

In the National Company Law Tribunal
Mumbai Bench.

MA 981/2018 in CP (IB) 939/9/MB/2017

Under Section 9 Insolvency & Bankruptcy Code, 2016

In the matter of

Idemitsu Lube India Pvt. Ltd. : Petitioner / Operational Creditor

V/s

Omsai Auto World Pvt. Ltd. : Respondent / Corporate Debtor

&

Mr. Sandeep Goel : Applicant & Resolution Professional.

Order delivered on: 12.09.2018

Coram:

Hon'ble Shri M.K. Shrawat, Member (Judicial)

Present:

- For the Petitioner(s): : 1. Mr. Abhishek Bhaduri, for Resolution Professional.
2. Mr. Sandeep Bajaj, Advocate for Committee of Creditors & Operational Creditor.

Per M.K. Shrawat, Member (Judicial).

ORDER

1. A Petition u/s. 9 was submitted by M/s. Idemitsu Lube India Private Limited in the capacity of "Operational Creditor" against M/s. Om Sai Auto World as a "Corporate Debtor" which was admitted vide an Order of 2nd January, 2018 with the direction to commence CIRP by appointing Mr. Sandeep Goel as Interim Resolution Professional pertaining to an Operational Debt of ₹1,36,154/-.

2. As per this Miscellaneous Application the Resolution Professional Mr. Sandeep Goel has affirmed that vide Committee of Creditors meeting held on 29.08.2018 it was approved by 100% voting to submit Form FA as prescribed under Regulation 30A seeking "withdrawal" of CIRP.

3. As per the contents of Form FA dated 11.07.2018 it is informed as under:-

*"Subject: **Withdrawal of Application admitted for corporate insolvency resolution process of Om Sai Autoworld Private Limited***

1. *I, Ashish Rohatgi, the authorized representative of Idemitsu Lube India Private Limited, had filed an application bearing number TCP No.030/ IBC/ NCLT/MB/ MAH/ 2018 before the Adjudicating Authority under section 9 of the Insolvency and Bankruptcy Code, 2016. The said application was admitted by the Adjudicating Authority on 02.01.2018 bearing number TCP No. 939/ IBC/ NCLT/ MB/ MAH/ 2018.*

2. *I hereby withdraw the application bearing number TCP No. 939/ IBC/ NCLT/ MB/ MAH/ 2018 before the Adjudicating Authority under Section 9 of the Insolvency & Bankruptcy Code, 2016.*

3. *I request the Committee of Creditors to approve my application for withdrawal.*

4. *I authorize the Resolution Professional – Mr. Sandeep Goel to file this application of withdrawal with the Adjudicating Authority on my behalf, if it is approved by the Committee of Creditors with ninety percent voting power."*

4. The Learned Resolution Professional has further informed that vide Committee of Creditors meeting held on 13.07.2018 a Resolution was passed after considering Form FA dated 10.07.2018 wherein it was resolved in favour of withdrawal by 100% voting and further with a Resolution to make a request to Hon'ble NCLT to allow to withdraw the Petition bearing TCP No.939/I&BC/NCLT/MB/MAH/2017.

5. In the said meeting it was further resolved to make a payment of fees of Resolution Professional forming CIRP cost of ₹2 Lakhs which was also ratified.

6. The Resolution Professional has also affirmed that through an email dated 01.08.2018 the Operational Creditor has affirmed that the payment was received from one of the suspended Board of Directors of the Corporate Debtor. A fresh Form FA again was submitted on 27.08.2018 reiterating the same facts and as a consequence, Committee of Creditors was held on 29.08.2018 wherein by 100% of voting Resolution Professional was requested to take steps for withdrawal of the Petition.

7. The Applicant has finally affirmed that in the light of the payment being received by the Petitioner in the capacity of "Operational Creditor" and that the requisite Form FA prescribed under Regulation 30A is duly considered by Committee of Creditors which was approved by 100% voting in favour of the withdrawal of the Petition and that

the Resolution Professional had affirmed that the CIRP cost has been paid, hence the withdrawal as prescribed u/s. 12A is hereby permitted. **M.A. 981/2018 allowed.**

SD/ -

(M.K. SHRAWAT)
Member (Judicial)

Date : 12.09.2018

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