

**NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH - I
CHENNAI**

**ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH
NATIONAL COMPANY LAW TRIBUNAL, HELD AT ON 31.03.2022 at 10:30 AM
THROUGH VIDEO CONFERENCING**

**PRESENT: SMT. R. SUCHARITHA, MEMBER (JUDICIAL)
SHRI. SAMEER KAKAR, MEMBER (TECHNICAL)**

APPLICATION NUMBER	: IA/335(CHE)/2022
	IN
PETITION NUMBER	: CP(IB)/131(CHE)/2021
NAME OF THE PETITIONER(S)	: IRP of M/s Ozone Projects Pvt Ltd
NAME OF THE RESPONDENTS	:
UNDER SECTION	: Sec 12A of IBC, 2016

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IA/335(CHE)/2022

ORDER

IA/335(CHE)/2022 : This Application is filed by the IRP Mr. N. Veerapandian of the Corporate Debtor, under Section 12A of the IBC, 2016 seeking an order for withdrawal of CP(IB)/131(CHE)/2021.

The Petitioner is led by Senior Counsel Mr. P.S. Raman. At page No.34 of the Application Form FA dated 16.03.2022 has been filed wherein the Petitioner of CP(IB)/131(CHE)/2021 is seeking permission to withdraw this Petition.

Learned Counsel for the Petitioner submits that CIRP was commenced vide order dated 08.03.2022. Subsequently, publication was effected in the newspapers on 12.03.2022.

Meanwhile the Petitioner / IRP in CP(IB)/131(CHE)/2021 has received an e-mail communication dated 16.03.2022 from the Applicant's Counsel viz., one M/s. Annapoorni Ganapathy Associates informing that the Operational Creditors intent of filing withdrawal application before this Tribunal.

Learned Counsel for the Petitioner / IRP states that the Petitioner and the Corporate Debtor have entered into final settlement. Hence seeks an order of withdrawal of the CP. He further states that the IRP expenses have also been paid by the Operational Creditor and Committee of Creditors is yet to be formed.

Hence, Learned Counsel for the Petitioner submits that based on the Swiss Ribbons Private Limited and Anr. –vs- Union of India and others – (2019) 4 Sec 17 has held that at any stage, before a committee of Creditors is constituted, a party can approach National Company Law Tribunal (NCLT) directly and that the Tribunal may, in exercise of its inherent powers under Rule 11 of NCLT Rules, allow or disallow the Application for withdrawal.

However, Learned Counsel Mr. Avinash Krishnan Ravi led by Senior Counsel Mr. P.H. Arvinth Pandian for the Objectior nor strongly opposes the order of withdrawal under Section 12A of IBC, 2016.

Learned Counsel Mr. Avinash Krishnan Ravi states that he being one of the Operational Creditors whose IBA is pending before NCLT Bench II. Learned Counsel for Respondent also submits that more than one Application in respect of the same Corporate Debtor is pending for admission.

Considering that as more Applications are pending against the Corporate Debtor and once the order against the Corporate Debtor passed, CP(IB)/131(CHE)/2021 is withdrawn then



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all other creditors both Financial Creditor and Operational Creditor shall be put to irreparable loss. Furthermore, Learned Counsel for the Respondent states that RP should constitute the CoC and place the proposal of withdrawal before the CoC. Thereafter, only Application for withdrawal shall be filed by the IRP or the RP as the case may be.

Learned Counsel for the Petitioner has filed the judgment passed in Civil Appeal No.4993 of 2021 by the Hon'ble Supreme Court of India. The extract of the same is furnished below:-

"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 NCLT directly, which Tribunal may, in exercise of its inherent powers under Rule 11 of NCLT Rules, 2016 allow or disallow an application for withdrawal of settlement."

In view of the above, the Corporate Debtor is relieved from all rigours of the IBC, 2016. The IRP is discharged from all his responsibilities. The Corporate Debtor shall operate on their own Board.

Accordingly, CP(IB)/181(CHE)2021 stands Closed.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

GHK

-Sd-

R. SUCHARITHA
MEMBER (JUDICIAL)