



IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

COURT – IV

23.

IA 783/2023 IN  
C.P. (IB)/336(MB)2020

CORAM:

SHRI PRABHAT KUMAR  
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI  
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **02.03.2023**

NAME OF THE PARTIES: Whiteland Engineering Technologies Pvt Ltd  
VS  
A A Auctioneers and Contractors Pvt Ltd

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

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**ORDER**

The Court is convened through Video Conference.

1. None present.
2. **IA-783/2023** has been filed by the Interim Resolution Professional (IRP) under Section 12A of the Code seeking withdrawan of CIRP as well as Company Petition C.P. (IB)/336(MB)2020. Today when the Application is taken up for hearing, neither Counsel nor the Applicant/IRP present. However, the Bench perused the Application and noted that –
3. The Applicant submits that the Company Petition was admitted by this Bench and CIRP was initiated vide order dated 27.01.2023. Pursuant to the admission order was passed, Interim Resolution Professional publish Form-A on 06.02.2023 for inviting claims and the last date of submission of claims is 17.02.2023.



4. After admission of the Petition, the Operational Creditor has paid entire amount in full. 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.
5. The Resolution Professional has also filed form FA for withdrawal of Company Petition.
6. 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.”



7. 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.
8. 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.
9. File be consigned to the records.
10. IA-783/2023 is **allowed and disposed** of.
11. In view of the above, C.P. (IB)/336(MB)2020 is **dismissed**.

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

Sd/-3  
**KISHORE VEMULAPALLI**  
**Member (Judicial)**