

**THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH**

NEW DELHI

C.A. 2263 (PB)/2019

In

(IB)-338 (PB)/2018

IN THE MATTER OF:

Mr. Tarun Jain

APPLICANT / INTERIM RESOLUTION

PROFESSIONAL

AND

IN THE MATTER OF

IDV Technology Solutions Private

CORPORATE DEBTOR

Limited

*Withdrawal under Section 12 A of Insolvency and Bankruptcy Code,
2016*

Order delivered on: 31.10.2019

Coram:

**DR. DEEPTI MUKESH
HON'BLE PRESIDENT (JUDICIAL)**

**S. K. MOHAPATRA
HON'BLE MEMBER (TECHNICAL)**

For the IRP: Mr. Abhishek Anand, Mr. Anant A. Pavgi Advocates.



ORDER**S. K. Mohapatra, Member**

1. This is an application filed by the Interim Resolution Professional of the Corporate Debtor M/s. IDV Technology Solutions Private Limited under Section 12 A of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "Code") to permit the Petitioner financial creditor to withdraw the original petition bearing Company Petition No. (IB)-338 (PB) /2018 in view of the approval of the Committee of Creditors with absolute 100% vote share and in terms of the provisions of the Code.
2. It is pertinent to note here that the present Corporate Insolvency Resolution Process against the Corporate Debtor, M/s IDV Technology Solutions Private Limited was initiated on 15.02.2019 with the admission of Company Petition No. (IB)-338 (PB) /2018 filed by the petitioner financial creditor under Section 7 of the Code.



3. It has been stated that Committee of Creditors was constituted with the petitioner financial creditor Mr. Kamal Gulati as the sole member of CoC. In the third meeting of CoC convened on 03.10.2019, the petitioner financial creditor and the sole member of CoC with 100% vote share passed resolution for withdrawal of CIRP under Section 12A of IBC. A copy of third meeting of the Committee of Creditors dated 03.10.2019 has been placed on record.
4. Section 12 A of the Insolvency and Bankruptcy Code, 2016 envisages as follows:

"12A. 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."



5. The provisions of the Section 12 A of the Code make it clear that with the approval of more than 90% voting share of the Committee of Creditors, the CIR Process against the Corporate Debtor can be withdrawn. The commercial wisdom of the CoC normally should be allowed to prevail particularly when the decision is in conformity with the provisions of the Code.
6. In the present case the Committee of Creditors has passed the resolution with 100% voting share to withdraw the corporate insolvency resolution process against the corporate debtor under Section 12A of the Code.
7. As required the petitioner financial creditor has filed the requisite application in Form-FA in terms of Regulation 30 A for withdrawal of the present Corporate Insolvency Resolution Process in respect of the Respondent Corporate Debtor on 07.10.2019. The petitioner has also attached a Bank Guarantee as per sub-regulation (2) of Regulation 30A.



8. During the final hearing no one raised any objection against the present application. The Interim Resolution professional who was present in person during the final hearing submitted that his fees and expenses of CIRP have been paid.
9. It is reiterated that under the provisions of Section 12A of the Code, application admitted under Section 7 of the Code can be withdrawn with the approval of 90% voting shares of the Committee of Creditors.
10. Keeping in view of the aforesaid position that the CoC has in its commercial wisdom resolved with required majority to permit the withdrawal of the Corporate Insolvency Resolution Process and in terms of the provisions of Section 12A of the Code, the present application is allowed.
11. Accordingly, CP No. IB - 338 (PB)/2018 is permitted to be withdrawn.
12. As a sequel to the aforesaid discussion the admission order dated 15.02.2019 passed in IB - 338 (PB)/2018 is recalled and the proceedings are closed. Consequently, order of moratorium and all other



orders passed thereto are recalled. The corporate debtor stands released from the rigors of the Code. It is made clear that corporate debtor shall act independently through its Board of Directors.

13. CP No. IB 338 (PB)/ 2018 stands disposed of as withdrawn and consequently all other pending Company Applications filed therein also stand disposed of.

Let copy of the order be served to the parties.



(S. K. Mohapatra)

Member (T)



(Dr. Deepti Mukesh)

Member (J)