



IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

COURT – IV

26

IA-348/2023  
IN  
C.P. (IB)/304(MB)2022

CORAM:

SHRI PRABHAT KUMAR  
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI  
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON 30.01.2023

NAME OF THE PARTIES: Radiant X-Ways Logistic Private Limited  
Vs  
Macleods Pharmaceuticals Ltd

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

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**ORDER**

The Court is convened through Video Conference.

1. Mr. Ashish O. Lalpuria, Ld. Counsel for the IRP present. Mr. Abhishek Khare, i/by Khare Legal Chambers, for the Respondent present.
2. **IA-348/2023**: This is an Application filed by the Resolution Professional u/s 12A r/w Rule 30A (Insolvency Resolution Process for Corporate Persons) 2016 and Rule 11 of NCLT Rules 2016 for withdrawal of Company Petition.
3. Ld. Authorized Representative for the Resolution Professional submits the matter against the Corporate Debtor was admitted and CIRP has been initiated by this Bench vide order dated 20.01.2023. After admission of the Petition, the Operational Creditor has paid entire amount in full. Ld. Authorized Representative further submits that as per regulations, they have made a paper publication in two daily leading newspapers on



22.01.2023 for inviting claims. However, they have not received any claims, therefore, the CoC has not been constituted. Therefore, we approached before this Bench by this Application to allow the withdrawal of Company Petition.

4. The Resolution Professional has also filed form FA for withdrawal of Company Petition No. 304/2022.
5. 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.”



6. 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 have been complete, this Bench has no objection for withdrawal of CIRP.
7. Accordingly, the Corporate Debtor is brought out from the rigours 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. RP is discharged from his duties.
8. File be consigned to the records.
9. IA-348/2023 is allowed and disposed of.
10. C.P. (IB)/304(MB)2022 is **dismissed**.

Sd/-  
**PRABHAT KUMAR**  
Member (Technical)

Sd/-  
**KISHORE VEMULAPALLI**  
Member (Judicial)