

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1**

IA 187 of 2020 in CP(IB) 525 of 2018

Coram: Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER (JUDICIAL)
Hon'ble Mr. PRASANTA KUMAR MOHANTY, MEMBER (TECHNICAL)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF THE NATIONAL COMPANY LAW TRIBUNAL ,
AHMEDABAD BENCH ON 04.03.2020**

Name of the Company: Chandra Prakash Jain RP For Dunke Enterprise Pvt
Ltd

Section: Section 12A IBC,2016 r.w 30A IBC,2016

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.	MONAAL J. DAVAWALA	Advocate	Applicant	<u>Monaal</u>
2.				

ORDER

The Applicant is represented through respective Counsel.


The present application is filed under Section 12 of the Insolvency & Bankruptcy Code.

The arguments from the side of the Applicant are heard.

The IA No. 187 of 2020 in CP(IB) 525 of 2018 is allowed and stands disposed of accordingly.

The detailed order is recorded vide separate sheet.


(PRASANTA KUMAR MOHANTY)
MEMBER (TECHNICAL)


(HARIHAR PRAKASH CHATURVEDI)
MEMBER (JUDICIAL)

Dated this the 4th day of March, 2020.

**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH**

**IA No. 187 of 2020
IN
CP(IB) No. 525/7/NCLT/AHM/2018**

[An Application under Section 12A of Insolvency & Bankruptcy Code, 2016 r.w.
Regulation 30A of the Insolvency & Bankruptcy Code, 2016]

Chandra Prakash Jain Resolution Professional
For Duke Enterprise Pvt. Ltd.
D-501 Ganesh Meridian,
Opp. Gujarat High Court,
SG Road, Ahmedabad -380060

.... Applicant

In the matter of :

Dena Bank
(now as Bank of Baroda)
Dena Corporate Centre,
C-10, G block, Bandra Kurla Complex,
Bandra- (E) Mumbai-400051

Branch Office at:
Sector- 16, Plot No. 320-321,
GH -4, Sector-16,
Gandhinagar,
Gujarat-382016.

.....Financial Creditor

Versus

M/s. Duke Enterprise pvt. Ltd.
Plot No. 409, Sector No. 1,
Gandhinagar-382007
Gujarat.

...Respondent

Appearance :

Applicant : Learned Counsel Mr. Monnal Davawala

Coram: **Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL**

AND

Hon'ble Mr. PRASANTA KUMAR MOHANTY, MEMBER TECHNICAL

Order dictated & Pronounced in open Court
Dtd. 4nd March, 2020

ORDER

[Per : Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL]

- 1) By the present Application filed under Section 12A r.w. Section 30A of the Insolvency & Bankruptcy Code, the applicant Resolution Professional has sought for withdrawal of the main IB petition filed by the Petitioner i.e. Dena Bank (Now Bank of Baroda) under Section 7 of the Insolvency & Bankruptcy Code, 2016. The said Petitioner came to be admitted by this Adjudicating Authority vide order dated 03.09.2019 in CP (IB) No. 525/7/NCLT/AHM/2018.
- 2) It is reported that Sole Member of the Committee of Creditors has decided to recall the Corporate Insolvency Resolution Process in respect of the Corporate Debtor and thus authorised the Resolution Professional/present applicant, the Resolution Professional to move the present Petition.
- 3) It is the case of the applicant that in compliance of this Adjudicating Authority order dated 30.09.2019, it caused public announcement in newspaper on 30.11.2019 about the commencement of Corporate Insolvency Resolution

Process in respect of the Corporate Debtor, thereafter the CoC was constituted on 02.12.2019 and the claim amount of Sole financial creditor Rs. 7,76,20,920.53 was admitted in the II meeting of the CoC dated 09.12.2019. The applicant duly apprised the Committee of Creditors that no-claim was received from the Operational Creditor. It is further reported that the members of the suspended management of the Corporate Debtor Company are not traceable, since the commencement of Corporate Insolvency Resolution Process. The Resolution Professional through written communication as well as by telephonic made attempt to contact the suspended management but no reply/response has been received.

- 4) It is further submitted that the Resolution Professional alongwith representative of the Sole member of Bank of of the Committee of Creditors visited the registered office as mentioned on the MCA web-portal of Corporate Debtor at Plot No. 409, Sector-1, Gandhinagar, on 21.11.2019, however none of the representative of suspended management was found at the site. The Resolution Professional and representative of the Committee of Creditors observed that there was no name Board of the Corporate Debtor office gate, one furious dog at the premises. The applicant tried to enter in the premises in car and took the photograph of the premises.

- 5) The applicant RP further states although he tried to sought requisite information/documents from the suspended management. However, no information was received. The following information/documents have been sought by the applicant :
- (i) Name, address, contact number, e-mail ID of all the present Directors, key managerial personnel, account head, security services provider of the Company (ii) Details of bank account, branch addresses, signatories of all bank account of the Company (iii) details of all assets and liabilities as on 31.03.2014 and Corporate Insolvency Resolution Process dated 30.09.2019 (iv) details of all pending and ongoing litigations, cases, legal proceedings under all Acts by the Company and against the Company, Audited financial statements for the year FY 2013-14, 2014-15, 2015-16, 2016-17, 2017-18,2018-19 and for the current year upto 30.09.2019.
- 6) However, it is reported that none of the above stated information was received.
- 7) Therefore, in view of the above the Sole Financial Creditor Bank of Baroda and the present Petitioner has filed the present application under Section 12A of the Insolvency & Bankruptcy Code, 2016 r.w. Regulation 30A of the

Insolvency and Bankruptcy Board of India (IBBI) and prayed for withdrawal of the main IB petition admitted under Section 7 of the Insolvency & Bankruptcy Code, 2016 and to recall the Corporate Insolvency Resolution Process in respect of Corporate Debtor Company.

- 8) Having heard the Petitioner Resolution Professional through his Counsel/Representative and having perused material available on record e.g. Minutes of the First and Second meeting of the Committee of Creditors dated 09.12.2019 and 31.12.2019.

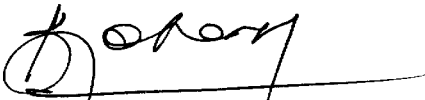
It is evident that the CoC has passed Resolution with 100% voting (being Sole Member, ~~of~~ Bank of Baroda) for withdrawal of its IB petition and to recall the Corporate Insolvency Resolution Process in respect of the Corporate Debtor Company, namely Duke Enterprise Pvt. Ltd. and further authorised to the Resolution Professional to take necessary steps and to move the present application under Section 12A of the Insolvency & Bankruptcy Code, 2016 before this Court.


- 9) For the aforesaid reasons and in the light of above given facts of the present application the application deserves to be allowed, hence it is allowed.



10) Consequently, the Corporate Insolvency Resolution Process initiated in respect of Corporate Debtor vide our order dated 30.09.2019 is passed in CP(IB) No. 525/7/NCLT/AHM/2018 is hereby recalled and proceeding are closed.

With the aforesaid observation and directions, the present IA is allowed and stands disposed of.


(Prasanta Kumar Mohanty)
Adjudicating Authority &
Member (Technical)


(Harihar Prakash Chaturvedi)
Adjudicating Authority &
Member (Judicial)

Dated this the 4th day of March, 2020.

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