

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

CORAM : SMT. SUCHITRA KANUPARTHI, MEMBER (J)  
SHRI V. NALLASENAPATHY, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL  
COMPANY LAW TRIBUNAL ON **25.11.2019**

NAME OF THE PARTIES: Ancon Steel Industries

V/s

Sanika Chemicals Pvt Ltd.

SECTION 9 OF INSOLVENCY & BANKRUPTCY CODE, 2016

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**ORDER**

11. C.P. (IB)-791(MB)/2019

The counsel for the Applicant is present and the counsel for the IRP is also present. Having heard both the sides and satisfied with the averments made in the Application and on seeing Form FA, this application is allowed in terms of the order passed by the Hon'ble Supreme Court in the matter of "Swiss Ribbons Pvt. Ltd. & Another Vs Union of India & Others" wherein at Para 52 it was observed as below:-

*" It is clear that once the Code gets triggered by admission of a creditor's petition under 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*



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*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. The Resolution Professional is personally present and submits that the Corporate Debtor has agreed to pay his fees.

The Corporate Debtor is restored to his old position, released from the rigour of the Code and is allowed to function independently through its Board of Directors with immediate effect.

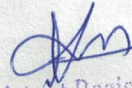
Accordingly, the application is allowed.

Sd/-  
V. NALLASENAPATHY  
Member (Technical)

Sd/-  
SUCHITRA KANUPARTHI  
Member (Judicial)



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On 11/12/2019

  
Assistant Registrar  
National Company Law Tribunal Mumbai Bench