

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

37.MA 1104/2019

MA 1043/2019

MA 1044/2019

In

C.P. (IB)3619(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 **01.04.2019**

NAME OF THE PARTIES: TJSB Sahakari Bank Ltd.

v/s.

Oasis Alcohol Ltd.

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

MA 1104/2019

This is an application for early hearing of the case and the same is allowed.

MA 1043/2019

This is an application filed by the CFM Assets Reconstruction Limited who is the assignee of the debt of TJSB Sahakari Bank Limited. It is submitted that Petition was admitted by this Adjudicating Authority against the Corporate Debtor on 06.03.2019. Subsequent to the admission of this Petitioner, the Financial Creditor TJSB Sahakari Bank Limited assigned the debts to CFM Assets Reconstruction Company limited in terms of Assignment Deed dated 11.03.2019 executed between TJSB Sahakari Bank Limited and CFM Assets Reconstruction Company limited.

Heard the Counsel for the Applicant. This application is allowed by substituting the name of CFM Reconstruction Company limited as financial



creditor in place of TJSB Sahakari Bank Limited in CP No. 3619/2018.

Applicant is disposed of in above terms.

MA 1044/2019

This is an application filed by Financial Creditor CFM Assets Reconstruction Company limited for withdrawal of CP 3619/2018.

It is submitted that the debt has been assigned to CFM Assets Reconstruction Company Limited and as a financial creditor this Applicant prayed for withdrawal of this Petition in view of the fact that the COC is not constituted and the Applicant and the Corporate Debtor have agreed to negotiate and restructure the loan. The IRP has filed memo that he has no objection for withdrawal of this Petition. The Hon'ble 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 101 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 this application is allowed and the Order of CIRP passed in this Petition is recalled and the IRP is discharged from his duties.

Accordingly, the Application is allowed and the CP No. 3619/2018 is dismissed as withdrawn.

Sd/-

V. NALLASENAPATHY
Member (Technical)
/NP/

Sd/-

BHASKARA PANTULA MOHAN
Member (Judicial)



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On 16-04-2019


Assistant Registrar
National Company Law Tribunal Mumbai Bench