



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT- II)

Item No. 319
IB-667(ND)2019
New IA-3265/2024

IN THE MATTER OF:

M/s. Renu Proptech Pvt. Ltd.

... **Applicant/Petitioner**

Versus

M/s. Red Topaz Real Estate Pvt. Ltd.

... **Respondent**

Under Section: 7 of IBC, 2016

Order delivered on 08.07.2024

CORAM:

SH. ASHOK KUMAR BHARDWAJ
HON'BLE MEMBER (J)

SH. SUBRATA KUMAR DASH
HON'BLE MEMBER (T)

PRESENT:

For the Respondent : Adv. Manish Paliwal for R-1 & 2, Adv. Ashish Aggarwal for R-3

For the RP : Sr. Counsel Arvind Nayar, Adv. Rakesh Kumar, Adv. Preeti Kashyap, Adv. Ankit Sharma, Adv. Varun Pandit, Adv. Rishabh Arora, Adv. Yash Dhawan in IA-3265/2024

For the Authorized Representative : Adv. Sumit Sinha

Hearing Through: VC and Physical (Hybrid) Mode

ORDER

IA-3265/2024, IB-667(ND)2019: Mr. Arvind Nayar, Ld. Sr. Counsel appearing for the Applicant i.e. CS Vekas Kumar Garg Resolution Professional could draw our attention to the minutes of 21st meeting of CoC held on 27.05.2024 and submitted that since the CoC has passed a resolution that CP-(IB)-667/ND/2019 may be withdrawal, the present application has been preferred. The relevant excerpt of the minutes of the meeting reads thus:-

“RESOLUTION 1: APPROVAL OF THE WITHDRAWAL PROPOSAL AS RECEIVED FROM EX. MANAGEMENT MR. SANDEEP GARG U/S 12A OF INSOLVENCY & BANKRUPTCY CODE, 2016 AND OTHER CONNECTED MATTER(S)”



The Text of the Resolution(s) proposed for E-Voting by the Resolution Professional is as under:

APPROVAL TO THE WITHDRAWAL PROPOSAL U/S 12A AS PRESENTED BY THE PROPOSER MR. SANDEEP GARG

"RESOLVED THAT the approval of the committee of creditors be and is hereby accorded to With-Drawl Proposal as placed by the Ex. Management I Director of the Corporate Debtor i.e. Redtopaz Real Estate Private Ltd. from CIR Proceedings in accordance with the provisions of Section 12A of Insolvency & Bankruptcy Code, 2016"

"RESOLVED THAT the approval of the committee of creditors be and is hereby granted to the modified withdrawal plan dated 20.05.2024 received under section 12A application as filed by Mr. Sandeep Garg being the Ex- management of the corporate debtor (hereinafter to be referred as the "Proposer") specially subject to the following terms and conditions as expressly stated herein :

1. The Proposer to contribute an amount of Rs. 2 Cr. within 60 days of the approval by CoC to the withdrawal proposal/ plan as submitted by the Proposer.

2. The Proposer to contribute an amount of Rs. 1 Cr. within 90 days of approval by COC to the withdrawal proposal/plan as submitted by the Proposer.

3. The Proposer to contribute an amount of Rs. 22 Cr. in monthly installment of Rs. 1 Cr. each commencing after 30 days of the approval by NCLT to the with-drawl proposal I plan as submitted by the Proposer.

4. The amount of contribution by the Proposer above shall be treated as interim finance in case the approval of the adjudicating authority to the with-drawl proposal as presented by the Proposer is not received.

7. In case of any delay 1 default on the part of the Proposer to pay the above amount whether whole or in part on or before the aforesaid dates, such actions shall be termed as event of default on the part of the Proposer with regard to the mandatory compliance of the with-drawl plan and with-drawl plan. In such event, the monitoring committee shall assess the default by the Proposer and may take an appropriate action for resumption I fresh initiation of CIR Process before the Adjudicating Authority. Further, in such case of default by the Proposer, the upfront amount of Rs. 2 Cr. as contributed by the Proposer shall stand forfeited by the company.

"RESOLVED FURTHER THAT approval of the committee of creditors be and is hereby accorded to the resolution professional to submit the proposal as approved herein to the Hon'ble



Adjudicating Authority for approval in terms of Section 12A of Insolvency & Bankruptcy Code, 2016 read with Regulation 30A(S) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other applicable provisions if any of Insolvency & Bankruptcy Code, 2016 and in accordance with the rules and regulations made here under”

Result of E-Voting on the Resolution

The Result of E-Voting as obtained by the Resolution Professional after conclusion of the meeting is as under:

S.NO.	Details of the Voter	Voting Preference			Not Participated	Total
		Yes	No	Abstain		
1.	Financial Creditors	23.92%	0.00%	0.00%	0.27%	24.19%
2.	Financial Creditors in a Class	69.38%			6.43%	75.81%
	Voting pattern Yes : 69.38 % No : 0.00% Abstained : 0.00% Not Participated–6.43%			In terms of Casting Vote as exercised by Authorized Representative in terms of Section 25A(3A) as per his communication dated 07.06.2024 upon conclusion of E-Voting by FC in a Class. The Copy of details of casting vote as exercised by AR is contained in Annexure – 8.		
	TOTAL	93.30%	0.00%	0.00%	6.70%	100%

Conclusion – The above resolution for With-drawal of CIRP has been passed with 93.30% of Vote Share of COC. The same is in conformity with Section 12A of I&B Code, 2016

RESOLUTION 2: RESOLUTION FOR DEFERMENT OF THE ONGOING RESOLUTION PLAN PROCESS

"RESOVLED THAT the approval of the committee of creditors be and is hereby accorded to the following "The ongoing resolution plan process of the corporate debtor wherein the resolution professional has already issued FORM-G I RFRP I Information Memorandum to the Resolution Applicants, shall be put in abeyance during the pendency of consideration of the with-drawl proposal by the committee of creditors I adjudicating authority"

"RESOLVED FURTHER THAT in case the approval of the coc I adjudicating authority with regard to the with-drawl proposal as received from Ex. Management u/s 12A of I&B Code, 2016 is not granted, in such case the Resolution Plan Process of the Corporate Debtor shall survive and begin from the present stage"

"RESOVLED FURTHER THAT in case of any event of default by the Proposer in compliance with meeting terms of the with-drawl plan, the Resolution Plan Process of the Corporate Debtor shall survive and begin from the present stage"



Result of E-Voting on the Resolution

The Result of E-Voting as obtained by the Resolution Professional after conclusion of the meeting is as under :

S.NO.	Details of the Voter	Voting Preference				Total
		Yes	No	Abstain	Not Participated	
1.	Financial Creditors	23.92%	0.00%	0.00%	0.27%	24.19%
2.	Financial Creditors in a Class	75.80%				75.81%
	Voting pattern Yes : 69.38 % No : 0.00% Abstained : 0.00% Not Participated-6.43%			In terms of Casting Vote as exercised by Authorized Representative in accordance with Section 25A(3A) of I&B Code, 2016 as per his communication dated 07.06.2024 upon conclusion of E-Voting by FC in a Class. The Copy of details of casting vote as exercised by AR is contained in Annexure – 8.		
	TOTAL	99.72%	0.00%	0.00%	0.27%	100%

Conclusion – The above resolution has been passed with 99.72% vote share of CoC. Accordingly, the above resolution is passed.

There was no other resolution put to put in the meeting. The E-Voting Sheet is being placed along side.

For & On Behalf of Committee of Creditors of

Redtopaz Real Estate Private Limited

VEKAS

KUMAR GARG

Digitally signed by
VEKAS KUMAR GARG
Date: 2024.06.07
17:25:41 +05'30'

CS Vekas Kumar Garg

Chairman of 21st Meeting of CoC of Redtopaz Real Estate Private Limited

Email: vikasgarg_k@outlook.com

IP Registration No.— IBBI/IPA-002/IP-N00738/2018-2019/12291

Date: 07.06.2024

Place: New Delhi

It is seen from the aforementioned that the members of CoC could pass the resolution for withdrawal of IB-667/ND/2019, with 93.03% vote share.

The details/report regarding voting by the members of CoC is available from Page-111 to 114 of the paper book. As can be seen from Section 12A of IBC, 2016, this Authority may allow the withdrawal of the application admitted under Section 7 of IBC, 2016 on an application made by the Applicant with the approval of 90% voting share of the committee of creditors in such a manner as may be specified. The Section 12A reads thus:-



“12A. The Adjudicating Authority may allow the withdrawal of application admitted under Section 7 or 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.”

It has also been provided in Regulation 30A of IBBI (Resolution Process for Corporate Persons) Regulations, 2016 that an application for withdrawal of under Section 12A (ibid) may be made to this Authority, after the constitution of CoC by the Applicant through the Interim Resolution Professional or the RP as the case may be. The Regulation 30A (1) (b) reads thus:-

***“30A. (1) An application for withdrawal under Section 12A may be made to be Adjudicating Authority-
(b) after the constitution of the committee, by the applicant through the interim resolution professional or the resolution professional, as the case may be:
Provided that where the application is made under clause (b) after the issue of invitation for expression of interest under regulation 36A, the application shall state the reasons justifying withdrawal after issue of such invitation.***

In the present case the application has obviously been preferred by the Resolution Professional.

In view of the aforementioned, **the IA-3265/2024 is allowed and the IB-667/ND/2019 is dismissed as withdrawn.**

**Sd/-
(SUBRATA KUMAR DASH)
MEMBER (T)**

**Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)**