

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH**

**M.A. 1591/2018  
in T.C.P.(IB)-346(MB)/2017**

Under section 12A of the IBC, 2016

Rekha Shah  
Resolution Professional .....Applicant

In the matter of  
Precise Alloys Pvt. Ltd. ....Operational  
Creditor/Petitioner  
vs.

Jumbo Tanks & Equipments Pvt. Ltd.  
....Corporate Debtor

Order delivered on 15.03.2019

Coram: Hon'ble Shri. M.K. Shrawat, Member (Judicial)

For the Petitioner : 1. Mrs. Khushboo Shah Rajani  
i/b AKR Advisors LLP – Advocates for RP  
2. Ms. Rekha Shah, RP

*Per M.K. Shrawat, Member (Judicial)*

**ORDER**

1. It is a Miscellaneous Application filed u/s 12A on 21.12.2018 by Ms. Rekha K. Shah; the Insolvency Resolution Professional for the Debtor Company viz. Jumbo Tanks & Equipments Pvt. Ltd., under the recommendation of the CoC, for withdrawal of the Company Petition.
2. This Bench vide an order dated 20.06.2018 the Petition (TCP No.: 346/2017) u/s 9 was admitted and CIRP was commenced, moratorium was declared and Interim Resolution Professional (IRP) was appointed.



3. In pursuant to the above admission Order, the appointed IRP made public announcement in Form A along with newspaper publication inviting claims against the Corporate Debtor. Due to some technical reasons, the CIRP was slightly delayed. Finally, the Committee of Creditors (CoC) was constituted and first CoC meeting was held on 05.12.2018.
4. During the first CoC meeting, the IRP was confirmed to be appointed as Resolution Professional. The IRP had received only one claim for Rs. 42,09,153/- from the Petitioner-cum-Operational Creditor.
5. The Applicant has informed that the CoC comprising of sole Operational Creditor i.e. Precise Alloys Pvt. Ltd. (Petitioner) and the suspended directors of the Debtor Company have arrived into an understanding in the first CoC meeting, based on which a settlement agreement executed between them on 11.12.2018, wherein a One-Time Settlement (OTS) was agreed upon by the parties. In this Petition details of payment mentioned as follows:

*"(I) The Applicant states that in compliance with the terms of settlement as agreed upon, the Corporate Debtor arranged for payment to be made to Operational Creditor for a sum of Rs. 22,50,000/- in the following manner:*

- i. Rs. 5,00,000/- on 04 December 2018 vide cheque bearing No. 213713 drawn on Bank of Baroda, Borivali East Branch;
- ii. Rs. 5,00,000/- on 12 December 2018 vide cheque bearing No. 213714 drawn on Bank of Baroda, Borivali East Branch;
- iii. Rs. 9,50,000/- on 14 December 2018 through RTGS;
- iv. Rs. 2,00,000/- on 18 December 2018 through RTGS;
- v. Rs. 1,00,000/- on 18 December 2018 vide cheque bearing No. 000149 drawn on Kotak Mahindra Bank.

*Copies of acknowledgement of receipt of above mentioned monies are hereto annexed and marked as "Annexure 6" colly."*



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6. The Applicant states that on having received the OTS amount, the Operational Creditor – M/s. Precise Alloys Pvt. Ltd. has given duly signed Form FA. In furtherance of the settlement, the Applicant called a second CoC meeting on 19.12.2018 in which it was discussed that the Company had settled the dispute with the Corporate Debtor and no other operational or any other category of creditors had submitted their claim to the Applicant-RP. Therefore, the CoC unanimously (with 100% voting share) have approved withdrawal of the Petition.
7. Further placed on record extract of the Resolution of CoC meeting held on 19.12.2018 wherein resolved to seek an order from NCLT u/s 12A for withdrawal of the Petition.
8. Considering the totality of the circumstances, prima-facie it appears that all the requisite conditions of the Section 12A of IBC have been fulfilled, as affirmed by the Resolution Professional, the application for withdrawal is hereby **allowed**. The Company Petition (TCP No.: 346/2017) is **disposed** as withdrawn, to be consigned to records.

Sd/-  
**M.K. SHRAWAT**  
**MEMBER (JUDICIAL)**

Date: 15.03.2019  
pvs



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On 12/4/2019

  
Assistant Registrar  
National Company Law Tribunal Mumbai Bench