

NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, MUMBAI

3. M.A. 3176/2019

IN

C.P.(IB)-4228(MB)/2018

CORAM :SHRI BHASKARA PANTULA MOHAN, MEMBER (J)

SHRI SHYAM BABU GAUTAM, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **25.09.2019**

NAME OF THE PARTIES: Quality Engineering (Baroda) Pvt Ltd  
**v/s.**

Orbit Electromech India Pvt Ltd.

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

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**ORDER**

MA 3164/2019

This is an application filed by the Resolution Professional under Section 12 (A) of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as Code) for withdrawal of CP No. 4288 of 2018 which was admitted by this Bench vide order dated 23.07.2019.

The RP is present and submits that the matter is amicably settled between the parties and they have received the entire amount and prays for withdrawal of this petition. The RP also submits that no claims were received and consequently COC was also not constituted. 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 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 to invoke Rule 11 of NCLT Rules and accordingly, this Application is allowed permitting the applicant to withdraw the Petition. Consequently, the order of CIRP passed in this Petition is recalled and the IRP is discharged from his duties.

Accordingly, the CP is closed.

Sd/-

SHYAM BABU GAUTAM  
Member (Technical)  
/NP/

Sd/-

BHASKARA PANTULA MOHAN  
Member (Judicial)