

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.P.(IB)No.258/BB/2018&
U/s.7 of IBC, 2016
R/w Rule 4 of I&B (AAA) Rules, 2016

And
I.A. No.488/2020
U/s.12A of IBC, 2016
R/w Regulation 30 A (b) of the IBBI
(Insolvency Resolution Process for
Corporate Persons) Regulations, 2016

In the matter of:

Mr. Kizhekkekara Kuriakose Jose
Resolution Professional for
M/s. Raveena Hotels Private Limited
R/o. at KK Jose & Associates,
Yenvee Complex,
Temple Road,
Aluva,
Kerala - 683 101

- Applicant/RP

Date of Order: 3rd December, 2020

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present, through Video Conference:

Resolution Professional : Mr. Kizhekkekara Kuriakose Jose
For the Petitioner : Shri Basant Raj

ORDER

Per:Rajeswara Rao Vittanala, Member (Judicial)

1. I.A.No.488/2020 in C.P.(IB)No.258/BB/2018 is filed by Mr.
Kizhekkekara Kuriakose Jos, Resolution Professional for M/s.



Raveena Hotels Private Limited ('Applicant'), U/s.12A of IBC, 2016R/w Regulation 30 A (b) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, by *inter alia* seeking to permit the Applicant to withdraw the main Company Petition.

2. Brief facts of the case, which are leading to filing of the instant Application, are as follows:-

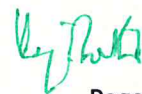
- (1) Initially, C.P.(IB)No.258/BB/2018 was filed by M/s. Rubfila International Limited (Petitioner/Financial Creditor), U/s.7 of Code, and the same was admitted by the Adjudicating Authority, vide its Order dated 26.09.2019, by initiating CIRP in respect of the Corporate Debtor, appointing Applicant as IRP, imposing moratorium etc. Subsequently, the Adjudicating Authority vide its Order dated 03.01.2020 in I.A.No.696/2019, confirmed him as RP. Accordingly, he made public announcement on 18.10.2019 in "Deccan Chronicle" (English Newspaper) and "Samyuktha Karnataka" (Kannada Newspaper), by calling upon the Creditors of CD to submit claims. Pursuant to the 2nd CoC meeting, the RP published Expression of Interest (EOI) in the prescribed Form G on 30.12.2019 in "Deccan Chronicle" (English Newspaper) and "Samyuktha Karnataka" (Kannada Newspaper), where by the prospective Resolution Applicants were invited to submit their EOI for submission of Resolution Plan for the Corporate Debtor by 23.01.2020.
- (2) In the seventh CoC meeting held on 09.11.2020, has considered the withdrawal Form FA dated 07.11.2020, submitted by the Petitioner/Financial Creditor, through IRP/RP. It is stated that there is only one CoC Member other than the Petitioner/Financial Creditor i.e. PNB Housing Finance Pvt. Ltd., holding 83% voting rights in CoC and no other claims has

received by the Resolution Professional. Subsequently, the Petitioner/Financial Creditor has informed that their dues are settled and has given consent to CD to file Form FA, subject to CoC approval. Accordingly, CoC unanimously resolved to accept and directed the Resolution Professional to file the Withdrawal Application before the Adjudicating Authority, as per the provisions of the Code. It is stated that the Petitioner/Financial Creditor has settled all the CIRP cost on 16.11.2020, and the Corporate Debtor has settled the dues of the Petitioner.

3. Heard ShriKizhekkekara Kuriakose Jose, the Applicant/ Resolution Professional and Shri Basant Raj, learned Counsel for the Petitioner **through Video Conference**. We have carefully perused the pleadings of the parties, and extant provisions of the Code, and Rules made thereunder.
4. As per Gazette of India, Extraordinary, Part III, Section 4, Published by Authority, Insolvency and Bankruptcy Board of India, Notification dated 25th July, 2019, with regard to the Regulation '30A, states as under:
"30 - A. Withdrawal of application:-the Applicant can make their claims through Interim Resolution Professional or Resolution Professional before constitution of the Committee of Creditors, who has filed Application under that Section".

12 A. Withdrawal of Application admitted under Section 7, 9 or 10, which reads as under:

"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 ninety per cent voting share of the committee of creditors, in such manner as may be specified."



Therefore, the Applicant/Petitioner is entitled to withdraw the instant Company Petition, and the Adjudicating Authority is empowered to permit any Applicant to file an Application Under Section 12-A R/w Regulation 30A of the Code, as detailed supra.

5. By perusal of the Application and the provisions of the Code, and the Rules of IBBI as mentioned above, the instant Application is filed in accordance with law and the Resolution to file this Application was approved unanimously. Therefore, it is a fit case to allow the Application as prayed for.
6. By exercising powers conferred on this Adjudicating Authority U/s 12A of the IBC, 2016 R/w Regulation 30A (b) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, we hereby allowed I.A.No.488/2020 by permitting the Applicant to withdraw the main Company Petition. Accordingly, C.P. (IB) No.258/BB/2018 is hereby dismissed as infructuous. No order as to costs.

ASHUTOSH CHANDRA
MEMBER, TECHNICAL

RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL

Shruthi