

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH - I
CHENNAI

4

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON 12-12-2019

PRESENT: SHRI R.VARADHARAJAN, MEMBER-JUDICIAL
SHRI ANIL KUMAR B, MEMBER - TECHNICAL

APPLICATION NUMBER : MA/1368/2019
PETITION NUMBER : IBA/789/2019
NAME OF THE PETITIONER(S) : S J R FURNACE AND OVENS PVT LTD
NAME OF THE RESPONDENT(S) : MOTOVARIO GEAR SOLUTIONS PVT LTD
UNDER SECTION : 60(5) OF IBC

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
-------	-------------------	-------------	-----------

REPRESENTATION BY WHOM

1) G.SAIBABA.
D.KALAVANTI

Respondent

G. Sathish.

2.) M.KARTHIKEYAN

Applicant -

M. Kentharam

[4]
MA/1368/2019
In
IBA/789/2019

ORDER

This Application has been filed by the Operational Creditor (OC) seeking for the acceptance of Joint MoU dated 06.12.2019 as entered into between the Operational Creditor and Corporate Debtor in view of the settlement arrived at as between the parties subsequent to the initiation of CIR process by this Authority on 26.11.2019.

It is averred in the Application that pursuant to the Order passed by this Authority appointing Interim Resolution Professional namely Ms. M. Jayasree, with Registration No. IBBI/IPA-001/IP-P00733/2017-2018/11236, a sum of Rs.2 Lakhs was remitted by the Operational Creditor to the said IRP to meet the expenditure in respect of CIR Process as directed by this Authority. Subsequent to the remittance of the amount of Rs.2 Lakhs, paper publication seems to have been effected by the IRP calling for the claims from the Creditors, one in English namely "New Indian Express" and



another in vernacular namely “Dinamalar” on 29.11.2019 and as per the paper publication, the last date for filing the claim has been specified as 10.12.2019 and within the time as provided under the paper publication, no claim has been received, save the claim with the IRP.

The Learned Counsel appearing for the IRP represents that an Affidavit of the said IRP has also been filed on 11.12.2019 to the effect that no claim has been received by the IRP from any creditor including the Financial Creditor save the Operational Creditor who initiated the Proceedings. In addition, it is stated in the Application that the ICICI Bank, being the secured creditor of the Corporate Debtor, despite request to file its claim by the IRP, has not prefer to lodge its claim before the IRP. It is also brought to the notice of this Tribunal that the account as maintained by the Corporate Debtor with the ICICI Bank is a Standard Account for which purpose, the statement of account is stated to have been enclosed. The statement of account as enclosed in relation to the account maintained with the said ICICI Bank is enclosed at pages 8 to 26 of the typed set filed with the Application.

From the facts as averred in the Application as well as the fact brought out in the Affidavit as filed by IRP on 11.12.2019, it is evident that this is a fit case for this Authority to exercise its inherent power conferred under Rule 11 of the NCLT, Rules, 2016 as contemplated by Hon'ble Supreme Court in **Swiss Ribbons Pvt. Ltd. & Ors. vs Union Of India & Ors.**, (2019 SCC Online SC 73).

In the circumstance, this Application as filed is allowed. CIR Process as initiated against the Corporate Debtor stands withdrawn. The IRP is directed to hand over all documents and assets collated or collected in relation to the Corporate Debtor. The Board of Directors shall exercise its powers as it was exercising prior to the initiation of CIR Process as the Suspension of the Powers of the Board of Directors shall stand revoked.

-SD-

(ANIL KUMAR B)
MEMBER (TECHNICAL)

Mrs. P. ATHISTAMANI

-SD-

(R.VARADHARAJAN)
MEMBER (JUDICIAL)