

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
COURT NO. IV, NEW DELHI**

Item No. 3

CA.NO.228/2019 (IB)-1060/ND/2018

**Under Section: 9 of IBC.**

**In the matter of:**

Jaswant International Pvt Ltd

....**Applicant**

Vs.

M/s CallinaCare Overseas Pvt Ltd

....**Respondent**

**Order delivered on 25.07.2019**

**CORAM**

**R. VARADHARAJAN,  
HON'BLE MEMBER (J)**

For the Applicant :

For the Respondent :

**ORDER**

CA No. 228/2019 This is an application filed under Section 12(A) of the Insolvency & Bankruptcy Code, 2016 for withdrawal of the CIRP initiated by this Tribunal on 31.01.2019, at the time of admitting the petition as filed by the Operational Creditor against the Corporate Debtor namely Jaswant International Private Limited. Mr. Piyush Maan was appointed as Interim Resolution Professional subsequently it is seen from the records of this Tribunal that one Mr. Anshul Gupta was appointed on 02.03.2019 as the Resolution Professional to carry forward the CIRP of the Corporate Debtor in the

Ist COC Meeting held on the said date and subsequently this Tribunal has also confirmed the change from Interim Resolution Professional to Resolution Professional by its order dated 11.04.2019. By virtue of this application, it is brought to the notice of this Tribunal that a settlement has been arrived at based on settlement agreement dated 12.07.2019 between the Operational Creditor and the Corporate Debtor. It is also brought to the notice of this Tribunal that in the 7<sup>th</sup> COC Meeting held on 12.07.2019, the COC has unanimously approved the settlement in view of the settlement agreement arrived at between the Operational Creditor and the Corporate Debtor and also on the basis of submission Form 'FA' by the Operational Creditor and to file necessary application seeking for withdrawal of the initiation of the CIRP, before this Tribunal. Learned counsel for the Resolution Professional brings to the notice of this Tribunal that Page No. 21 of the said application contains the e-voting results as annexed which evidences that 100% voting has been cast in favour of withdrawal in view of the resolution passed for approving the settlement. Perusal of Form 'FA' as filed by Operational Creditor at Annexure A-7 at Page No. 10 shows that at Paragraph No. 5, the cost of CIRP under Section 31(c) and 31(d) has

already been paid by the Corporate Debtor and the Resolution Professional present in person also confirms that no amount is payable to him. On inquiry, it is brought to the notice of this Tribunal as to whether under Section 12(A) application can be moved under the provisions of the Insolvency & Bankruptcy Code, 2016 in view of the expression of interest having already been published and more than 90 days from the initiation of CIRP expired it is submitted by learned counsel for the Resolution Professional that in view of the judgement passed by the Hon'ble Supreme Court in Special Leave to Appeal (C) No.(s). 31557/2018 "Brilliant Alloys Private Limited Versus Mr. S. Rajagopal and Others" the application of the applicant can be entertained. Since the judgement referred above is concise, the same is produced as follows

*"1. The only reason why the withdrawal was not allowed, though agreed to by the Corporate Debtor as well as the Financial Creditor-State Bank of India and the Operational Creditor-Respondent No. 3, is because Regulation 30A states that withdrawal cannot be permitted after issue of invitation for expression of interest.*

*2. According to us, this Regulation has to be read along with the main provision Section 12A which contains no such stipulation.*

3. Accordingly this stipulation can only be construed as directory depending on the facts of each case.

4. Accordingly, we allow the settlement that has been entered into and annul the proceedings.

5. The Special Leave Petition is disposed of accordingly.”

4. Taking into consideration the above judgement passed by the Hon'ble Supreme Court as well as the averments contained in the application as filed along with the documents annexed therewith, the application under Section 12(A) seeking for withdrawal of the CIRP is allowed and the CIRP as had been initiated by this Tribunal vide order dated 31.01.2019 stands withdrawn on and from this day in relation to Corporate Debtor, M/s. Callina Care Overseas Private Limited. The Resolution Professional stands discharged as Resolution Professional of the Corporate Debtor.

Mukesh

  
**(R. VARADHARAJAN)**  
**MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
COURT NO. IV, NEW DELHI**

Item No. 2

CA.NO.227/2019 (IB)-1060/ND/2018

**Under Section: 9 of IBC.**

**In the matter of:**

Jaswant International Pvt Ltd

....Applicant

Vs.

M/s Callina Care Overseas Pvt Ltd

....Respondent

**Order delivered on 25.07.2019**

**CORAM**

**R. VARADHARAJAN,  
HON'BLE MEMBER (J)**


For the Applicant :

For the Respondent :

**ORDER**

CA No. 227/2019: in view of the order passed in CA No. 228/2019, this application has become redundant. CA No. 227/2019 is infructuous.

Mukesh

  
**(R. VARADHARAJAN)  
MEMBER (JUDICIAL)**