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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 25.09.2018 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA No.401/2018 in CP(IB) No.123/9/HDB/2018
NAME OF THE COMPANY	Jeevan Polymers Pvt Ltd
NAME OF THE PETITIONER(S)	Shruti Impex
NAME OF THE RESPONDENT(S)	Jeevan Polymers Pvt Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
CA G. KALPANA, IRP	CA	kalpanagonugunta1@gmail.com 9963568558	

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Orders passed vide separate order

Member(Judl)

Pavani

IN THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH, HYDERABAD

IA No. 401/2018
In
CP(IB) No. 123/9/HDB/2018

In the matter of

G.Kalpana,
H.no.16-11-19/4, G-1,
Sri Laxmi Residency,
Saleem Nagar Colony,
Malakpet,
Hyderabad- 500 036.

...Applicant/
IRP

AND

1. M/s. Shruti Impex
R/o. H.No.11-6-465,
Nampally,
Hyderabad.

...Respondent/
Operational Creditor

2. M/s. Jeevan Polymers Private Limited
R/o. 12/C, CIE Balanagar,
Hyderabad- 500 037.

...Respondent/
Corporate Debtor

Order pronounced on 25th September, 2018

Coram

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 24.08.2018 admitted the application in CP (IB) No. 123/9/HDB/2018, and appointed the applicant as IRP.
   b. It is averred in the application that on the intervention of the well-wishers, the operational creditor as well corporate debtor settled the dispute and entered into Memorandum of Understating dated 03.09.2018.
   c. It is alleged that the committee of creditor (Andhra Bank, Sole Banker) has given consent for the compromise of petition.
   d. It is averred the operational creditor in terms of Section 12 A of IBC 2016, R/w Regulation 30 A of the Insolvency and Bankruptcy (Corporate Insolvency Resolution Process) regulations 2016 submitted application dated 18.09.2018 in the form FA for withdrawal of application. The copy of withdrawal of application is marked as Annexure-B.
   e. It is averred in terms of regulation 30A she placed withdrawal application before COC in its first meeting held on 18.09.2018 and COC with 100% of the voting share of members of COC unanimously approved the withdrawal application filed by operational creditor. The copy of minutes of COC is marked as Annexure-C.
3. I have heard IRP in person, she is the applicant who filed the application under Section 12 A of the Code, 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 Annexure B. IRP further stated in the Affidavit that there is no need to file Bank Guarantee in this case.
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 18.09.2018 is shown as Annexure C.
10. I have seen the minutes of the Committee of Creditors meeting held on 18.09.2018. 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. 401/2018, 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. 123/9/HDB/2018, stands withdrawn, and CIRP stands closed.

23/9/18

RATAKONDA MURALI
MEMBER (JUDICIAL)

Pavani