

THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI DIVISION – II,
MUMBAI

C.P. (IB)-4225/MB/2018

CORAM : SHRI BHASKARA PANTULA MOHAN, MEMBER (J)
SHRI V. NALLASENAPATHY, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **03.04.2019**

NAME OF THE PARTIES: Reliance Commercial Finance Ltd.

v/s.

Maruti Pet & Preform Pvt. Ltd.

SECTION 7 OF INSOLVENCY & BANKRUPTCY CODE, 2016

ORDER

5. M.A. 1072/2019
M.A. 1047/2019
IN
C.P. (IB)-4225/MB/2018
M.A. 1072/2019

This is a mentioning application and the same is allowed.

M.A. 1047/2019

Counsel for the Applicant/ Petitioner and the counsel for the Corporate Debtor present. The Resolution Professional is also present. Previously CP was admitted on 25.01.2019 and Mr. Pankaj Sham Joshi, was appointed as Interim Resolution Professional (IRP). Consequently the IRP has issued advertisement inviting the claims from the creditors and the last date of receipt of the claim was 14.02.2019. The Resolution Professional submits that a sole claim was received from the Petitioner, but COC is not yet constituted by him.

The Counsel for the Applicant submits that the matter has been amicably settled and prayed for withdrawal of this Petition. The Hon'ble

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Supreme Court in the matter of "Swiss Ribbons Pvt. Ltd. & Another Vs Union of India & Others" at Para 52 of the order held as below:-

" It is clear that once the Code gets triggered by admission of a creditor's petition under Sections 7 to 9, the proceeding that is before the Adjudicating Authority, being a collective proceeding, is a proceeding in rem. Being a proceeding in rem, it is necessary that the body which is to oversee the resolution process must be consulted before any individual corporate debtor is allowed to settle its claim. A question arises as to what is to happen before a committee of creditors is constituted (as per the timelines that are specified, a committee of creditors can be appointed at any time within 30 days from the date of appointment of the interim resolution professional). We make it clear that at any stage where the committee of creditors is not yet constituted, a party can approach the NCLT directly, which Tribunal may, in exercise of its inherent powers under Rule 11 of the NCLT Rules, 2016, allow or disallow an application for withdrawal or settlement. This will be decided after hearing all the concerned parties and considering all relevant factors on the facts of each case."

In view of the order of the Hon'ble Supreme Court this case is a fit case for the Adjudicating Authority to invoke Rule 11 of NCLT Rules and accordingly the Order of CIRP passed in this Petition is recalled and the IRP is discharged from his duties.

Accordingly, the Application is allowed.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/

BHASKARA PANTULA MOHAN
Member (Judicial)