

THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI
DIVISION BENCH- V

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 **13.12.2019**

NAME OF THE PARTIES: Harbour Water Suppliers Company Pvt. Ltd.

V/s

Bhambhani Shipping Ltd.

SECTION 9 OF INSOLVENCY & BANKRUPTCY CODE, 2016

ORDER

16. I.A 3973/2019
In
C.P.(IB)-1407(MB)/2018

I.A 3973/2019

The counsel for the petitioner in the main C.P. is present. The counsel for the Interim Resolution Professional (IRP) as well as the IRP is present.

Heard the counsel for the IRP as well as the counsel for the petitioner in the main C.P. and on going through the Form FA filed by the IRP, the request of the petitioner for withdrawal of the petition through the IRP is allowed by exercising the inherent powers of the Tribunal as provided under rule 11 of NCLT Rules, as ordered by the Hon'ble Supreme Court in the matter of "Swiss Ribbons Pvt. Ltd. & Another Vs Union of India & Others" at Para 52 of the order which is extracted below;

" 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



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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."

In view of the order allowing withdrawal of the petition as above, the IRP who is present, is relieved and is directed to hand over the charge of the Corporate Debtor to its Directors. The Corporate Debtor will now function independently. The Corporate Debtor has relieved from the rigor of the Code. The application is disposed of in the above terms.

Sd/-
V. NALLASENAPATHY
Member (Technical)

Sd/-
SUCHITRA KANUPARTHI
Member (Judicial)



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On 16/12/2019


Assistant Registrar

National Company Law Tribunal Mumbai Bench