

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

IA 30 of 2020 in C.P.(I.B) No.26/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 09.01.2020**

Name of the Company: Sunil Kumar Agrawal RP of ECS Biztech
Ltd

Section of the Companies Act : Section 12A of the Insolvency and Bankruptcy
Code r.w 30A(1)(a) of CIRP reg. 2016 with rule 11 of
NCLT rules, 2016


<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	PRATIK THAKKAR	Adv.	Applicant	P Thakkar
2.	Manish R. Bhatt with Munjaal Bhatt	Sr. Adv. Adv.	} Original Petitioner/ Ingram Micro	MM Bhatt

Order


The Applicant is represented through learned counsel. The Org. Petitioner is represented through learned counsels.

Heard the arguments.

The detailed order is passed vide separate sheet.


**CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL**

Dated this the 09th day of January, 2020


**MANORAMA KUMARI
MEMBER JUDICIAL**

ORDER

[Per: Ms. Manorama Kumari, Member (Judicial)]

The parties are represented through learned counsels.

1. The instant application is filed under Section 12A of the IB Code r.w. Regulation 30A(1)(a) of CIRP Regulations, 2016 r.w. Rule 11 of NCLT Rules, 2016 through IRP for withdrawal of CP(IB)26/2018.
2. Learned Lawyer on behalf of the Operational Creditor is present. The Operational Creditor conceded that he has received the amount from the Respondent. In view of that he filed this application through IRP for withdrawal of the case and duly executed Form-FA.
3. Gone through the records. It is found that the CP(IB) 26/2018 was admitted on 16.12.2019, appointing IRP Mr. Sunil Kumar Agrawal, who has also performed his duties by making public announcement, as reflected from page no. 23 in Form-A. Thereafter, on 27.12.2019, the parties have entered into mutual settlement. It is further submitted by Learned Lawyer for the IRP that COC is not yet constituted.
4. In view of the settlement between the parties and on filing application under Section 12A, the prayer of withdrawal of application is allowed. Accordingly, moratorium so granted under Section 14 of the IB Code ceased to have effect and IRP is discharge from the duties. The Operational Creditor is directed to clear the dues of IRP as on today. It is submitted by the Learned Lawyer for the Operational Creditor that they have already cleared the dues of the IRP.
5. Further, the Hon'ble Supreme Court in the matter of ***Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors., clarified as under;***

"We make it clear that at any stage where the COC is not yet constituted, a party can approach the NCLT directly, which Tribunal may, in exercise of its inherent power 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.”

6. In view of the above observation of the Hon'ble Supreme Court that the Adjudicating Authority do not find any impediment in allowing the petition so filed by the Operational Creditor under Section 12A of the IB Code through IRP, duly executed by way of an affidavit.
7. Accordingly, the instant IA 30/2020 is allowed and stands disposed-off as withdrawn. No Cost.



CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL

Dated this the 09th day of January, 2020



MANORAMA KUMARI
MEMBER JUDICIAL