

4. In the meanwhile, on 07.07.2023, the Corporate Debtor settled the claim with the Financial Creditor and paid an amount of Rs.3.50 Crores through RTGS. Ld. Counsel for the IRP submits that the CoC has not been constituted. Therefore, the Applicant approached before this Bench by this Application to allow the withdrawal of Company Petition.
5. The Resolution Professional has also filed form FA for withdrawal of Company Petition.
6. The Hon'ble Supreme Court in *Swiss Ribbons Private Limited & Anr. Versus Union of India & Ors.*, held that:

“52 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.”

7. In view of the aforesaid, this Bench finds, since the conditions for withdrawal for CIRP u/s 12(A) r/w regulation 30(A) of Insolvency and Bankruptcy Code Board of India (Insolvency Process for Corporate Persons) Regulations 2016 has been complete, this Bench has no objection for withdrawal of CIRP.

9. Accordingly, the Corporate Debtor is brought out from the rigors of CIRP and the IRP is directed to handover the charge of the Assets and Affairs of the Corporate Debtor back to the Suspended Members of the Board of Directors. RP is discharged from his duties. The Applicant shall pay the CIRP expenses, including his fees, to the IRP, if not paid so far.
10. File be consigned to the records.
11. IA-3408/2023 is allowed and disposed of. In view of the above, C.P.(IB)/464(MB)2021 is closed.

Sd/-
PRABHAT KUMAR
Member (Technical)
/NP/

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)