

Through Videoconference

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT No. - I

IA No. 1699 of 2021  
in  
C.P. (IB) No. 4282/MB/2018

(Application under Section 12A of the I&B Code, 2016 read with  
Regulation 30A of the IBBI (Insolvency Resolution Process for  
Corporate Persons) Regulations, 2016)

Kapil Dev Taneja,  
Resolution Professional for Decent Dia Jewels Pvt Ltd,  
56-C / BB – BLOCK, Janak Puri,  
New Delhi – 110 058. ... Applicant

*In the matter of*  
C.P. (IB) No. 4282/MB/2018

Bank of Baroda (Erstwhile Dena Bank) ... Financial Creditor  
V/s  
Decent Dia Jewels Private Limited ... Corporate Debtor

Date of Order: 24.12.2021

CORAM:

Shri Bhaskara Pantula Mohan, Hon'ble Member (Judicial)  
Shri Narender Kumar Bhola, Hon'ble Member (Technical)

Sd/-

*Appearance:*

For the Applicant: Mr Hemant Sethi, Advocate.

Sd/-

Per: Narender Kumar Bhola, Member (Technical)

**ORDER**

1. This is an Application filed by the Resolution Professional seeking withdrawal of the Corporate Insolvency Resolution Process initiated against the Corporate Debtor.
2. The facts leading to the Application are as under:
  - a. The captioned Company Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 (the Code) was admitted by this Tribunal *vide* order dated 25.07.2019 initiating Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor and the Applicant herein was appointed as the Interim Resolution Professional (IRP).
  - b. The Committee of Creditors (CoC) in its 1<sup>st</sup> meeting held on 23.08.2019 confirmed the Applicant as the Resolution Professional (RP) of the Corporate Debtor.
  - c. Further, the CoC in its 3<sup>rd</sup> meeting held on 17.10.2019 unanimously approved to take the Corporate Debtor into liquidation as the Corporate Debtor was non-operational since 2017 and the prospects of the resolution were bleak. Accordingly, an Application bearing MA No. 3875 of 2019 was filed by the Applicant/RP for Liquidation which is pending adjudication.
  - d. It is submitted that at hearing of the Liquidation Application this Tribunal directed the CoC members to

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reconsider their stance of liquidating the Corporate Debtor and the Corporate Debtor also expressed its willingness to offer a suitable Resolution/OTS Settlement to the creditors.

- e. Subsequent to the above developments, the CoC in its 4<sup>th</sup> meeting held on 10.01.2020 unanimously decided to seek withdrawal of the said Liquidation Application. In the same meeting the CoC also resolved for seeking an extension of 90 days period beyond the stipulated period of 180 days. IA No. 360 of 2020 for extension is pending adjudication. The Applicant submits that the period of lockdown in the wake of Covid-19 outbreak shall not be counted for the purposes of completion of CIRP pursuant to the amendments to the Code and the Regulations.
- f. It is submitted that there is an on-going P.U.F.E. Application taken out by the Applicant, bearing IA No. 1945 of 2020, which is pending adjudication.
- g. Further, during the 12<sup>th</sup> meeting of the CoC held on 03.06.2021 the Applicant tabled a specimen of the Form FA before the CoC for discussion. The Applicant submits that Canara Bank has given its approval for the settlement proposal initiated by the Corporate Debtor and an Assignment Agreement dated 07.07.2021 is executed between the Canara Bank (Assignor), Kalpataru Fin Cap Limited (Assignee) and the Corporate Debtor (Borrower) for the purposes of closing and settling the account with the Corporate

Sd/-

Debtor and to further assign the debt to the extent of the OTS amount settled and approved by Canara Bank in favour of the assignee.

- h. In the 12<sup>th</sup> CoC meeting the following Resolution was proposed for consideration:

**"RESOLVED THAT** pursuant to Section 12A and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 read with subsequent amendments thereof and in accordance with rules and regulations made thereunder, approval of the Committee of Creditors be and is hereby accorded to withdraw the Corporate Insolvency Resolution Process of M/s Decent Dia Jewels Pvt. Limited".

The CoC unanimously approved the above Resolution on 09.07.2021.

- i. Form FA is filed by the Bank of Baroda (erstwhile Dena Bank) through the Applicant on 14.07.2021, annexed as 'Annexure I' to the Application. Hence this Application.
3. We have heard the learned counsel appearing for the Applicant and have perused the records. This Application filed on 16.07.2021 under section 12A of the Code is after the formation of the CoC and in view of the Resolution passed by the CoC unanimously resolving to withdraw the Petition filed against the Corporate Debtor, the Application deserves to be allowed.

Sd/-

4. We have observed that in the 12<sup>th</sup> meeting the CoC, with 75.94% voting share, have resolved to deposit/keep sufficient imprest balance in the Company's (Corporate Debtor) CIRP Expense Bank Account as required pursuant to the provisions of Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (the Regulations) towards the estimated CIRP expenses under Regulation 31(d) of the Regulations and accordingly, the CoC have resolved to not submit a Bank Guarantee as stipulated under the Regulations. Hence ordered.

ORDER

The Application be and the same is allowed. The Company Petition bearing CP (IB) No. 4282 of 2018 is withdrawn. No costs.

Sd/-

Narender Kumar Bhola  
Member (Technical)

Sd/-

Bhaskara Pantula Mohan  
Member (Judicial)