

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

CP(IB) No. 71/BB/17

U/s 9 of IBC 16, & IA No. 297 of 18

U/s 12(A) of code R/w Regulation 30(A) Of IBBI
(IRP for Corporate persons) Regulations, 2016

In the matter of

Balady Shekar Shetty, RP,
Representing
M/s Ther-A-Pedic Bedding India Private Limited,
No.70, 4th Sector, HSR Layout,
Bangalore-560102.

- Applicant/Resolution Professional

Versus

M/s. Next Radio Limited
Office Nos.I-17, I-18 and I-19,
10th Floor, Everest Building,
The Tardeo Everest Premises,
Co-operative Society Limited,
Mumbai-400034

- Respondent/Operational Creditor

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (J)
2. Hon'ble Dr. Ashok Kumar Mishra, Member (T)

Dated: 28th September, 2018

Parties/Counsel Present:

For the Applicant : Shri Balady Shekar Shetty, RP
For the Respondent : Shri Nikhil K

ORDER**Per:** Rajeswara Rao Vittanala, M (J)

1. IA No. 297 of 2018 in CP(IB)No.71/BB/2017 is filed by Shri Balady Shekar Shetty, Resolution Professional, on behalf of Financial Creditor, namely Karnataka State Financial Corporation, under Section 12(A) of IBC,2016 R/w Regulation 30(A) of IBBI (IRP for



Corporate persons) Regulations, 2016 by inter-alia seeking to approve the withdrawal of main Application/Petition.

2. Brief facts of the case, which are relevant to the case, are as follows:

- a) C.P.(IB)No.71/BB/2017 is filed by M/s Next Radio Ltd. (FM 94.3), the Operational Creditor, on the ground that the Corporate Debtor has defaulted for an amount of Rs.13,47,291/- (Rupees Thirteen Lakhs Forty Seven Thousand Two Hundred and Ninety One Only).
- b) The Tribunal, after considering the issue, admitted the case vide order dated 05.02 2018 by appointing Interim Resolution Professional (IRP). Imposing moratorium etc. In pursuant to the admission of the case, eight meetings of Committee of Creditors were conducted by the IRP/Resolution Professional in the process of Corporate Insolvency Resolution Process. During the last and final eighth meeting of the Committee of Creditors held on 20.09.2018, has decided to withdraw the instant Company Petition itself on the ground that Karnataka State Financial Corporation (Sole Financial Creditor) stated that the Corporate Debtor had undertaken to make part payment of Rs.30,00,000/- on the date of approval, and further monthly interest demand shall also be cleared toward their overdue loan account. The KSFC being the sole Financial Creditor having 100% voting share of the Committee of Creditors has accepted for the withdrawal of the instant application authorising the RP to file an appropriate application before this Tribunal. Accordingly, the present application has been filed.

3. Heard Shri Balady Shekar Shetty, learned Resolution Professional. He submits that the instant application is filed in accordance with the Section 12A of code R/w Regulation 30(A) of the IBBI (IRP for Corporate Persons) Regulations, 2016. He has placed Form FA



(Withdrawal application) of Operational Creditor dated 17.09.2018 before last COC. The Resolution process costs have been paid. He has submitted that he has followed all extant provisions of Code with rules there under and thus the application may be allowed.

4. As stated, the Corporate Debtor has submitted Form FA dated 17.09.2018, under Regulation 30A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for withdrawal of the main Company Petition filed under Section 9 of Code, and the same was placed before the last COC meeting held on 20.09.2009 and it was approved by sole COC member. Therefore, pre-condition for withdrawal of main company petition, under section 12 A of the code was complied with and the application is filed in accordance with prescribed format. Therefore, IA No. 297 of 2018 deserves to be allowed by permitting the Operational creditor to withdraw CP(IB) No. 297 of 2018.
5. In view of the above facts and circumstances of the case, by exercising powers conferred on this Adjudicating Authority, U/s 12 A of the Coder, we allow I.A.No.297 of 2018 by permitting the Operational Creditor to withdraw the company petition bearing CP(IB).No.71/BB/2017. Consequently, we restore the status of the Corporate Debtor, namely, M/s Ther-A-Pedic Bedding India Private Limited to its original status as available before initiating the instant CIRP, and the Company can function normally with the existing Directors. The Resolution Professional is directed to communicate this order to the IBBI for its record, and to all the concerned with the CIRP.

(Dr.Ashok Kumar Mishra)
MEMBER(T)

(Rajeswara Rao Vittanala)
MEMBER(J)