



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

COURT – IV

30.

IA 2879/2023 IN
C.P. (IB)/788(MB)2021

CORAM:

SHRI PRABHAT KUMAR
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **11.07.2023**

NAME OF THE PARTIES:

K Rama Mohan Rao

Vs

Srichaitanya Students Facility Management
Private Limited

SECTION: 9, 12A OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

1. Ms. Sandhya Rani, Ld. Counsel for the Petitioner present.
2. **IA-2879/2023:** has been filed by the Interim Resolution Professional (IRP) under Section 12A of the Code seeking withdrawal of CIRP as well as Company Petition C.P.(IB)/788(MB)2021.
3. The Applicant submits that the Company Petition was admitted by this Bench and CIRP was initiated vide order dated 18.05.2023. Pursuant to the admission order was passed, Interim Resolution Professional published Form-A on 22.05.2023 for inviting claims and the last date of submission of claims is 05.06.2023.
4. After commencement of CIRP, the Operational Creditor has been paid entire amount in full and final settlement with the Corporate Debtor. On account of stay on constitution of CoC by Hon'ble NCLAT, the CoC has



not been constituted. Therefore, we 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) and regulation 30(A) of Insolvency and Bankruptcy Code Board of India (Insolvency Process for Corporate



Persons) Regulations 2016 are met, this Bench is inclined to allow withdrawal of CIRP.

8. Accordingly, the Corporate Debtor is brought out from the rigors of CIRP and the RP 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. IRP is discharged from his duties. The parties shall pay the dues of the IRP, if not paid so far.
9. File be consigned to the records.
10. IA-2879/2023 is **allowed and disposed** of.
11. In view of the above, C.P.(IB)/788MB)2021 is **dismissed**.

Sd/-
PRABHAT KUMAR
Member (Technical)

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)