

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

C.P.(IB) 495/(MB)/2018

MA 2704/2019

CORAM:

SHRI V. P. SINGH

MEMBER (J)

SHRI RAJESH SHARMA

MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 19.8.2019

NAME OF THE PARTIES: Shine & Shine Enterprises

V/s

Canaan Engineering Pvt Ltd

Section 8 of the Bankruptcy and Insolvency Act, 2016

ORDER

37. MA 2704/2019 in C.P. (IB)-495/MB/2018

MA 2704/2019 has been filed for withdrawing the Company Petition under section 12A of the IB Code, 2016, seeking permission to withdraw the Company Petition 495/2018 which was admitted by order of this Bench dated 16.7.2019.

Applicant contends that the order dated 16.7.2019 was communicated to the Interim Resolution Professional on 17.7.2019 after that the applicant issued public announcement on 19.7.2019 in local newspaper in English and Marathi where the registered office of the Corporate Debtor is situated in compliance with Rule 6 of IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016.

It is further stated that both the parties by an E-Mail informed the IRP for withdrawing the CIRP.

The IRP contends that she has not received any claim from any person. Therefore no Committee of Creditor has been constituted.

The Operational Creditor has submitted a request along with Form FA under Section 12A of IBC for withdrawal of CIRP which is annexed with the application as Exhibit G. The applicant has received CIRP Cost along with out of pocket expenses by RTGS amounting of Rs. 2,78,064/- and no payment is outstanding.

In the case of Swiss Ribbon, Hon'ble Supreme Court has held that if the CoC is not constituted, then application filed under Section 12A can be accepted under Rule 11 of NCLT Rules, 2016. In this case, CoC has not been constituted, and CIRP costs have been paid.

RP has stated that no payment is outstanding regarding CIRP costs. Therefore, application filed under Section 12A of IBC deserves to be allowed.

MA 2704/2019 filed under Section 12A of IBC, 2016 is allowed subject to payment of Rs.1,00,000 as costs which shall be paid by the Corporate Debtor in the account of Prime Minister's National Relief Fund. This payment is to be made within ten days from today, failing which this order shall not be effective.

List on 30.8.2019 for further orders.

Sd/-
RAJESH SHARMA
Member (Technical)

Sd/-
V. P. SINGH
Member (Judicial)