

**BEFORE THE ADJUDICATING AUTHORITY  
(NATIONAL COMPANY LAW TRIBUNAL)  
AHMEDABAD BENCH  
AHMEDABAD**

**IA 399 of 2019 in/with C.P. (I.B) No. 388/NCLT/AHM/2018**

Coram: **Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL**

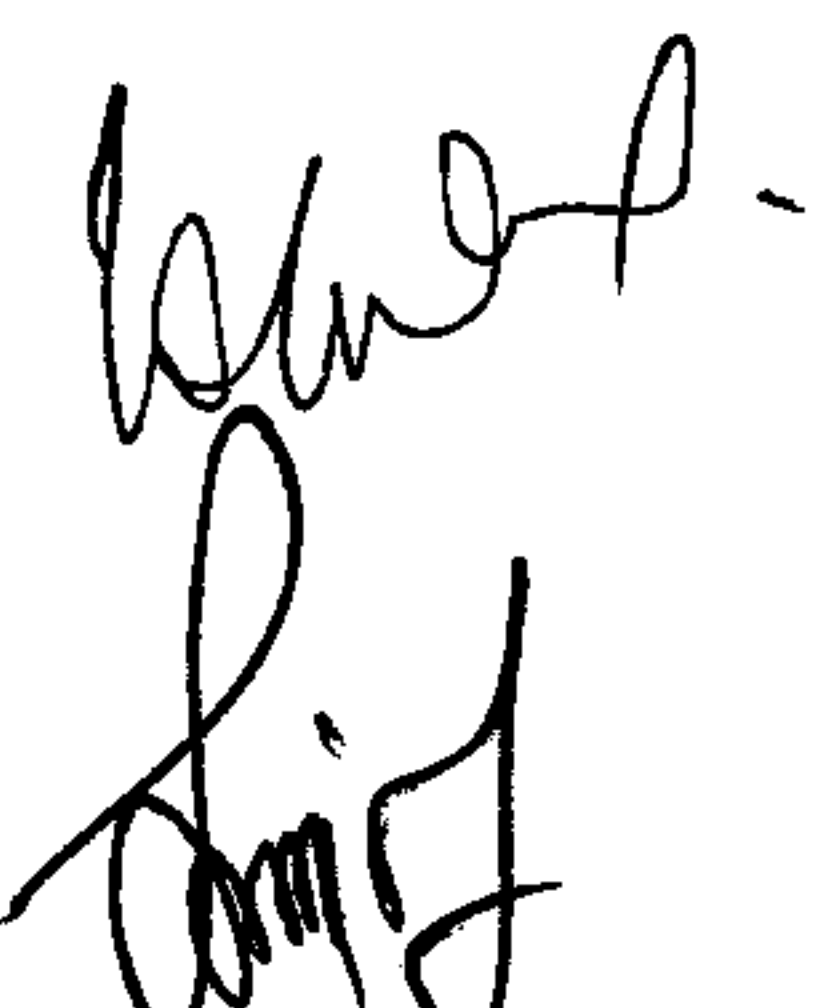

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH OF  
THE NATIONAL COMPANY LAW TRIBUNAL ON 11.07.2019**

Name of the Company: Premraj Ramratan Laddha RP

V/s.

Cure Life Care Pvt. Ltd.

Section of the Companies Act: Section 12 A of the Insolvency and Bankruptcy Code

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	Nipun Singhvi	Adv.	Applicant	n
2.	Vishal J. Dave Pragati Tiwari		(R.P)	v p
3	U. Shyamaladri Baner		Central Bank of India	
4	S. G. Rajpu		Central Bank of India	

**ORDER**

The Applicant Resolution Professional is represented through its Counsel.

None for the third party Caveator.

The Petitioner Central Bank of India being Financial Creditor and Sole member of the Committee of Creditors is present through its Authorised Officer and submitted that the matter has been settled with the Corporate Debtor Company as bank the Petitioner Bank was able to make E-auction of the assets(property) of the company and has realised an amount of **Rs. 9.76 Crores** towards full satisfaction of its debts, hence the Petitioner Bank does not wish to keep continue with the Corporate Insolvency Resolution Process.



Therefore, the present application is preferred by the RP under Section 12 A of the Insolvency and Bankruptcy Code r.w 30(a) , as the Petitioner viz. Central Bank of India being sole member of Committee of Creditors vide its resolution dated 05.07.2019 (page no. 26 Item No. 4 clause (viii) has duly approved the settlement proposal which means it has been approved by 100% voting of the COC, by executing Form (A) from the Financial Creditor for the withdrawal of the Corporate Insolvency Resolution Process. For the sake of convenience, the relevant extract of the minutes of the CoC dated 05.07.2019 are being produced herein below :

**“....3) Constitution of COC :**

- i. The certified copy of order dated 31.05.2019 for commencement of Corporate Insolvency Resolution Process of the corporate debtor was received by IRP on 07.06.2019. The public announcement for commencement of Corporate Insolvency Resolution Process was published by IRP in two newspapers on 08.06.2019 and claims from creditors were invited. On the basis of claims received, COC was constituted on 28.06.2019. The report certifying constitution of CoC along with list of creditors was filed before Hon'ble NCLT Ahmedabad on 01.07.2019. The members took note of publication of public announcement and formation of COC.*
- ii. The IRP shared a list of creditors with members of COC and informed that only one claim from Central Bank of India as financial creditor was received till the last date of submission of the claims. However, some claims were received after the last date are under process of verification.*

**....4) Action taken by the IRP:**

- i. The IRP intimated the commencement of Corporate Insolvency Resolution Process to Registrar of Companies, Bank and corporate debtor and provided copy the NCLT order and public announcement. The Copy of public announcement was submitted to IBBI and IIPA of ICAI.*
- ii. The IRP personally visited the registered office and factory premises of the corporate debtor. Ms. Jagrutiben Patel the Director of the corporate debtors informed the IRP that registered office was on rented premises and no assets and records of the corporate debtor is available at registered office. She further informed that loan accounts of the Company is*

*NPA since year 2016 and operations of the Company has been closed since then. The physical possession of assets of the corporate debtor has already been taken by sole secured financial creditor since Nov. 2018 under SARFAESI law and security agency was appointed to safeguard the assets of the company.*

- iii. The IRP also visited to bank branch and regional office of the Bank where loan accounts of the company were maintained. He discussed about the background of the company and collected documents/information from bank officers. The IRP came to know that factory of the corporate debtor has already been put on auction under SARFAESI law and a successful bid has been received by the secured financial creditor.*
- iv. The IRP asked Ms. Jagrutiben Patel the director of the corporate debtors to provide all detail of assets, accounting books, records etc. of the company but she has provided only records Email and request made to her. She informed that all the employees have left the company and it is very difficult to get the information but she assured in the meeting to provide the information/records with 2/3 days. If it will not receive in that period, the IRP inform to file the application under Section 19 to Adjudicating Authority for non co-operation from personnel of the corporate debtor. The financial creditor has also requested to the director to provide details to complete the information memorandum to be prepare by IRP.*
- v. The IRP informed that there is no cash flow with Company to meet Corporate Insolvency Resolution Process cost. Hence COC may consider for interim finance for smooth Corporate Insolvency Resolution Process but the financial creditor assured to provide financial assistance as and when required.*
- vi. The IRP discussed with COC for fee quote received for appointment of the valuer, accountant and forensic auditor but COC suggested to consider the same in next COC meeting.*
- vii. An application for withdrawal of Corporate Insolvency Resolution Process before constitution of COC was filed by the applicant financial creditor (CBI) with Adjudicating Authority. The matter was heard by the Adjudicating Authority on 03.07.2019 and adjourned for next hearing on 23.08.2019.*
- viii. One day before meeting of CoC, the IRP received a request in Form FA from applicant financial creditor (CBI) for withdrawal of the Corporate Insolvency Resolution Process under Section 12A of the Insolvency & Bankruptcy Code 2016. The IRP circulated the same as supplement agenda of notice to*

***CoC member for discussion and vote. The Application on Form FA was approved by CoC with 100% vote. The applicant financial creditor approved the Corporate Insolvency Resolution Process expenses and undertook to pay the same before filing of the application under Section 12A”.***


Considering the above stated resolution, the present application deserves to be allowed.

Hence, this Adjudicating Authority in exercise of its powers conferred under Section 12 A of the Insolvency and Bankruptcy Code allow the present application for recording settlement and recalls the Corporate Insolvency Resolution Process but with such observation so as to safeguard adequate the interest of third party stakeholders that the present order shall not prejudice or affect right of others creditors, stakeholders as the case may be and they shall be at liberty to agitate their right and claim before appropriate forum including this Court in accordance with the law.

Further, it is reported that the cost and professional fees of the Corporate Insolvency Resolution Process has already been paid to the learned RP by Demand Draft dated 09.07.2019 for an amount of Rs. 1,8,500/- towards the Corporate Insolvency Resolution Process cost and expenses.

Accordingly, IA 399/2019 in CP(IB) 388 of 2018 is allowed and stands disposed of in respect of Corporate Insolvency Resolution Process commenced on 31.05.2019 by order of this Adjudicating Authority dated 31.05.2019 is hereby recalled.

A copy of this order be communicate to the Regional Director, Ahmedabad and to the concerned ROC.

  
**HARIHAR PRAKASH CHATURVEDI**  
**MEMBER JUDICIAL**

Dated this the 11th day of July, 2019