

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD
Court 2**

IA 08 of 2021 in CP(IB) 726/NCLT/AHM/2019

**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 15.01.2021**

Name of the Company: * Atul Gupta Proprietor of Shree Rani Sati
Travel House
V/s
Kailash Shah RP For Altius Travels
Pvt Ltd & Anr

Section 12A of IBC, 2016

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.				
2.				

ORDER

PCS, Mr. Vinod Kumar Shah appeared on behalf of the Applicant. IRP, Mr. Kailash Shah is present in person. Advocate, Mr. Monaal Davawala appeared on behalf of Corporate Debtor.

The instant application is filed under Section 12A of the IB Code.

The Committee of Creditors passed a resolution on 19.12.2020 in its 2nd meeting, wherein, the sole member of the COC has decided to withdraw the instant application.

On perusal of the records, it is found that while passing the resolution meeting has been chaired by Mr. Kailash Shah, IRP. Form FA has been signed by the proprietor of M/s Shri Rani Sati Travel House/Operational Creditor. It has also seen that Mr. Kailash Shah, IRP has received the copy of the instant application and has put his signature at Annexure-H Page 42 showing his due receipt.

Chockalingam

Manorama

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.

Further, the Hon'ble Supreme Court in the matter of **Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors.**, clarified as under;

"We made 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."

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.

Accordingly, the instant IA stands disposed off.


CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL

Dated this the 15th day of January, 2021


MANORAMA KUMARI
MEMBER JUDICIAL