

**NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH**

**I. A. No. 1181 of 2020  
IN  
C. P. No. 1902/I&B/2019**

Under Section 12A of IBC, 2016

Filed by

**I.A. No. 1181/2020**

**Mr. Shailesh Bhalchandra Desai**

708, Raheja Centre, Nariman Point,  
Mumbai – 400 021

...Applicant

In the Matter of

**Union Bank of India (erstwhile  
Corporate Bank)**

21, Veena Chambers, Mezzanine Floor,  
Dalal Street, Fort, Mumbai- 400 001

....FinancialCreditor

versus

**Privilege Healthcare Services Pvt.  
Ltd.**

Office No. 1, 2 & 3, 3<sup>rd</sup> Floor,  
Dream Mall LBS Marg, Bhandup,  
Mumbai-400078

.....Corporate Debtor

**Order delivered on: 15.09.2020**

**CORAM:**

**SMT. SUCHITRA KANUPARTHI, MEMBER (J)**

**SHRI SHYAM BABU GAUTAM, MEMBER (T)**

**Appearance:**

**For the Applicant:** Ayush J Rajani, Chartered Accountant i/b  
AKR, Advisors LLP

**Per: Shri Shyam Babu Gautam, Member**

**ORDER**

1. This is an application filed by Mr. Shailesh Bhalchandra Desai, Resolution Professional (RP) of Privilege Healthcare Services Pvt. Ltd, the Corporate Debtor in CP(IB)1902/NCLT/MB/2019 seeking approval for withdrawal of the C.P. No. 1902/2019 which was filed by Union Bank of India (erstwhile Corporate Bank), Financial Creditor which was admitted by this Bench vide order dated 04.12.2019. This present application is filed under Section 12A of the Insolvency and Bankruptcy Code, 2016 (hereinafter called as “the Code”) read with Regulation 30A of IBBI (Insolvency Resolution Process for Corporate persons) Regulations, 2016 (hereinafter referred to as the “Regulations”) for withdrawal of the said Company Petition.
2. This Bench had appointed Ms. Deepa Kabra Rathi as Interim Resolution Professional, bearing Registration no: IBBI/IPA-001/IP-P00069/2017-2018/11114 in the CP/IB/1902/NCLT/MB/2019 vide its order dated 04.12.2019 as he was proposed by the Financial Creditor in the said Company Petition.
3. Thereafter, the Committee of Creditors has filed an application under Section 22(3)(b) of the Code for the replacement of the Interim Resolution Professional, Ms. Deepa Kabra Rathi with the Applicant, Mr. Shailesh Bhalchandra Desai, to be appointed as Resolution Professional to carry out the further duties. The application filed under Section 22 (3)(b) for replacement of IRP to RP, was admitted by this Tribunal vide an order dated 09.06.2020 and accordingly Mr. Shailesh Bhalchandra Desai was appointed as RP of the Corporate Debtor.
4. The applicant submits that the an OTS Sanction letter dated 07.07.2020 and 12.08.2020, have been received upfront from the Union Bank of India (erstwhile Corporate Bank) and PMC

bank respectively for settlement of loan dues of Corporate Debtor under the Settlement Scheme.

5. Subsequently, the applicant held the 5<sup>th</sup>CoC meeting on 14.08.2020 to discuss on Form FA dated 11.08.2020, received from Union Bank of India (erstwhile Corporate Bank) towards withdrawal of ongoing Corporate Insolvency Process under Section 12A of the Code. The CoC decided to go for e-voting with respect to Form FA. Accordingly, 100% of CoC members voted in favour of the said Form FA and thereby approved the withdrawal of original petition in terms of Provision of Section 12A of the Code, 2016.
6. The applicant mentioned that he enquired with Union Bank of India and PMC bank about the status of compliance of their OTS sanction letter, as on that date. Representative of Union Bank of India informed that they have received Rs. 4.50 crores till date, as the terms of their OTS sanction letter and similarly, PMC bank stated that they have received Rs. 1 Crore as per the terms of their sanction letter. Thus, the terms of both the OTS sanction letters were found to be complied with as on the date of the meeting.
7. The applicant further mentioned that he claims, as per the terms of the OTS sanction letter, all the fees and expenses incurred by the then IRP totalling to Rs. 10.44 lacs and by RP totalling to Rs. 8.46 lacs, is paid by the Respondent no. 1 (suspended director and promoter, Dr. Nikita Trehan). Hence, no bank guarantee has been provided by the original applicant i.e. financial creditor while submitting form FA towards any expenses/fees whatsoever.
8. Section 12A of the Code provides that the Adjudicating Authority may allow the withdrawal of Application admitted under Section 7 or Section 9 or Section 10, on an Application made by the Applicant with the approval of 90% voting share of

the Committee of Creditors in such manner as prescribed. In this matter, the actions taken by the applicant were according to the provisions of law and complied with the approval of the Committee of Creditors with the required majority and thus, this Miscellaneous Application can be allowed.

9. Having considered the submission and after careful perusal of papers and documents placed before this Bench, we are inclined to allow withdrawal of C.P. No. 1902 of 2019 in view of settlement arrived at between the parties and approval of more than of 90% voting share of committee of creditors.
10. In view of above nothing survives in the matter and hence this I.A. bearing no. 1181 of 2020 is allowed and disposed of. Accordingly, C.P. no. 1902 of 2019 is also disposed of as compromised/withdrawn.

**Sd/-**

**SHYAM BABU GAUTAM**  
Member (Technical)

**Sd/-**

**SUCHITRA KANUPARTHI**  
Member (Judicial)

/rakesh/