

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH-IV**

I.A./4981/ND/2022

IN

Company Petition No. (IB)-2900 (ND)/2019

Under Section 12 A 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:

GITASHA KHANNA & ORS.

.... Petitioners/ Financial Creditor

VERSUS

M/S. AEGIS VALUE HOMES LIMITED

.... Respondents/ Corporate Debtor

And in the matter of:

**Ms. HEMI GUPTA
Interim Resolution Professional
of M/s. Aegis Value Homes Limited**

.... Applicant / IRP

CORAM:

DR. P.S.N. PRASAD, HON'BLE MEMBER (JUDICIAL)

DR. BINOD KUMAR SINHA, HON'BLE MEMBER (TECHNICAL)

Order Delivered on: 20 .12.2022

ORDER

PER: SH. P.S.N. PRASAD, HON'BLE MEMBER (J)

The present application has been filed under Section 12 A of the Insolvency and Bankruptcy Code, 2016 ('Code') read with Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process

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for corporate Persons) Regulations, 2016 ('CIRP Regulations') through Ms. Hemi Gupta ('Applicant'), IRP of M/s. Aegis Value Homes Limited seeking discharge of the Corporate Debtor and dismissal/withdrawal of the Corporate Insolvency Resolution Process (CIRP) which has commenced against the Corporate Debtor vide order dated 22.09.2022 passed by this Hon'ble Tribunal in Petition bearing No. CP NO. IB NO. 2900/ND/2019 filed under Section 7 of the Insolvency and Bankruptcy Code, 2016.

2. Succinctly stated facts of the case, as averred by the applicant, are that Corporate Insolvency Resolution Process was initiated against M/s. Aegis Value Homes Limited ('Corporate Debtor') vide order dated 22.09.2022 of this Adjudicating Authority and Ms. Hemi Gupta ('applicant') was appointed as Interim Resolution Professional of the corporate debtor. The applicant had made public announcement in Form A on 23.09.2022 in various newspapers drawing attention of all the creditors of the corporate debtor for the lodgment of the claims. The original petitioners (13 Homebuyers) after the commencement of the CIRP but well before the constitution of Committee of Creditors have amicably resolved the matter with the Corporate Debtor and in terms of the settlement arrived between the parties, all the 13 financial creditors and corporate debtor have executed a settlement agreement dated 28.09.2022. The original 13 financial creditors have duly communicated settlement agreement dated 28.09.2022 executed between the parties along with application for withdrawal of Corporate Insolvency Resolution Process in Form FA along with supporting affidavit in terms of Regulation 30 A of the Code, 2016 to the applicant/IRP vide e-mail dated 29.09.2022 at 1:20 a.m. Further, the Hon'ble NCLAT vide order dated 29.09.2022 in Company Appeal (AT)(Ins) No. 1199 of 2022 filed by one of the suspended directors of the corporate debtor, had granted an interim stay on the operation of the Corporate debtor's CIRP admission order dated 22.09.2022 passed by this Adjudicating Authority and the Hon'ble NCLAT noted the fact of the settlement arrived at between the Corporate Debtor

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and the Financial Creditors. The applicant submits that CoC has not been constituted in the CIRP of the Corporate Debtor, therefore the present application is filed under Section 12A of the Code,2016 read with Regulation 30A of the IBBI (IRP for Corporate Persons) Regulations, 2016 towards the withdrawal of the CIRP initiated against the Corporate Debtor.

3. Heard. Records perused. The IRP had filed Form-FA dated 29.09.2022 along with the affidavit and authorization letters authorizing Ms. Gitasha Khanna to sign on behalf of the original financial creditors/homebuyers. Further, the fees of the IRP and the CIRP costs have been paid and no CIRP fees and expenses are left unpaid.
4. At this juncture, it is relevant to refer the Hon'ble Supreme Court's Judgement **in Swiss Ribbons (P) Ltd. v. Union of India, [(2019) 4 SCC 17]**, wherein the Hon'ble Apex Court held that at any stage before a COC is constituted, a party can approach NCLT/ adjudicating Authority directly and the Tribunal may in exercise of its power under Rule 11 of the NCLT Rules, 2016 allow or disallow an application for withdrawal or settlement. Therefore, in an appropriate case and where the case is being made out and the Tribunal is satisfied about the settlement, it may permit/ allow an application for withdrawal or settlement.
5. The IRP in compliance of this Adjudicating Authority's order dated 18.11.2022, had submitted list of claims received from the creditors of corporate debtor as on 22.11.2022. On perusal of the list of claims placed on record, it is observed that a total of two claims are received by the IRP, one claim from an Operational Creditor claiming an amount of Rs.39,272/- and other claim from a home buyer claiming an amount of Rs.22,56,740/-. However, no further steps could be taken by the IRP in view of the stay on operation of the CIRP admission order dated 22.09.2022, granted by Hon'ble NCLAT.

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6. Taking into consideration the Judgement cited supra and also the averment contained in the application and also the Form FA dated 29.09.2022 given by all the 13 original financial creditors/homebuyers in C.P.(IB)2900/2019 and in view of the fact that the fees of the IRP and other CIRP Cost has been paid and nothing is left outstanding, this instant application **stands allowed** and, in the circumstances, **C.P.(IB)2900/ND/2019 stands dismissed as withdrawn. Consequently, the CIRP initiated against the corporate debtor also stands withdrawn.** The IRP is discharged from the assignment and is further directed to hand over the management back to the Board of Directors of the Corporate Debtor. The corporate debtor is released from the rigors of IBC, 2016.

Accordingly, I.A./4981/ND/2022 stands allowed.

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(DR.BINOD KUMAR SINHA)
MEMBER (T)

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(P.S.N PRASAD)
MEMBER (J)