

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

I.A. No.124/2021
U/s.12A of IBC, 2016
R/w Regulation 30 A (1)(a), (2)(a) & (3)of the IBBI
(Insolvency Resolution Process for
Corporate Persons) Regulations, 2016 &
R/w Rule 10 of I&B (AAA) Rules, 2016
And
C.P.(IB)No.177/BB/2020
U/s.9 of IBC, 2016
R/w Rule 6 of I&B (AAA) Rules, 2016

In the matter of:

Mr. Surender Devasani,
(Interim Resolution Professional) of
M/s.Cryptograph Technologies Pvt. Ltd.
R/off: 87, 3rd Floor, Sector 1,
27th Main, HSR Layout,
Bangalore – 560 102. - Applicant

Date of Order: 23rd April, 2021

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present (through VC):

For the Applicant : Mr. Surender Devasani, IRP
For the Petitioner : Ms. Ritika Ravikumar, Adv

ORDER

Per: Ashutosh Chandra, Member (Technical)

1. I.A.No.124/2021 in C.P.(IB)No.177/BB/2020 is filed by Mr. Surender Devasani, ('the Applicant/IRP'), U/s.12A of IBC, 2016 R/w Regulation 30 A (1)(a), (2)(a)



- & (3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, read with Rule 10 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by *inter alia* seeking to approve the withdrawal of Petition CP(IB)No.177/BB/2020 by accepting the Form FA filed by the Operational Creditor/Applicant, U/s.12A of IBC, 2016 R/w Regulation 30 A (1)(a), (2)(a) & (3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, etc.
2. Initially, C.P.(IB)No.177/BB/2020 was filed by M/s. Allegis Services (India) Pvt. Ltd.(‘the Petitioner/Operational Creditor’), U/s.9 of the Code, and the same was admitted by the Adjudicating Authority, vide its Order dated 04.03.2021, by initiating CIRP in respect of the Corporate Debtor, appointing the Applicant as IRP, imposing moratorium, etc.
 3. It is stated that the Operational Creditor, the Applicant has approached the IRP by submitting the Settlement Agreement dated 3rd April, 2021 entered into between the Corporate Debtor and the same is attached as annexure. The Applicant proposes to withdraw the petition by filing FORM FA. Subsequently the Operational Creditor/Applicant submitted the Form FA dated 06.04.2021 to the IRP on 06.04.2021 and the same is annexed to the application.
 4. The IRP confirms that he has received Demand Draft of Rs.1,17,000/- towards the total cost of CIRP including balance professional fee of IRP.
 5. In view of the foregoing facts and circumstances, it is has been submitted that this Adjudicating Authority may admit this application and issue necessary orders and approvals for withdrawing the Petition filed by the Operational Creditor under Section 9 of the IBC, 2016.
 6. It is submitted that since the parties have settled the matter, it would be in the interest of justice if this Tribunal may permit the Operational Creditor to withdraw the present Petition bearing CP(IB)No.177/BB/2020 and recall the CIRP ordered against the Corporate Debtor. It is stated also that this Tribunal has the powers u/s 12A of the Code to permit withdrawal of the present petition as well as under Regulation 30A of the IBBI (Insolvency Resolution Process for



Corporate Persons) Regulations, 2016. Therefore, the present Application is being filed for seeking permission of this Tribunal to withdraw the Petition filed against the Respondent, as per the provisions of section 12 A of the Code, in the interest of justice. Further the IRP, Mr. Surender Devasani has given his report on compliance of withdrawal of application dated 07.04.2021 for the said withdrawal which reads as under:

"The IRP received the application for withdrawal on 06.04.2021 and the application is being filed before the Hon'ble Adjudicating Authority on 7th April, 2021 and hence it confirms to the Regulation 30A(3) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016."

7. Heard Mr. Surender Devasani, learned IRP and Ms. Ritika Ravikumar, learned Counsel for the Petitioner through Video Conference. We have carefully perused the pleadings of the party, and extant provisions of the Code, and Rules made thereunder.
8. **Section 12 A reads as follows:** Withdrawal of Application admitted under Section 7, 9 or 10, which reads as under:

"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 per cent voting share of the committee of creditors, in such manner as may be specified."

Therefore, the Applicant/Petitioner is entitled to withdraw the instant Company Petition, and the Adjudicating Authority is empowered to permit any Applicant to file an Application Under Section 12-A R/w Regulation 30A of the Code, as detailed supra.

9. We have considered the facts of the case as mentioned by the learned IRP and the Counsel, and perused the contents of the Application and the report given



by the IRP, and the prayer contained therein. As per the Application, the parties have arrived at an amicable settlement to resolve the differences and the Corporate Debtor offered to make payment of the outstanding dues as per the Settlement Agreement dated 03.04.2021 executed by and between the parties. Further, Mr. Surender Devasani, the IRP in his report dated 07.04.2021 confirms the same for the withdrawal of the said matter.

10. On perusal of the Application and the provisions of the Code, and the Rules of IBBI as mentioned above, it is seen that the instant Application is filed in accordance with law. Therefore, in the facts and circumstances of the cases narrated in the withdrawal petition, we are of the considered view that when the authorised representative of the Operational Creditor has filed the Form FA for withdrawal, it is a fit case to allow the Application as prayed for. We are inclined to permit the Applicant to withdraw the same.
11. By exercising powers conferred on this Adjudicating Authority U/s 12A of the IBC, 2016 R/w Regulation 30 A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, we hereby allow I.A.No.124/2021 by permitting the Applicant to withdraw the main Company Petition. Accordingly, C.P. (IB) No.177/BB/2020 is disposed of as withdrawn. No order as to costs.

**ASHUTOSH CHANDRA
MEMBER, TECHNICAL**

**RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL**

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