational creditor and financial creditor is annexed here with page number:47.
- e. It is averred that the member of the suspended board of directors of the Corporate Debtor submitted a Demand Draft No. 811628 dated 11.09.2018 drawn on Indian Overseas Bank, Raj Bhavan Road, Hyderabad in favour of IRP for an amount of Rs. 6,80,000/- towards the estimated cost incurred till the date of application for the purposes of clauses© and (d) of regulation 31 of the Regulations instead

of Bank Guarantee. The copy of Demand Draft is annexed here with pg no.52.

- f. It is averred that in the third COC meeting held on 11.09.2018, the sole member of the COC approved with 100% voting share for withdrawal of the application CP(IB) No. 95/9/HDB/2018.
3. I have heard IRP in person, He is the applicant who filed the application under Section 12 A of the Code, on behalf of creditor which is a newly added provision in the code. Sec 12A of the Code read as follows:

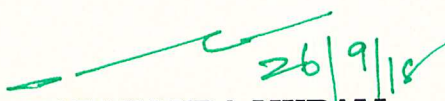
“The Adjudicating Authority may allow the withdrawal of application admitted under section 7 or section 9 or section 10, on an application made by the applicant with the approval of ninety percent voting share of the committee of creditors, in such manner as may be prescribed”.
 4. It is clear from section 12 A of the Code that the Adjudicating Authority may allow the withdrawal of application admitted under section 7 or section 9 or section 10 on an application filed by the applicant with the approval of 90% voting share of the Committee of Creditors. Thus it is clear if 90% voting share of Committee of Creditors approves application for withdrawal then Adjudicating Authority may allow for withdrawing the application filed under section 7 or section 9 or section 10 of the Code.
 5. The regulations 30A of I&B(Corporate Insolvency Resolution Process), 2016, deals with Withdrawal of application. It reads as follows:
 - a. An application for withdrawal under section 12 A 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 36 A.
 - b. The application in sub-regulation (1) shall be accompanied by a bank guarantee towards estimated

cost incurred for purposes of clauses© and (d) of regulation 31 till the date of application.

- c. 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.
 - d. 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.
 - e. The Adjudicating Authority may, by order, approve the application submitted under sub-regulation (4).
6. Regulations 30A is a newly added regulation. It provides for the procedure for withdrawal of application filed under section 12 A of the code.
 7. The application for withdrawal under section 12 A of the code shall be submitted to the IRP or RP as the case maybe in Form FA of the schedule before issue of invitation for expression of interest and further to be accompanied by a bank guarantee towards estimated cost. Then Committee of Creditors has to approve with 90% of voting share. If approved the RP shall submit the application to the Adjudicating Authority on behalf of applicant and Adjudicating Authority may approve the same by order.
 8. IRP relied on the copy of withdrawal application in Form FA which is shown as Page No.49. IRP further stated in the application that the estimated cost (6,80,000) incurred till the date of application for the purpose of clauses© and (d) of regulation 31 of the Regulations D.D is given instead of Bank Guarantee.
 9. It is the case of applicant/IRP that 100% voting share of Committee of Creditors approve the withdrawal application. The minutes of the meeting of Committee of Creditors dated

11.08.2018, 07.09.2018 and 11.09.2018 is shown as Page No.12.

10. I have seen the minutes of the third Committee of Creditors meeting held on 11.09.2018. The members of Committee of Creditors having 100 % voting share, Unanimously approved the application for withdrawal filed by the applicant.
11. Present application is filed by IRP before this Tribunal for approval of the withdrawal application. It is clear that Regulation 30A of IB (Corporate Insolvency Resolution Process) regulation 2016, are complied.
12. By virtue of provisions of sec 12 A, Tribunal is empowered to approve the application for withdrawal.
13. This Tribunal by exercising powers under section 12 A of the Code R/W regulations 30A of IBC(Corporate Insolvency Resolution Process) Regulations 2016, approved the application for withdrawal.
14. Consequently, application filed by IRP is to be allowed and moratorium order passed under section 14 shall cease to exist.
15. In the result IA No. 398/2018, is allowed and application for withdrawal filed by IRP which has been approved by the Committee of Creditors with 100 % voting share stands approved. Consequently application filed by Operational Creditor in CP(IB) No. 95/9/HDB/2018, stands withdrawn, and CIRP stands closed.


RATAKONDA MURALI
MEMBER (JUDICIAL)