

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH



Ite
(IB)-1289

IN THE MATTER OF:

Edelweiss Asset Reconstructions Co. Ltd.

... Applicant/Petitioner

v.

Mansarovar Heritage INN Pvt Ltd.

... Respondent

Order Under Section 7 of IBC, 2016 (CIRP)

Order delivered on 30.03.2022

CORAM:

JUSTICE RAMALINGAM SUDHAKAR

HON'BLE PRESIDENT

SH. AVINASH K. SRIVASTAVA

HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant:

For the RP:

Mr. Sanjay Bhatt & Mr. Rahul Mendiratta, Advs. with Mr
Darshan Singh Anand, RP

ORDER

IA-5926/2021

Mr. Sanjay Bhatt, Ld. Counsel for the RP is present.


The prayers in IA No. 5926/2021 are as follows:-

- (a) *Allow the present Application and permit withdrawal of the Company Petition (IB) No. 1289 of 2018 filed by Edelweiss Asset Reconstruction Company Limited;*
- (b) *Grant an exclusion of twenty two (22) days on the ground of time lost due to pending litigations before the Hon'ble Rajasthan High Court and JDA and time lost due to consideration of Form FA submitted by EARC;*
- (c) *Pass such other or further order as may be deemed fit and proper in light of the facts and circumstances of the present case and in the interest of justice."*

Prayers 'a' & 'b' are allowed.

Detailed reasons to follow.


(RAMALINGAM SUDHAKAR)
PRESIDENT


(AVINASH K. SRIVASTAVA)
MEMBER (TECHNICAL)

ORDER

PER SHRI AVINASH K SRIVASTAVA, HON'BLE MEMBER, TECHNICAL

1. This application has been moved by Sh. Darshan Singh Anand, the Resolution Professional of Corporate Debtor u/sec.12A of the IBC 2016 read with Regulation 30A(1) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016 (the CIRP Regulations) on behalf of the Financial Creditor seeking withdrawal of the petition No. CP/IB-1289(PB)/2018.
2. The application for withdrawal has been filed pursuant to receipt of Form FA dated 18.11.2021 submitted by Financial Creditor as the sole Financial Creditor alongwith DD for INR Rs.61,37,397/- (Rupees Sixty one lakh thirty seven thousand three hundred ninety seven only) in terms of Regulation 30A (2) of CIRP Regulations and approval thereafter by 100% vote of the CoC in the meeting held on 9th December, 2021. Minutes of the 15th CoC meeting held on 9th December, 2021 is at Vol. II, Annexure A-34 wherein the CoC consisting of the sole Financial Creditor Edelweiss Asset Reconstruction Company Limited with 100% voting share passed the proposal for withdrawal of application admitted u/sec.7, based on the Form-FA dated 18.11.2021 received from the Financial Creditor. Copy of Form FA is at Vol.II Annexure A-32. Notice of this application has been duly served upon the Financial Creditor.
3. The applicant RP has submitted that in the present case no viable Resolution Plan has been received by the applicant despite issuance of EoI five times.
4. Further, on account of on-going litigation before the Hon'ble Rajasthan High Court and Jaipur Development Authority (JDA) due to the cancellation of lease of land, withdrawal of approved building plan issued in favor of the Corporate Debtor by the JDA and demolition of two towers out of total 8 towers constructed and developed by the Corporate Debtor on the alleged ground of encroachment on the Amanishah Nalla in Jaipur City, the applicant RP has also requested for exclusion of 22 days as the CIRP period

AKS

expired on 21 Nov., 2021 while the application u/sec.12A has been filed on 13.12.2021.

5. In view of the reasons stated in the application, the prayer to allow the present application and permit withdrawal of Company Petition IB No.1289 (PB) of 2018 filed by the Financial Creditor Edelweiss Asset Reconstruction Company Limited is allowed. Further, the prayer for exclusion of 22 days from the CIRP period on account of ongoing on-going litigation before the Hon'ble Rajasthan High Court and Jaipur Development Authority and time lost due to consideration of Form FA submitted by Financial Creditor is also allowed.
6. Copy of this Order be sent to RoC and IBBI to be duly recorded in their database.

File be consigned to the record room thereafter.



RAMALINGAM SUDHAKAR
PRESIDENT



AVINASH K. SRIVASTAVA
MEMBER (TECHNICAL)