

THE NATIONAL COMPANY LAW TRIBUNAL

COURT VI, NEW DELHI

IA 2483/2025

IN

Company Petition No. (IB) – 723/ND/2023

An Application under Section 12A of the Insolvency and Bankruptcy Code, 2016 read with Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for corporate Persons) Regulations, 2016.

IN THE MATTER OF:

M/S COSMO WORLD

...Applicant/Operational Creditor

Versus

**M/s VICTORY ELECTRIC VEHICLES
INTERNATIONAL LIMITED**

...Respondent/Corporate Debtor

AND IN THE MATTER OF I.A No. 2483/2025: -

**Mrs. NEHA BHASIN,
INTERIM RESOLUTION PROFESSION FOR
M/S VICTORY ELECTRIC VEHICLES INTERNATIONAL LIMITED**
Having its Registered Address at
C-4E/135, JANAKPURI,
NEW DELHI- 110058.

...Applicant

Order Delivered on: 21.08.2025

CORAM:

**MS. JYOTSNA SHARMA
HON'BLE MEMBER (JUDICIAL)**

**MS. ANU JAGMOHAN SINGH
HON'BLE MEMBER (TECHNICAL)**

APPEARANCES:

For the Petitioner/Operational Creditor:

Adv Mustafa Alam, Adv Yashima Sharma,
Adv Navya

For the Directors:

Adv Aditya Gauri, Adv Amar Vivek, Adv Damini
Srestha, Adv Anant Jain, Adv Shubha Arya, Adv
Aryan Chhabra

For the IRP:

Miss Honey Satpal, Adv in IA/2483/2025 and
IA/3034/2025

For the Respondent:

Mr. Shailendra Singh and Mr. Abhyuday
Dhashmana, Adv in IA/2483/2025.

ORDER

1. The instant interlocutory application by Mrs. Neha Bhasin; the Resolution Professional of M/s. Victory Electric Vehicles International Limited ("Corporate Debtor"), is filed u/s 12A of the Insolvency and Bankruptcy Code, 2016 ("**IBC**") read with Regulation 30A of the Insolvency and Bankruptcy Board of India Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("**CIRP Regulations**") seeking withdrawal of the Corporate Insolvency Resolution Process ("**CIRP**") initiated against the Corporate Debtor, vide order dated 09.05.2025 passed by this Tribunal in the captioned Company Petition.
2. The Applicant seeks following prayer(s): -
 - a) *"Allow the present Application and permit the withdrawal of the CP (IB) No. 723/ND/2023 and*
 - b) *Set aside the Order dated 09.05.2025 passed by this Hon'ble Tribunal in Company Petition IB (IBC)/723 (ND)/2023 thereby initiating CIRP against the Corporate Debtor herein and all consequential proceedings arising therefrom;"*
3. The Counsel for the RP submits that the CIRP was initiated vide order dated 09.05.2025. Before the CoC could be constituted a settlement was reached between the Operational Creditor and the Corporate Debtor. The terms of the

settlement were finalized and a formal deed incorporating the terms of settlement was executed on 20.05.2025.

4. The instant proceeding under Section -12A was filed by the Applicant on 22.05.2025. The Form FA was executed by the Operational Creditor on 20.05.2025. A copy of the said Form FA, duly executed by the Operational Creditor and submitted to the Applicant, is placed on record, annexed as **Annexure A-5** of the Application.
5. The order of admission passed by this Bench on 09.05.2025 was challenged before Hon'ble NCALT in Company Appeal No. 867 of 2025 which was finally decided on 11.06.2025, The order passed by the Hon'ble NCLAT in the aforesaid appeal is reproduced below-:

“11.06.2025: This appeal is filed against an impugned order dated 09.05.2025 whereby petition under Section 9 of the IBC, 2016 was admitted.

2. It is the submission of Learned Counsel for the appellant they have already settled the dispute with the Operational Creditor and that there is only a Financial Creditor, namely, HDFC Bank who has also given a no objection for withdrawal of CIRP.

3. In any case, an application under Section 12A of the IBC, 2016 is pending before the Ld. NCLT and it is submitted the said application be directed to be disposed of at the earliest. The Learned Counsel appearing on behalf of the Respondent submits the COC has been formed on 08.06.2025.

4. In view of the submissions made by the Learned Counsel for the appellant as also a no-objection given by the HDFC Bank (page 4 of the additional affidavit), we direct the Ld. NCLT to take up the application viz. I.A. No. 2483 of 2025

under Section 12A of the IBC on 13.06.2025 and dispose it of at the earliest.

5. Since the application under Section 12A of the IBC is pending before the Ld. NCLT, the meeting(s), if any, proposed by the CoC shall be kept in abeyance till the disposal of such application under Section 12A. The cost of the CIRP shall be also considered by the Ld. NCLT while disposing of the application under Section 12A of IBC, 2016.

6. In view of the above, the appeal is disposed of. Pending application(s), if any, are also disposed of.”

6. In compliance with the aforesaid order of NCLAT the instant IA was taken up for hearing on 13.06.2025. On the said date this bench passed an order. The relevant portion of the order is as below:

“3. An order passed by the Hon’ble NCLAT in Company Appeal no. 867 of 2025 and IA/3401/2025 dated 11.06.2025 has been placed before us. On the basis of the aforesaid order, it is pleaded that the matter may be taken up urgently and disposed of. Further, it is submitted that the only Financial Creditor, the HDFC Bank has given no objection for withdrawal of the CIRP, therefore, there is no obstacle at all in its withdrawal. No objection has been communicated through an E-mail.

*4. We went through the E-mail. It is addressed to the Suspended Board of Directors of the Corporate Debtor and sent on behalf of legal team of the HDFC Bank. **The Applicant has failed to show any authorization given on behalf of the Bank to its legal team to file a ‘no objection’.** We note that in this case admittedly CoC stands formed on 08.06.2025.*

*5. In view of all the facts **we find it appropriate to verify the fact whether actually ‘no objection’ has been duly given by an authorized person on behalf of HDFC Bank. The Registry is directed***

to issue notice to HDFC Bank, along with copy of the order, returnable at an early date.”

7. In response to the notice issued vide our order dated 13.06.2025, the counsel for the HDFC Bank appeared before the Bench on 24.07.2025 and this Bench observed as below:

*“Miss Honey Satpal, the Ld. Counsel for IRP and IRP Neha Bhasin present in person, the Ld. Counsels for the HDFC Bank, Mr. Shailendra Singh present through VC and the Ld. Counsel for the HDFC Bank Shri Abhyuday Dhashmana is physically present. **The Ld. Counsels for the HDFC Bank, the Financial Creditor, are present in response to notice dated 13.06.2025 issued by the Registry. Today they filed three documents (i) The authorization letter in favour of Mr. Jogendra Singh, Deputy Vice President of HDFC Bank, (ii) Power of Attorney in favour of Mr. Shashidhar Jagdishan, MD and CEO of HDFC and (iii) the proof of service.”***

Meanwhile a fresh affidavit was filed on 18.07.2025 by Mr. Jogendra Singh, of HDFC Bank Ltd., working as a Deputy Vice President (Department for Special operations of HDFC bank Ltd.), stating that the HDFC Bank Ltd. has no objection to the withdrawal of the Corporate Insolvency Resolution Process initiated in the present matter.

8. It may be noted that the IRP filed an IA 3034/2025 to take on record the report of constitution of CoC dated 08.06.2025. The said report was taken on record vide order dated 24.07.2025.
9. The Section 12A of the Insolvency and Bankruptcy Code 2016, provides as under: -

“12A. Withdrawal of application admitted under section 7, 9 or 10.

The Adjudicating Authority may allow the withdrawal of application admitted under section 7 or section 9 or section 10, on an application made

approval.

11. In the instant case CoC was constituted on 08.06.2025 with HDFC Bank as the sole Financial Creditor. In terms of provision of regulation of 12A withdrawal of application under section 9 can be allowed by the Adjudicating Authority if the same is approved by 90% of voting share by the CoC.
12. The Hon'ble NCLAT, vide its order dated 11.06.2025, directed that the application filed under Section 12A of the Insolvency and Bankruptcy Code, 2016 (IBC) be disposed of expeditiously. However, vide the same order Hon'ble NCLAT stated that meeting of the CoC shall be kept in abeyance till the disposal of application.
13. The HDFC Bank is the sole Financial Creditor and the sole member of the CoC as submitted by the IRP in IA 3034/2025. Since there is stay on conduct of CoC meeting and hence voting on withdrawal proposal can not take place, HDFC has filed an affidavit expressing its unconditional consent and raising no objection to the withdrawal of the application under Section 12A.
14. Certain peculiar facts and circumstances have arisen in this withdrawal of CIRP application. Notably while the substantive section 12 A of IBC puts a condition that approval of 90% voting share of committee of creditors is mandatory for granting withdrawal, however the CoC meeting cannot be conducted in view of the order passed by the Appellate Court. Regulation 30A which provides for procedure once again speaks of approval by 90% voting share by the committee even for moving the withdrawal application. In our view the above provisions have been impliedly complied with by giving a no objection by the sole Financial Creditor i.e. HDFC Bank through an affidavit referred to in para 13 of this order. At this juncture we note that the whole conspectus of the facts was put before the Hon'ble NCLAT and the Hon'ble NCLAT directed us to dispose of the instant IA in the background of the fact that the only Financial Creditor has given no objection. We have verified the fact that the only Financial Creditor HDFC Bank has given unconditional consent that amounts to 100% in terms of approval required by Section 12A IBC.

15. In view of the peculiar facts and circumstances of the case; settlement arrived at between the parties, the express consent accorded by the sole Financial Creditor and very importantly the observations by the Hon'ble NCLAT, we find it fit to allow the application.
16. In compliance with Regulation 30A, the Resolution Professional has filed an affidavit dated 05.06.2025 stating that demand drafts amounting to ₹3,10,000/- have been issued towards CIRP costs incurred till filing of this application.
17. In view of the above the CIRP initiated by our order dated 09.05.2025 in the main petition CP IB-723/ND/2023 against (M/s. Victory Electric Vehicles International Limited) is hereby withdrawn under Section 12A of the Insolvency and Bankruptcy Code, 2016 and the instant application is allowed accordingly.

-SD/-
ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)

-SD/-
JYOTSNA SHARMA
MEMBER (JUDICIAL)