

**IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **10.04.2024** THROUGH VIDEO CONFERENCING

PRESENT: HON'BLE SHRI. JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

IN THE MATTER OF : Bank of India
Vs
Dharani Sugars & Chemicals Ltd

MAIN PETITION NUMBER : IBA/976/2019

(IA/MA) APPLICATION NUMBERS

IA(IBC)/825(CHE)/2024

ORDER

Present: Ld. Counsel Shri. A G Sathyanarayana for the Applicant / RP,
who is also present in person.

Ld. Counsel Shri. Manivannan for Promoters.

Ld. Counsel Shri. T Ravichandran for NARCL.

This application has been filed under Section 12A of IBC, 2016 praying
for dismissal of IBA/976/2019 as withdrawn.

The Corporate Debtor was ordered for liquidation vide our Tribunal order
dated 27.06.2023.

It is noted that appeals have been filed before Hon'ble NCLAT and
Hon'ble Supreme Court.

Hon'ble Supreme Court vide its order dated 06.11.2023, ordered the
Resolution Professional to call for the committee of creditors.

The said 4th Special CoC meeting, as per the order of Hon'ble Supreme
Court was held on 11.12.2023, wherein the Section 12A proposal was
discussed. The said proposal was declared as rejected, as only 79.75% voted in
favour of the resolution (Section 12A requires approval of 90% of voting
share).

IREDA, dissenting creditor, with 13.15% voting had given the consent for withdrawal under 12A, subsequently, vide letter dated 15.03.2024.

Hon'ble Supreme Court vide its order dated 18.03.2024 had set aside the Tribunal's order of liquidation dated 27.06.2023 and remitted the matter back to NCLT, to examine and follow the procedures established by law in terms of Section 12A of IBC, 2016. The Hon'ble Supreme Court has further directed to the parties to appear before the Tribunal on 10.04.2024, when a date of hearing would be fixed.

The 16th meeting of CoC of the Corporate Debtor was held on 28.03.2024, wherein the decision of Hon'ble Supreme Court was discussed along with the requirement of bank guarantee for CIRP expenses and also discussed about consent for filing 12A withdrawal proposal to NCLT.

We observe that on the 16th CoC meeting the withdrawal proposal was not put up for voting before the committee.

As per Regulation 30A of IBBI Resolution Process for Corporate Persons Regulations 2016 (sub clause 4 and 5), an application for withdrawal should be considered by the committee within seven days of receipt and where the application is approved by the committee with 90% voting share, the Resolution Professional shall submit such application along with the approval of the committee to the Adjudicating Authority on behalf of the Applicant, within three days of such approval.

It is observed that the resolution for withdrawal was not put up for voting on the 16th CoC meeting held on 28.03.2024.

Form FA dated 08.12.2023 (prior to the meeting of 16th CoC dated 28.03.2024) has been signed by IDRCL on behalf of NARCL.

Ld. Counsel Shri. T Ravichandran states that debt of Bank of India, the original Applicant has been assigned to NARCL and an application has been moved for substitution of NARCL in the place of Bank of India.

Let a Memo be filed by the Resolution Professional regarding the compliance of Section 12A along with Regulation 30A of IBBI Resolution Process for Corporate Persons Regulations 2016 within two weeks from today.

List the application for hearing on 30.04.2024. (physical hearing)

Sd/-

(VENKATARAMAN SUBRAMANIAM)
MEMBER (TECHNICAL)

MG

Sd/-

(JYOTI KUMAR TRIPATHI)
MEMBER (JUDICIAL)