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IN THE NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Through Hybrid Mode)

Item No.5
IA(IBC)/32/2025 IN
CP(IB)NO.71/9/AMR/2020
(CP Admitted 04.03.2022)

IN THE MATTER OF:
K Computers

...Operational Creditor

Versus

Pi Data Centers Pvt Ltd

....Corporate Debtor

Under Section: 9, 12A of IBC, 2016

Order delivered on 28.03.2025

CORAM:
SHRI UMESH KUMAR SHUKLA
HON'BLE MEMBER (TECHNICAL)

SHRI KISHORE VEMULAPALLI
HON'BLE MEMBER (JUDICIAL)

PRESENT:

In CP

For the OC

: Mr. Y. Suryanarayna, Adv.

For the CD

: Mr. S. Ravi, Sr. Adv.

PRESENT:

IA(IBC)/32/2025:

For the Applicant

: Mr. T.K. Bhaskar &
Ms. K Annapurna Reddy, Advocates
: Mr. S. Ravi & Mr. PH Arvind Pandian,
Sr.Advocates along with Mr.P Jhabakh,
Mr. Abhishek Raman, Mr. Jerin Ashar
Sojan, Advocates

For R1

: Mr. Y. Suryanarayana, Adv.

For R2

ORDER

IA(IBC)/32/2025:

1. This application has been filed by the Applicant/IRP under Section 12A of IBC, 2016 for withdrawal of the CIRP proceedings against the CD i.e., Pi Data Centers Private Limited, on the ground that both the Parties entered into a Settlement Agreement dated 02.01.2025. By way of terms and conditions of the said Agreement, he filed the instant application u/s 12A of IBC, 2016, and the OC given Form-FA for permitting the IRP to file the application for withdrawal of the CIRP proceedings in the main Petition bearing CP(IB)/71/9/AMR/2020.



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2. At the stage of withdrawal of the Petition, one Mr. Kalyan Muppaneni, erstwhile Director of the CD approached the Hon'ble Supreme Court. The Hon'ble Supreme Court after hearing both the Parties held that:

"It is open to the Interim Resolution Professional to proceed in accordance with law and, if deemed appropriate, file an application under Section 12A of the Insolvency and Bankruptcy Code, 2016.

It is the stance of respondent No. 1, M/s. K. Computers, that the aforesaid settlement agreement and Form FA were obtained under force, coercion and threat. We are not examining and answering the said issues, as these are aspects to be adjudicated and decided in terms of the provisions of the IBC.

All pleas and contentions of the parties on the aforesaid aspects are left open.

We, however, clarify that the impugned judgment passed by the National Company Law Appellate Tribunal will not come in the way of the adjudicating authority/Interim Resolution Professional in examining the subject Form FA and also deciding as to whether or not the proceedings should be dropped in terms of Section 12A of the IBC".



3. Pursuant to the aforesaid Judgment, the IRP/Applicant herein, after examining the concerned terms of the Settlement Agreement dated 02.01.2025 along with the Form FA submitted by the OC i.e., M/s. K. Computers, has decided to file this Application seeking for withdrawal of the main CP.
4. At the time of hearing, the counsel for the Respondents vehemently argued the matter and submitted that their signatures on the said Agreement and Form FA was obtained by using force, coercion and threat, and hence the Settlement Agreement is not valid and therefore the IRP has no right to file this IA on the basis of the Settlement Agreement, and hence this I.A. cannot be entertained.

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5. Heard both the Counsels. During the hearing, this Bench observed that the complaint sent to the Prime Minister of India on 12.12.2024, is before the date of entering into the Settlement Agreement and after the Settlement Agreement alleged to be based on force, coercion and threat, the Respondent/ OC failed to submit any FIR/complaint registered before the police authority and thus has chosen not to take any steps before the Competent Authority for registering the FIR either against the CD or IRP.

In view of the above facts and circumstances of the case, the Bench has relied on the Settlement Agreement dated 02.01.2025 executed by both the Parties and the Form FA given to the IRP by the OC. The IRP being a Court Officer is having a right to file appropriate application and IRP has stated that he has received all the fees and costs and there is no further dues in respect of fees and costs. Hence, IA(IBC)/32/2025 is allowed and the CIRP proceedings are withdrawn against the CD, and the CD is released from the rigours of the CIRP proceedings initiated under the IBC, 2016.

7. **Accordingly, IA(IBC)/32/2025 is disposed of. In view of the above, CP(IB)/71/9/AMR/2020 also stands disposed of.**

Sd/-
(UMESH KUMAR SHUKLA)
MEMBER (TECHNICAL)

Sd/-
(KISHORE VEMULAPALLI)
MEMBER (JUDICIAL)

IA(IBC)/32/2025
in

Case No. CP(IB) NO. 71/9/AMR/2020
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Jahnavi & RSN

TN/KUM
Deputy Registrar / Assistant Registrar /
Court Officer
NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH