

**NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

I.A. No. 1319 of 2019

IN

C.P. 2047/2018

Under Section 60(5) read with Section
12A of IBC, 2016

Filed by

Mr. Birendra Kumar Agrawal,

Resolution Professional for Alok
Infrastructure Limited, Registered office
at: F-1901, Whispering Palms
Xclusive, Lokhandwala Township,
Akurli Road, Kandivali-E, Mumbai
400101

...Applicant

In the Matter of

Axis Bank Limited

Trishul, 3rd Floor, Opp: Samartheswar
Temple, Near Law Garden, Ellisbridge,
Ahmedabad- 380006

....Financial Creditor

versus

Alok Infrastructure Limited

Peninsula Business Park, Tower B, 2nd
& 3rd Floor, Ganpatrao Kadam Marg,
Lower Parel, Mumbai- 400013.

.....Corporate Debtor

Order delivered on: 22.03.2021

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)
Hon'ble Shri Shyam Babu Gautam, Member (Technical)

Appearance:

For the Applicant: Adv. Bindu Bhatia

Per- Shri H.V. Subba Rao, Member (Judicial)

ORDER

1. This is an application filed by Mr. Birendra Kumar Agrawal, Resolution Professional of Alok Infrastructure Limited on behalf of Axis Bank Limited- Financial Creditor under Section 60(5) read

with Section 12A and other applicable provisions of the Insolvency and Bankruptcy Code, 2016 ('Code') for seeking permission of this Tribunal to withdraw the Corporate Insolvency Resolution Process (CIRP) initiated against Alok Infrastructure Limited (Corporate Debtor) in terms of the admission order dated 24.10.2018 bearing Company Petition No. 2047/2018.

2. Facts of the case:

- a. The Company Petition no. 2047 of 2018 had been filed by Axis Bank Limited against Alok Infrastructure Limited before this Tribunal seeking to set in motion the Corporate Insolvency Resolution Process under Section 7 of the Insolvency & Bankruptcy Code, 2016 on the ground that the Corporate Debtor defaulted in making payment of a sum of Rs. 100,32,11,439/- as on 03.06.2018 including interest and the date of default being 30.06.2016.
- b. This Tribunal vide its order dated 24.10.2018 admitted the Company Petition and appointed Mr. Birendra Kumar Agrawal as the Interim Resolution Professional of the Corporate Debtor.
- c. Further, a public announcement was made by the applicant inviting claims from the creditors of the Corporate Debtor. Thereafter, Resolution Professional has received claim from certain creditors of the Corporate Debtor. The Resolution Professional collated and verified all the claims received and of which the claim received from Axis Bank Limited was duly admitted by the Resolution Professional.
- d. The COC was accordingly constituted comprising of Axis Bank Limited and the first meeting of COC was held on 23.11.2018, wherein the IRP, Mr. Birendra Kumar Agrawal, applicant herein was appointed as Resolution Professional of the Corporate Debtor.
- e. At the 3rd meeting of COC held on 08.01.2019 the Resolution Professional placed before the CoC the draft of Invitation of Expression of Interest (EOI) from potential Resolution Applicants in accordance with

Section 25(2)(h) of the Insolvency and Bankruptcy Code, 2016. The CoC approved the said draft of EOI and the same was published on 10.01.2019 in Economic Times- Mumbai (English Newspaper), Sakal- Mumbai (Marathi Newspaper), Economics Times- (Ahmedabad), Gujrat Samachar- (Surat). However, no expression of Interest were received from any potential resolution applicants till the last date of receipt of EOI i.e. 25.01.2019.

- f. Accordingly, the application hereby wishes to withdraw the CIRP initiated against the Corporate Debtor in order to realize the outstanding debt from Alok Infrastructure Limited by considering the assignment of the outstanding debt to an Asset Reconstruction Company without prejudice to reserving the Applicant Bank's /Assignee right as a secured creditor.
- g. The said application was then placed before the COC for their approval at the 5th meeting of the COC dated 29.03.2019, wherein the COC approved the proposal for withdrawal of CIRP initiated against the Corporate Debtor with requisite majority with a voting share of 100% cast in favour of withdrawal.

3. Section 12A of the Code provides that 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 90% voting share of the Committee of Creditors in such manner as prescribed. In this matter, the actions taken by the applicant were according to the provisions of law and complied with the approval of the Committee of Creditors with the required majority and thus, this Miscellaneous Application can be allowed.

4. Having considered the submission and after careful perusal of papers and documents placed before this Bench, we allow the withdrawal of C.P. No. 2047 of 2018.

5. With the above direction the Misc. Application 1319 of 2019 is allowed and disposed of accordingly.

6. In view of the order passed in Misc. Application 1319 of 2019, the Applications bearing nos. 1977/2020, 580/2020, 3358/2019 and 2592/2019 are becomes infructuous and disposed of accordingly.

Sd/-

SHYAM BABU GAUTAM
Member (Technical)

Sd/-

H.V. Subba Rao
Member (Judicial)