

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**IA 800 of 2019 in C.P.(I.B) No.8/NCLT/AHM/2018**

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL  
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH  
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 18.12.2019**

Name of the Company: Serena Chemicals  
V/s  
Shipra Agrichem Pvt Ltd & Anr

Section of the Companies Act : Section 60(5) of the Insolvency and Bankruptcy  
Code

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	MANISH BUCHASIA	PCS 4156	CD/AR	Manish Buchasia
2.	SAAURABH JHAVERI	IRP	Respondant	S Jhaveri
3.	CHAITANYA JOSHI	Advocate	Applicant	g

**ORDER**

The parties are represented through learned counsels.

The instant application is filed by the Operational Creditor under section 60(5) of the IB Code r.w. Rule 11 of the NCLT Rules, arraying IRP as a party in the Application. The IRP is present in person. The Applicant made a prayer for withdrawal of the petition filed under section 9 of the IB Code, which said application being numbered as C.P.(I.B) 8/2018 was admitted on 05.12.2019.

It is submitted by the Applicant that he has received the amount by way of Demand Draft and does not wish to continue. The IRP submitted that he has effected paper

Chockalingam

Manorama

publication, however, till date COC is not constituted. Otherwise also the Hon'ble Supreme Court in the matter of *Swiss Ribbons vs. Union of India (Writ Petition (Civil) No.99 of 2018 decided on 25.01.2019)* has already been observed as under:

***"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 the Tribunal may, in exercise of its inherent powers under Rule 11 of the NCLT Rule, 2016, allow or disallow an application for withdrawal of settlement."***

Under such circumstances, the instant application is allowed. The moratorium so granted vide order dated 05.12.2019 is ceased to have any effect. The IRP is hereby discharged.

Since, the IRP has already taken charge and made a paper publication, the Operational Creditor has already cleared his dues and expenses as conceded by the IRP namely Mr. Manish Buchasia.

In view of the above, the instant application stands disposed of.



**CHOCKALINGAM THIRUNAVUKKARASU  
MEMBER TECHNICAL**

Dated this the 18th day of December, 2019



**MANORAMA KUMARI  
MEMBER JUDICIAL**