

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

10. IA 2076/2021 In C.P. (IB)/1626(MB)2019

CORAM: SHRI ASHOK KUMAR BORAH, HON'BLE MEMBER (J)
SHRI SHYAM BABU GAUTAM, HON'BLE MEMBER (T)

**ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 28.09.2021**

NAME OF THE PARTIES: - Mr. Manish Kumar Baldeva
V/s

Lakhani Realty LLP
IN THE MATTER OF

Pegasus Assets Reconstruction Pvt Ltd
V/s

Euro India Cylinders Ltd.

Section 12A U/s 7 of Insolvency and Bankruptcy Code, 2016.

ORDER

1. The matter is taken up through Virtual Hearing (VC). Counsel, Mr. Ayush Rajani i/b CS. Manish Baldeva appeared for the Applicant.
2. This is a Interlocutory Application filed under section **12A** of the Insolvency & Bankruptcy Code, 2016 (**IBC**) by Mr. Manish Kumar Baldeva, the Interim Resolution Professional (IRP) appointed vide order dated 07.09.2021 of this Adjudicating Authority, for withdrawal of the Company Petition [CP(IB)-1626/MB/C-II/2019] filed under section 7 of the Insolvency & Bankruptcy Code, 2016 (**IBC**) by Pegasus Assets Reconstruction Private Limited against Euro India Cylinders Limited for initiating CIRP. This IA is listed on 28.09.2021, the Counsel for the Corporate Debtor prayed the Bench to consider and to pass appropriate orders on an urgent basis.

3. This IA is filed for seeking relief to allow the Financial Creditor, the original applicant to withdraw the Company Petition No.1626/2019 and to order that the CIRP ordered in Euro India Cylinders Limited vide orders dated 07.09.2021 be recalled and to pass such order as this Adjudicating Authority may deem fit and proper.
4. We heard the Mr. Ayush Rajani, Ld. Counsel on behalf of the IRP Mr. Manish Kumar Baldeva. Ld. Authorised Representative for the IRP submitted that subsequent to the order dated 07.09.2021, IRP has also submitted Form FA in accordance with section 12A of the IBC r/w Regulation 30(A) of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016. The Financial Creditor and Corporate Debtor have executed Consent Terms on 20.09.2021. Pursuant to the said Consent Terms once this tribunal approves the application under Section 12A of IBC, Pegasus is agreeable for the release of its charge upon the secured assets for consideration of Rs. 24,86,00,000/- (Rupees Twenty-Four Crore Eighty-Six Lakhs only) as per the terms and conditions mentioned herein under and subject to approval of the Section 12A of IBC.
 - i. *Upfront payment of Rs. 8.70 Cr. To be made upon issuance of this sanction letter, only after approval of Section 12A of IBC by the Hon'ble NCLT.*
 - ii. *Balance amount of Rs. 16.16 Cr. Payable as per the schedule mentioned herein under (this will include a minimum amount of Rs.43,98,282/- i.e. Forty-Three Lakhs Ninety-Eight Thousand Two Hundred and Eighty-Two Rupees) lying in the current account of the Cosmos Bank as on 30th April 2021 to be adjusted towards dues to Pegasus ARC)*
 - a. *Rs.2.50 Cr. Payable on or before 25.09.2021*
 - b. *Rs.2.50 Cr. Payable on or before 25.10.2021*
 - c. *Rs 2.50 Cr. Payable on or before 25.11.2021*

8. It is also worthwhile to record that before admitting the Petition, the Bench has given considerable time for settlement of the claim of the Financial Creditor. However, both parties argued the matter and an order was passed after granting sufficient opportunities. Immediately after the order was passed, on 07.09.2021, the present IA under section 12A of the IBC for withdrawal of the CIRP has been filed.
9. Considering the judicial time spent on the matter and the conduct of the Corporate Debtor, we are inclined to levy a cost of **Rs.5,00,000/- (Rupees Five Lakh only)** which is to be paid into the account of the “Bharat Kosh” within ten days from today and proof thereof to be submitted in the Court.
10. **IA 2076/2021 is disposed of** with above directions accordingly, **CP(IB)1626/MB/C-II/2019 is also stands closed** subject to compliance of this Order.

Sd/-
SHYAM BABU GAUTAM
Member (Technical)

28.09.2021
JD/SAM

Sd/-
ASHOK KUMAR BORAH
Member (Judicial)