IN THE NATIONAL COMPANY LAW TRIBUNAL NEW DELHI
SPECIAL BENCH (COURT – II)

Item No. 201
(IB)-130(PB)/2022

IN THE MATTER OF:

Orbis Trusteeship Services Pvt Ltd
4A, Ocus Technopolis, Sector 54, Golf Club,
Gurgaon, Haryana - 12200 **... Applicant**

Versus

Gurinder Singh Sikka
C-23, Preet Vihar, Shakar Pur Baramad,
Delhi - 110092 **... Respondent**

Under Section: 95(1) of IBC, 2016

Order delivered on 20.07.2026

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)
SH. BANWARI LAL MEENA, HON'BLE MEMBER (T)

PRESENT:
For the Applicant :
For the Respondent :

Hearing Through: VC and Physical (Hybrid) Mode

ORAL ORDER

On 13.06.2025 this Tribunal passed the following order :-

IA-2880/2025, (IB)-130(PB)/2022: Having drawn our attention to Resolution dated 30.05.2025 passed by the creditors with 100% vote share deciding to withdraw the (IB)-130(PB)/2022. The Ld. Counsel for the creditor sought to withdraw the petition. The resolution reads thus:-

ANNEXURE A-4

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Mr. Harvinder Singh Sikka,
(Personal Guarantor to Kindle Infraheights Private Limited)
(Undergoing Personal Insolvency Process)
Voting sheet for the 1st Meeting of Creditors on 19.05.2025 and adjourned to 29.05.2025
Voting Started from 29.05.2025 at 05:00 P.M. and ended on 30.05.2025 at 12:30 P.M.

S. No	Particulars of Resolutions	Particulars	Orbis Trusteeship Financial Services	Indusind Bank	Swamih Investment Fund - I	Total	Resolution passed or not passed
	Voting share for this meeting		48.21%	29%	22.77%	100%	
.1.	Resolution No.1 To approve the withdrawal of the application for initiating the insolvency proceeding of Mr. Harvinder Singh Sikka, Personal Guarantor to Kindle Infraheights Private Limited. Facts and Explanatory Statements The above resolution was discussed in the meeting under Item No. 7 "RESOLVED THAT the withdrawal of the application initiating the insolvency proceeding under section 95 of the Insolvency and Bankruptcy code, 2016 by Orbis Trusteeship Services Private Limited against the Mr. Harvinder Singh Sikka, Personal Guarantor to Kindle Infraheights Private Limited and be hereby approved by the creditors of Mr. Harvinder Singh Sikka under rule 11 of the IBBI (Application to Adjudicating Authority	Voted "For" (In %)	48.21	29%	22.77%	100%	Resolution is passed by 100%
		Voted "Against" (In %)	-	-	-	-	
		"Abstained from voting" (In %)	-	-	-	-	
		Not Voted	-	-	-	-	

True Copy
Pranjit Bhattacharya

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	for insolvency resolution process for Personal Guarantor to Corporate Debtor) Rules, 2019"						

As can be seen from Section 11 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 deals with the withdrawal of an application submitted under rules 6 or 7 as the case may be, after its admission on the request made by the applicant if 90% of the creditor agree to the withdrawal. The Rule 11 of the aforementioned Rules, reads thus:-

> ***"11. Withdrawal of application. –***
>
> *(1) The Adjudicating Authority may permit withdrawal of the application submitted under rule 6 or rule 7, as the case may be,-*
>
> *(a) before its admission, on a request made by the applicant;*
>
> *(b) after its admission, on the request made by the applicant, if ninety per cent. of the creditors agree to such withdrawal.*

(2) An application for withdrawal under clause (b) of sub-rule (1) shall be in Form D."

In the wake of the aforementioned, since the 100% creditors qua the personal guarantor have passed the resolution to withdraw the captioned application, the prayer contained in **IA-2880/2025 is allowed and the (IB)-130/PB/2022 is dismissed as withdrawn.**

It goes without saying that if any default persists the creditor will be entitled to resort to the remedies available to him.

IA-272/2025: In the wake of the order passed in IA-2880/2025, the IA has become infructuous and is accordingly **disposed of.**

2. Subsequently RA-80/ND/2025 was preferred. On 17.09.2025 we passed the following order in the RA:-

> ***"New RA-80/ND/2025***
> *Issue notice to the Respondent returnable on 06.10.2025. The Applicant undertakes to serve notice upon the Respondent through all modes viz. registered post, speed post, courier service and E-mail. Affidavit of service be filed within one week. Reply, if any, may be filed by the Respondent within one week from the date of receipt of the notice. Rejoinder, if any, may be filed before the next date of hearing. List the matter on **06.10.2025**."*

3. On 06.10.2025 the Counsels for the parties submitted that the settlement between the Financial Creditor, Personal Debtor and the Personal Guarantor i.e. respondents in the present application are in progress. Having submitted so, they prayed for an adjournment. At their request the hearing was deferred to 24.11.2025. The order dated 06.10.2025 reads thus: -

> *"**RA-80/ND/2025**: Ld. Counsels for the parties submitted that the settlement between the Financial Creditor, Principal Debtor and the Personal Guarantor i.e.*

Respondent in the present application are in progress. Having submitted so, they prayed for an adjournment. At their request, the hearing is deferred to ***24.11.2025****."*

4. On 24.11.2025 Ld. Counsel for the Corporate Debtor submitted that settlement would be implemented within two weeks from the date. The order passed on 24.11.2025 reads thus:

> *"**RA-80/ND/2025**: The RA has been preferred for restoration of CP(IB)- 130(PB)/2022. Ld. Counsel for the Corporate Debtor submitted that the settlement would be implemented within two weeks from today. At his request, the hearing is deferred to* ***10.12.2025****."*

5. Subsequently on 10.12.2025, 18.12.2025, 19.12.2025, 07.01.2026, 29.01.2026, 18.02.2026 and 19.03.2026 the hearing could be deferred on account of the infrastructure related issues and due to paucity of time.

6. In view of the order dated 20.04.2026 this Tribunal restored the IB-130/PB/2022, as the settlement between the Creditor and the Personal Debtor had failed. The order dated 20.04.2026 reads thus:

> **RA-80/ND/2025:** Mr. Sumesh Dhawan, Ld. Counsel for the creditor, submitted that since the settlement between the creditor and the principal debtor had failed, this Tribunal had ordered initiation of CIRP against it. According to him, the Hon'ble NCLAT had granted 90 days' time to the principal debtor to enter into a settlement with the creditor, however, vide order dated 23.03.2026, the Hon'ble Supreme Court has suspended the order passed by the Hon'ble NCLAT. The order passed by Hon'ble Supreme Court reads thus:-
>
> > Issue notice, returnable on 18.05.2026.
> >
> > Mr. Malak Manish Bhatt, learned counsel, and Mr. Akash Chatterjee, learned counsel, who are present in Court on advance notice/caveat, waive service and accept notice on behalf of respondent Nos. 1 and 2, respectively. Hence, notice need not be served on the said respondents.

Notice shall be served upon the unrepresented respondents by all modes, including *dasti*.

Counter affidavit/reply, if any, shall be filed within two weeks.

Rejoinder thereto, if any, may be filed within two weeks thereafter.

The impugned judgment/order dated 25.02.2026 passed by the National Company Law Appellate Tribunal, Principal Bench, New Delhi, shall remain suspended till the next hearing.

In view of the failure of settlement between the creditor and the principal debtor, the RA is allowed and IB-130(PB)/2022 is restored.

CP (IB)-130(PB)/2022: List the main petition on 22.05.2026.

7. Thereafter again on 22.05.2026 and 10.06.2026 the hearing could be deferred due to paucity of time.

8. Once the proceedings are restored in terms of the order dated 20.04.2026, we are unable to appreciate that how and why for almost three months thereafter, the Resolution Professional could not file his report either under Section 106 or Section 112 of the Code.

9. Today, Mr. Hemant Sethi, Resolution Professional who is present along with Mr. Naman Singh Bagga, Advocate submitted that although the claims had been collated but the Personal Guarantor, Mr. Gurinder Singh Sikka has not offered any repayment plan. Once no repayment plan has been offered, though Resolution Professional was expected to file a report under Section 106(1A) of IBC, 2016, incorporated by way of Insolvency and Bankruptcy Code (Amendment) Act, 2026 but no such steps have been taken.

10. In any case, once the Resolution Professional who is present with his Counsel make a categorical statement that no repayment plan has been received, we have no option but to pass an order under Section 106(1a) of IBC, 2016 incorporate by way of amendment (ibid). Section 106 (1A) of the Code reads thus:

> ***"Section 106: Report of resolution professional on repayment plan.***
>
> *(1A) Where no repayment plan is submitted within the period stipulated under sub-section (1), the resolution professional shall submit a report to the Adjudicating Authority, and the Adjudicating Authority shall pass an order terminating the insolvency resolution process of the debtor and the debtor or the creditors shall be entitled to file an application for bankruptcy under Chapter IV."*

11. In the wake, the process is closed and liberty is granted to the Creditors to resort to the process under Section 115(2) read with Section 121 and Section 123 of the Code. It is made clear that there is nothing to prevent the Debtor and the Creditor to arrive at a settlement before filing application for initiation of bankruptcy process. Besides, Section 142 of the Code provides that where both the bankruptcy debts and the expenses of bankruptcy are paid after making bankruptcy order, this Tribunal can recall the bankruptcy order. The law envisages sufficient leverage and leniency in favor of the settlement between the parties.

12. Thus, the process cannot be delayed on account of in action of the parties including the Resolution Professional, to keep the proceedings in the docket of this Tribunal. In the wake, **the present application is disposed of.**

Sd/-	**Sd/-**
(BANWARI LAL MEENA)	**(ASHOK KUMAR BHARDWAJ)**
MEMBER (T)	**MEMBER (J)**

Iqraa/Esha