

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

I.A. No.54/2021  
U/s.12A of IBC, 2016  
R/w Regulation 30 A of the IBBI  
(Insolvency Resolution Process for  
Corporate Persons) Regulations, 2016&  
Rule 11 of the NCLT Rules, 2016  
**And**  
C.P.(IB)No.22/BB/2020  
U/s.9 of IBC, 2016  
R/w Rule 6 of I&B (AAA) Rules, 2016

**In the matter of:**

**Arihant Aluminium Corporation**

*(Partnership Firm)*

R/off: 76, Arihant Aluminium Corporation,  
Narsimha Raja Road, Bangalore,  
Bengaluru Urban,  
Karnataka – 560 002.

- Applicant/Operational Creditor

**Date of Order: 2<sup>nd</sup> March, 2021**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittalana, Member (Judicial)  
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present:**

For the Applicant : Mr. Vijay Narayan, Adv.

**ORDER**

***Per: Ashutosh Chandra, Member (Technical)***

1. I.A.No.54/2021 in C.P.(IB)No.22/BB/2020 is filed by Arihant Aluminium Corporation (Partnership Firm) ('the Applicant'), U/s.12A of IBC, 2016 R/w Regulation 30 A of the IBBI (Insolvency Resolution Process for Corporate



Persons) Regulations, 2016 and Rule 11 of the NCLT Rules, 2016, by *inter alia* seeking to permit withdrawal of CP(IB)No.22/BB/2020 in view of the Settlement Agreement dated 06.02.2021 executed by and between the parties hereto and recall the order passed on 03.02.2021 of admission of the aforesaid petition, in the interest of justice, etc.

2. Initially, C.P.(IB)No.22/BB/2020 was filed by M/s. Arihant Aluminium Corporation (Partnership Firm) ('the Petitioner/Operational Creditor'), U/s.9 of the Code, and the same was admitted by the Adjudicating Authority, vide its Order dated 03.02.2021, by initiating CIRP in respect of the Corporate Debtor, appointing Applicant as IRP, imposing moratorium, etc.
3. The Corporate Debtor thereafter approached the Operational Creditor and upon deliberations, the parties hereto have arrived at amicable settlement to resolve the differences and the Corporate Debtor offered to make payment of the outstanding dues as per the Settlement Agreement dated 06.02.2021 executed by and between the parties hereto.
4. It is submitted that since the parties have settled the matter, it would be in the interest of justice if this Tribunal may permit the Operational Creditor to withdraw the present Petition bearing CP(IB)No.22/BB/2020 and recall the CIRP ordered against the Corporate Debtor. It is stated also that this Tribunal has the powers u/s 12A of the Code to permit withdrawal of the present petition as well as under Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. It also has powers under Rule 11 of the NCLT Rules, 2016. Therefore, the present Application is being filed for seeking permission of this Tribunal to withdraw the Petition filed against the Respondent, as per the provisions of section 12 A of the Code, in the interest of justice. Further the IRP, Mr. Kedararam Ramratan Laddha has given his consent letter dated 06.02.2021 for the said withdrawal which reads as under:



*"In reference to the above stated subject matter, I hereby render my wish to withdraw my consent given so in the designated Form-2 under the provisions of Insolvency and Bankruptcy Code, 2016 to act as the Interim Resolution Professional as my Authorization for Assignment has expired."*

5. Heard Mr. Vijay Narayan, learned Counsel for the Applicant. We have carefully perused the pleadings of the party, and extant provisions of the Code, and Rules made thereunder.

6. **12 A.** Withdrawal of Application admitted under Section 7, 9 or 10, which reads as under:

*"The Adjudicating Authority may allow the withdrawal of application admitted under section 7 or section 9 or section 10, on an application made by the applicant with the approval of ninety per cent voting share of the committee of creditors, in such manner as may be specified."*

Therefore, the Applicant/Petitioner is entitled to withdraw the instant Company Petition, and the Adjudicating Authority is empowered to permit any Applicant to file an Application Under Section 12-A R/w Regulation 30A of the Code, as detailed supra.

7. We have considered the facts of the case as mentioned by the learned Counsel and perused the contents of the Application and the consent given by the IRP, and the prayer contained therein. As per the Application, the parties have arrived at an amicable settlement to resolve the differences and the Corporate Debtor offered to make payment of the outstanding dues as per the Settlement Agreement dated 06.02.2021 executed by and between the parties. Further, Mr. Kedarram Ramratan Laddha, the IRP in his consent letter dated 06.02.2021 states that he has no objection in appointment of any



other Insolvency Professional as Interim Resolution Professional or withdrawal of the said matter.

8. On perusal of the Application and the provisions of the Code, and the Rules of IBBI as mentioned above, it is seen that the instant Application is filed in accordance with law. Therefore, in the facts and circumstances of the cases narrated in the withdrawal petition, we are of the considered view that when the sole creditor has given its consent for withdrawal, it is a fit case to allow the Application as prayed for. We are inclined to permit the Applicant to withdraw the same.
9. By exercising powers conferred on this Adjudicating Authority U/s 12A of the IBC, 2016 R/w Regulation 30 A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, we hereby allow I.A.No.54/2021 by permitting the Applicant to withdraw the main Company Petition. Accordingly, C.P. (IB) No.22/BB/2020 is disposed of as withdrawn. No order as to costs.



**ASHUTOSH CHANDRA**  
**MEMBER, TECHNICAL**

Amar



**RAJESWARA RAO VITTANALA**  
**MEMBER, JUDICIAL**