

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

IA No.131/2020
CP (IB) No. 221/9/AMR/2019

Under Section 12A of I&B Code

Read/w Section 9 & 60(5) R/w Rule 11 of the NCLT Rules, 2016

In the Matter of

M/s. NAKODA DIARY PVT LTD

#11/1, KR Road, Next to Basavanagudi Post Office,
Bangalore-560 004.

**... Applicant/
Operational Creditor**

AND

1. Mr.Chakravarthi Srinivasan,
1-4-211/42/1,
Pradhamapuri Colony, Sainikpuri,
Hyderabad- 500 062.
IRP for M/s.PANDA DIARY PRODUCTS PVT LTD.
2. M/s.PANDA DIARY PRODUCTS PVT LTD.
D.No.57, Chaitanyapuri Main Road,
Beside Santosh Mansion Apartment,
Guntur-522 007.
3. M/s.PANDA DIARY PRODUCTS PVT LTD.
D.No.57, Chaitanyapuri Main Road,
Beside Santosh Mansion Apartment,
Guntur-522 007.
Rep by its Directors.

**...Respondent/
Corporate Debtor**

Date of order: 22.09.2020

Coram: Hon'ble Shri K Anantha Padmanabha Swamy, Member
(Judicial)



Parties / counsels present:

For the Petitioner : Ms. Rubaina S Khatoon, Advocate.

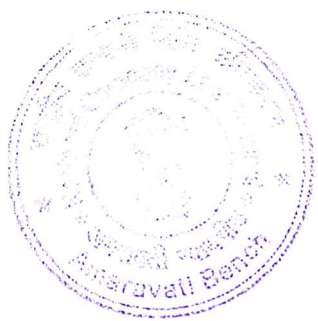
For the IRP: Mr.Chakravarthi Srinivasan.

**Per: Hon'ble Shri K Anantha Padmanabha Swamy, Member
(Judicial)**

Heard on: 22.09.2020.

ORDER

1. The Application is filed Applicant under Section 12A of I&B Code , 2016 Read with Section 9 & Section 60(5), Read with Rule 11 OF NCLT Rules,2016 seeking permission to withdraw the Company Petition i.e CP(IB)No.221/9/AMR/2019.
2. The brief averments made in the Application are as follows:
 - a) It is submitted that the Applicant herein filed an application Under Section 9 of I&B Code, 2016 against corporate debtor for a claim amount of Rs.11,82,493/-. When the matter came up for hearing before admission there was no representation for the Respondent/corporate debtor despite several notices and therefore, Hon'ble Tribunal was pleased to set the respondent as ex-parte on 20.02.2020 and heard the Applicant on 29.07.2020.
 - b) It is submitted that this Tribunal vide order dated 25.08.2020 admitted the petition and ordered initiation of Corporate Insolvency Resolution Process against corporate debtor and appointed Mr.Chakravarthi Srinivasan as IRP. Meanwhile,



Respondent/corporate debtor approached and were willing to settle the matter.

c) It is submitted that on 05.09.2020, corporate debtor made two tranches of payment of Rs.3,00,000/- and Rs.8,40,000/- through RTGS. It is submitted that as of now the COC has not been appointed so there will be no prejudice caused to the Respondent/Corporate debtor if the application is withdrawn.

d) It is averred that this Tribunal has vested with inherent powers to permit withdrawal of an application under Section 9 of IBC as per Rule 11 of NCLT Rules, 2016 read with the Judgement of the Hon'ble Apex Court in Swiss Ribbons Pvt Ltd vs Union of India (2019) 4 SCC 17.

e) It is averred that Hon'ble Supreme Court in Swiss Ribbons Private Limited vs Union of India & Others in Writ Petition (Civil) No.99 of 2018 dated 25.01.2019 observed at any stage where the COC is not constituted a party can approach the Adjudicating Authority directly and the Adjudicating Authority by exercise of its inherent powers under Rule 11 of the NCLT Rules, 2016 can allow or disallow the application after hearing all the concerned parties depending on the facts of the case.

3. Heard the Applicant and the IRP. It is averred that the Operational creditor has filed a memo in compliance to the directions of the Tribunal. The Applicant has filed Form FA along with the no-due certificate issued by the Interim Resolution professional.

4. It is the case of the Interim Resolution Professional that this Tribunal admitted the petition filed under Section 9 of IBC, 2016 on 25.08.2020 for initiation of CIRP, granting moratorium and appointment of IRP.



5. This Application is filed under Section 12A of I & B Code, 2016, Read with Section 9 and Section 60(5) R/w Rule 11 of NCLT Rules, 2016. Applicant reported to the Tribunal that Parties settled the matter and requested the tribunal to withdraw the Petition.
6. This application is filed stating that parties settled the claim for an amount of Rs.11,40,000/- through RTGS and the same is paid to the operational creditor in two tranches.
7. It is further stated that the Applicant have made the payment for the expenses incurred by the IRP. Applicant have filed FORM FA along with no due certificate form the IRP which is enclosed to the Memo dated 21.09.2020.
8. This Adjudicating Authority has power under Section 12A of I&B Code 2016 to permit for withdrawal of the application even after admission of the Petition. By exercising the power U/s 12A of I&B Code the application filed by Applicant is allowed and the CIRP started against corporate debtor and moratorium order issued there under stands withdrawn and the corporate debtor is allowed to function independently through its Board of Directors with immediate effect.
9. Accordingly, this Application is allowed. CP(IB)No.221/9/AMR/2019 is closed as withdrawn.



Sd/-

K ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)

PAVANI


Deputy Registrar / Assistant Registrar / Court Officer
National Company Law Tribunal, Amravati Bench

CERTIFIED TRUE COPY

CASE NUMBER

DATE OF JUDGMENT

IANO. 131/2020.

CP(IB)NO. 221/9/AMR/19.
22/9/2020.