IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT NO. 5, MUMBAI BENCH

I.A. 539/2021
IN
C.P. (IB) 3602/MB/2019

Under Section 12A of IBC, 2016

In the matter of

Punjab National Bank
Plot No.4, Sector 10, Dwarka, New Delhi --110 075

...Petitioner

Vs.

Pushpam Plaza Private Limited
51, Krishna Kunj, Lulla Nagar,
Pune - 411 040

…Corporate Debtor

I.A. No. 539 of 2021

Mr. Uday Kumar Bhaskar Bhat

…Applicant/ IRP

Order delivered on: 30.04.2021

Coram:

Hon’ble Smt. Suchitra Kanuparthi, Member (J)
Hon’ble Shri. Chandra Bhan Singh, Member (T)

Appearances (via video conferencing):

For the Applicant: Mr. Akshay Petkar a/w Aniket Malu

Per: Suchitra Kanuparthi, Member(J)

ORDER

1. This is an application filed by the Resolution Professional (RP) under Section 12A of Insolvency and Bankruptcy Code, 2016 r/w Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2019.

2. The admission order of CIRP against the Corporate Debtor was passed on 16.01.2020. On 15.02.2020. the Resolution Professional (RP) was appointed and has conducted the 1st COC meeting. The Resolution Professional (RP) has received only one claim and therefore the CoC has comprised of the sole Financial Creditor namely the Punjab National Bank (PNB).

3. On 10.04.*2020*, the Resolution Professional (RP) convened the 2nd CoC meeting wherein a claim of Rs. 27,17,112/- was received from Reliance General Insurance Co. Ltd. and the same was admitted. Further a claim of Rs. 1,00,000/- from the Kulkarni Pore and Associates, the RP admitted an extent of Rs. 18,000/- on the above said Creditors are not Financial Creditor and hence did not found part of the CoC.

4. On 11.08.2020, the Resolution Professional (RP) convened the 3rd CoC meeting wherein the CoC approved the eligibility criteria and time line for the Resolution Process and Expression of interest (EOI) on 20.11.2020. The Resolution Professional (RP) convened the 4thCoC meeting and placed two Resolution Plans before the CoC which they have received in response of the Expression of interest (EOI) and evaluation matrix as approved

by the CoC. The following are the briefs details of Resolution plan received by the Resolution Professional (RP);

Name of RA	Mr. Sangram Anantrao Thopte	Mr. Syed Fahad
Address of RA	Shivaprerana, Panharpur Mahad Road, Tal. Bhor Dist.Pune	324 Golden Point, 1st Floor, Off Queens Raod, Behind Bhagwan Mahavir Hospital, Vasanth Nagar, Bengaluru-52
Constitution	Individual	Individual
Profession/Business	Sitting MLA/ RE Developer	Poultry & Power Generation
Networth (Rs.)	7,29,73,290/-	16,19,98,558/-
Total Amount of Bid in (Rs.)	7,00,00,000/-	8,00,00,000/-
Payment of Within 30 days from date of Acceptance (Rs.)	70,00,000/-	2,00,00,000/-
Balance Amount (Rs.)	6,30,00,000/-	6,00,00,000/-

5. The CoC resolved to carry out the detailed evaluation resolution plan and also decided to have discussion / negotiation with resolution applicant before arriving at the final decision.

6. On 04.01.*2021*, the Resolution Professional (RP) convened the 5thCoC meeting wherein both the Resolution Applicant explained the proposal after having discussion and negotiations with both resolution applicants proposed to submit their revised offers.

7. On 28.01.2021, the suspended directors of Corporate Debtor submitted a proposal for One Time Settlement (OTS) to Punjab National Bank (PNB), he is the sole Financial Creditor to the NPA account of the Corporate Debtor along with 3 related parties. The Financial Creditor accepted and sanction the One Time Settlement (OTS) of NPA account of the Corporate Debtor Corporate Debtor along with 3 other sister concerns of the Corporate Debtor.

8. The Financial Creditor approved OTS dated 28.01.2021 of Rs. 16.75 crores as in the total dues of Rs. 14,59,8868 for all 4 entities of Corporate Debtor as per the terms and conditions mentioned in the sanctioned OTS. Out of total OTS amount of Rs 16,75,00,000/- an amount of Rs. 13 crores will be appropriated against the outstanding liability of Corporate Debtor towards the Corporate Debtor.

9. The Resolution Professional (RP) thereafter conducted the 6thCoC meeting, wherein one other Resolution Applicant Shri Sayed Fahad informed the Resolution Professional (RP) that there is no scope of improving the Resolution plan. The Resolution Professional (RP) also informed that he has not received any improved plan from other Resolution Applicant. Thereafter, the authorized Representative of the Financial Creditor who is the original Applicant in C.P. 3602 of 2019 decided to enter into the OTS with suspended directors and decided to withdraw the CIRP

under section 12A of IBC. The CoC also decided to refund the deposits obtained from the Resolution Applicant for the submission of the EOI and release of bank guarantees submitted by them along with the Resolution plan. Accordingly, the CoC passed the Resolution to withdraw the CIRP against the Corporate Debtor and filed appropriate Form FA the CoC also resolved the following applications filed in the CIRP period at the time of hearing of section 12A Application.

10. The Financial Creditor and suspended directors of the Corporate Debtor executed the consent terms dated 06.03.2021 in view of the OTS dated 28.01.2021 and decided to withdraw the CP no. 3602 of 2019 it was also decided that in the event of default of the Corporate Debtor the respective payment scheduled as agreed in OTS, the Financial Creditor will either seek revival of the present petition of C.P. 3602 of 2019 or seek liberty to proceed fresh petition under IBC.

11. The Financial Creditor has duly submitted the Form FA and submitted a justification in terms of provision regulation 30A(1)(b) of CIRP Regulations.

12. The Resolution Professional (RP) then convened the 7th COC meeting on 08.03.2021 by placing the form FA, the Application for withdrawal of CIRP against the Corporate Debtor. The CoC comprising of the sole Financial Creditor being Punjab National Bank (PNB) considered the approval of Financial Creditor with 100 % majority.

13. The Financial Creditor along with Form FA have justified the withdrawal in terms of proviso under Regulation30A(1). The said justification reads as below;

	Amount Offered by Directors to Financial Creditor in terms of OTS	Amount Offered By Resolution Applicant	Amount Offered By Resolution Applicant
	Directors of Corporate Debtor	Mr. Sangram Anantrao Thopte	Mr. Syed Fahad
Total Amount offered against the Claim of Rs.26.02 Crores which also includes the amount of dues of M/s. Pushpam Software Pvt. Ltd. guaranteed by the Corporate Debtor	Towards dues of CD Rs.11.90 Crores Obligations due to Corporate Debtor Rs.1.10 Crores **Total Rs.13.00 Crores**	Rs.7.00 Cr	Rs.8.00 Cr
Payment within 30 days from date of Acceptance (Rs.)	Rs.8.00 Crores	Rs.0.70 Cr	Rs.2.00 Cr
Balance Amount (Rs.)	Rs.5.00 Crores	*Rs.6.30 Cr	*Rs.6.00 Cr
Balance Amount payable in	180 days from date of Sanction i.e. 28.01.2021	12 Monthly instalments	12 Monthly instalments

Findings:

14. Upon perusal of the Brief fact as presented by the Resolution Professional (RP) and sequence of the meetings of COC as conducted by the Resolution Professional (RP), it is observed that the OTS offer of the suspended directors offer is superior and will result in the Corporate Debtor remaining a going concern with the financial debt completely adjusted thereby improving the profitability and making the company solvent again. The Resolution Professional also states that he has also received all the outstanding expenses towards the CIRP expense till date of the filing of the present applicant and hence the bank guarantee has stipulated in the CIRP regulation is not being furnished.

15. The resolution passed by the COC in its 7th COC minutes and has approved by the 100 % voting is as follows;

In the Matter of M/s.Pushpam Plaza Private Limited (In CIRP)

Minutes of the Seventh meeting of the Committee of Creditors held on Monday 8th March, 2021 at 10.30 AM held at Punjab National Bank, Asset Recovery Management Branch, Pune, Ground Floor, Aurora Towers, 9 Moledina Road, Camp Pune.

List of Matters discussed /voted as per Agenda, in the meeting of the "Committee of Creditors" (hereinafter referred to as "COC") of M/s.Pushpam Plaza Private Limited (hereinafter referred to as "Corporate Debtor" or "CD")

Item No.1

Udaykumar Bhaskar Bhat, having registration no. IBBI/IPA-001/IP/ P01425/2018-19/12234, has been confirmed as Resolution Professional (RP) on 15th February 2020 by the CoC..As per the Regulation 24(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred as "CIRP Regulations") the RP shall act as the Chairperson of the meeting of the COC.

Item No.2

Udaykumar Bhaskar Bhat , RP took the roll call as per Regulation 24 (2) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution for Corporate Persons) Regulations, 2016 and provisions of the IBC, 2016.

Following persons were present in the meeting:

S No	Participant	Class of Creditor if applicable	Capacity
1	Punjab National Bank represented by 1. Mr.J Mankotia, AGM, PNB, ARMB, Pune 2. Mr.Virendra K Singh, CM,PNB,ARMB, Pune	Financial Creditor	Member of CoC
2	Mr.Kishore Gidwani,		Director (Powers Suspended), Corporate Debtor

As per CIRP regulation 22 (1), the quorum for conducting the meeting has to be at least 33 % of voting rights present either in person or thru V.C. Punjab National Bank is the only Financial Creditor and has 100% voting rights.

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As the required quorum was present the meeting was called to be in order.

Item 3

To consider the Application for Withdrawal of CIRP on Form FA submitted by the Applicant

The Resolution Professional then placed the Application on Form FA, the stipulated format as per IBBI (CIRP) Regulations 2016, for Withdrawal (by the Applicant for CIRP, Punjab National Bank) before the CoC.

The Financial Creditor then justified the decision to Withdraw the CIRP process by submitting the following Chart where in the Amount offered by the Directors of the Corporate Debtor (M/s.Pushpam Plaza Private limited) is compared with the amounts offered by the Resolution Applicants in their Resolution Plans in response to the EoI issued by the Resolution Professional.

	Amount Offered by Directors to Financial Creditor in terms of OTS	Amount Offered By Resolution Applicant	Amount Offered By Resolution Applicant
	Directors of the Corporate Debtor	Mr.Sangram Anantrao Thopte	Mr.Syed Fahad
Total Amount offered against the Claim of Rs 26.02 Crores which also includes the amount of dues of M/s.Pushpam Software Pvt. Ltd guaranteed by the Corporate Debtor	Towards dues of CD Rs.11.90 Crores Obligations due to Corporate Guarantee Rs. 1.10 Crores **TOTAL Rs. 13.00 Crores**	Rs.7.00 Crores	Rs.8.00 Crores
Payment within 30 days from date of Acceptance (Rs.)	Rs.8.00 Crores	Rs.0.70 Crores	Rs.2.00 Crores
Balance Amount (Rs.)	Rs.5.00 Crores	*Rs.6.30 Crores	*Rs.6.00 Crores
Balance Amount payable in	180 days from date of Sanction i.e 28.01.2021	12 Monthly instalments	12 Monthly instalments

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Further the Directors of the Corporate Debtor have agreed to allow the Financial Creditor to appropriate the Cash flows generated during the CIRP Period it towards its dues and have also agreed to bear the CIRP cost.

Hence it can be observed that the OTS offer of the Directors is superior and it will result in the Corporate Debtor remaining a going concern with Financial Debt Completely adjusted thereby improving the profitability of the Corporate Debtor and making the Company Solvent again.

Accordingly it is resolved as under:

Resolved that the Resolution Professional be here by instructed to file an application with the Hon'ble National Company Law Tribunal, Mumbai bench for withdrawing the CIRP under Section 12 A of Insolvency & Bankruptcy Code, 2016 read with Regulation 30 A of IBBI (Insolvency Resolution of Corporate Persons) Regulations, 2016.

The Resolution was approved with 100% of the voting strength as Punjab National Bank is the Sole Financial Creditor and Sole member of the CoC.

Item 4

Any Other Matter

As there was no other issue to be discussed the Meeting ended with a vote of thanks

For **PushpamPlaza Private Limited** (Under Corporate Insolvency Resolution Process)

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(Udaykumar Bhaskar Bhat)

Resolution Professional

IBBI Registration No: IBBI/IPA-001/IP- P01425/2018-19/12234

NOTARY

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16. The form FA filed by the Financial Creditor is reproduced below;

FORM FA

APPLICATION FOR WITHDRAWAL OF CORPORATE INSOLVENCY RESOLUTION PROCESS

(Under Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

06.03.2021

To,

The Registrar

Hon'ble National Company Law Tribunal, Mumbai Bench

MTNL Building, Near G. D. Somani School,

G. D. Somani Marg, Mumbai - 400 051

Through the Resolution Professional / Resolution Professional

Mr.Udaykumar Bhaskar Bhat

IBBI/IPA-001/IP/P-01425/2018/2019/12234

Insolvency Resolution Professional

B-304, Goldville Appartments,

Aundh Ravet Road, Thergaon Pune - 411 033

Pushpam Plaza Private Limited

NOTARY GOVERNMENT OF INDIA
JYOTI A. WADHWANI
AREA PUNE DIST.
REGD. NO. 15309
Exp. Dt. 06/11/2024

Subject: Withdrawal of Application admitted for corporate insolvency resolution process of Pushpam Plaza Private Limited

1. I, Virendra Kumar Singh, authorized Signatory of Punjab National Bank, had filed an application bearing particulars of application, CP (IB)3602/MB/2019 on 16.09.2019 before the Hon'ble National Company Law Tribunal, Mumbai Bench u/s 7 of the Insolvency and Bankruptcy Code, 2016. The said application was admitted by the Adjudicating Authority on 16.01.2020 bearing CP (IB) 3602/MB/2019.

2. I hereby withdraw the application bearing CP (IB) 3602/MB/2019 filed by me before the Adjudicating Authority u/s 7 of the Insolvency and Bankruptcy Code, 2016.

3. I herewith state that the Corporate Insolvency Resolution Process Cost has been recovered in full.

For Punjab National Bank

For Punjab National Bank

Mr. Virendra Kumar Singh
Circle Recover (Sastra), Pune
Chief Manager

Date: 06.03.2021

Place: Pune

BEFORE ME

JYOTI A. WADHWANI
NOTARY GOVT. OF INDIA
PUNE, MAHARASHTRA
Noted And Registered at Serial Number 087/2021

NOTARY
JYOTI A. WADHWANI
AREA PUNE DIST.
REGD. NO. 15309
Exp. Dt. 06/11/2024
GOVERNMENT OF INDIA

06 MAR 2021

DECLARATION

I, Virendra Kumar Singh, working as Chief Manager at Punjab National Bank. Circle SASTRA Centre, Pune, Ground Floor, Aurora Towers,9, Moledina Road, Camp, Pune-411001 on behalf of Punjab National Bank a body corporate, constituted under the Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970, having its Corporate Office at Plot No 4, Sector -10 Dwarka New Delhi 110075, India and, amongst others, a Branch Office at Centre SASTRA Circle Pune, Aurora Towers, 9, Moledina Road, Camp, Pune 411001 (hereinafter referred to as the "Applicant") hereby declare and state as follows:

The Applicant had filed an application bearing Company Petition No. CP (IB) 3602/MB/2019 on 16/09/2019 before the Hon'ble National Company Law Tribunal, Mumbai Bench under Section 7 of the Insolvency & Bankruptcy Code, 2016.The said application was admitted by the Hon'ble National Company Law Tribunal, Mumbai Bench on 16.01.2020 vide Company Petition No. CP (IB) 3602/MB/2019.

That the Applicant hereby withdraws the Company Petition No. CP (IB) 3602/MB/2019 filed by me before the Hon'ble National Company Law Tribunal, Mumbai Bench under Section 7 of the Insolvency & Bankruptcy Code, 2916.

I here declare that the Corporate Insolvency Resolution Process Costs have been completely recovered.

06 MAR 2021

Date : Pune
Place : 06/03/2021

For Punjab National Bank

Mr. Virendra K. Singh
Circle Recover (Sastra) Pune
Chief Manager

NOTARY
JYOTI A. WADHWANI
AREA PUNE DIST
REGD. NO. 15309
Exp. Dt. 08/11/2024
GOVERNMENT OF INDIA

NOTARIAL

VERIFICATION

I, Virendra Kumar Singh being the authorised Signatory on behalf of Punjab National Bank, the applicant is hereby above do hereby verify that the contents of this form are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at Pune this 06th day of March 2021

For Punjab National Bank

For Punjab National Bank

Mr. Virendra Kumar Singh

Circle Recover (Sastra), Pune

Chief Manager

NOTARY ★ GOVERNMENT OF INDIA ★ JYOTI A. WADHWANI AREA PUNE DIST. REGD. NO. 15309 Exp. Dt. 06/11/2024

NOTARIAL

BEFORE ME

JYOTI A. WADHWANI
NOTARY GOVT. OF INDIA
PUNE, MAHARASHTRA
Noted And Registered at Serial Number 089/2021

06 MAR 2021

17. The Resolution Professional has filed the following IA.

Case No./Diary No	
IA/1632/MB/2020 in CP/3602/2019	Against ICICI Bank for Payment of GST & Rent for August, September 2019
IA/1379/MB/2020 in CP/3602/2019	Against Brainbees Solutions Pvt Ltd for Payment of Rent for April to June 2020 which was not paid claiming Force Majeure due to Covid-19
Diary No.2709138050802020	Application for Exclusion of Covid-19 period from the CIRP timelines

18. The CIRP against the Corporate Debtor is withdrawn, the Corporate Debtor is free from the rigor of the CIRP and the erstwhile Board of Directors are reinstated on the Board of the Corporate Debtor. All other pending connected IA's stands disposed as infructuous, in view of withdrawal of CIRP against the Corporate Debtor. IA is allowed and disposed off.

Sd/-
Chandra Bhan Singh
Member (Technical)

Sd/-
Suchitra Kanuparthi
Member (Judicial)