

DIVISION BENCH
COURT - I

S-2

NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

C.P. (IB)/145(KB)2021
IA(I.B.C)/507(KB)2022

CORAM: 1. HON'BLE MEMBER(J), SHRI RAJASEKHAR V.K.
2. HON'BLE MEMBER(T), SHRI BALRAJ JOSHI

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 08TH JUNE, 2022, 10:30 A.M

IN THE MATTER OF	RITU KEJRIWAL VS AANCHAL CEMENT LTD
UNDER SECTION	IBC UNDER SEC 9

Appearances (via video conference)/physically

For Operational Creditor

Mr. Mainak Bose, Adv.

Mr. Kanishk Kejriwal, adv.

Mr. Debashish Sharma, Adv.

Ms. Mamta Binani, IRP in person

For Member of Suspended Board of Director of Corporate Debtor

Ms. Urmila Chakraborty, Adv.

Mr. P Sharma, Adv.

ORDER

1. IRP present in person. Mr. Kanishk Kejriwal present on behalf of the Operational Creditor. Ms. Urmila Chakraborty, Ld. Counsel present on behalf of the Corporate Debtor.

IA(I.B.C)/507(KB)2022

2. This is an application under sec. 12A read with regulations 30A(1)(a) of the Corporate Insolvency Resolution Process (CIRP) regulations for closure of the CIRP initiated against the Corporate Debtor vide order dated 18.05.2022.
3. The application has been filed prior to the constitution of the Committee of Creditors (CoC) based on the settlement arrived at between the Members of Suspended Board and the petitioning Operational Creditor. The settlement Agreement dated 31.05.2022

has been placed on record. The Settlement Agreement envisages future payments up to 10.05.2024.

4. The IRP submits that there are two other claims at this point of time in response to the Public Notice issued on 21.05.2022. These claims are from Karur Vysya Bank Ltd. and Commissioner of Commercial Taxes, WB. Ld. Sr. Counsel appearing for the applicant submits that in terms of para 52 of the judgment of the Hon'ble Supreme Court in *Swiss Ribbons Private Limited and another vs. Union of India and Others* (para 52 of the original judgment of the Hon'ble Supreme Court) at any stage where the Committee of Creditors is not yet constituted, a party can approach the National Company Law Tribunal (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 which will be decided after hearing the concerned parties and considering all relevant factors on the facts of each case.
5. We have perused the application and heard the IRP appearing for the applicant, Ld. Counsel appearing on behalf of the Operational Creditor and Ld. Counsel appears for the member of the Suspended Board. Looking into the facts and circumstances, there may be no impediment in allowing the present application. Also, the fees of the IRP are stated to have been paid in full.
6. In view of the above, we hereby allow the I.A. 507(KB) 2022 and pass the following orders: -
 - a. The CIRP initiated vide order dated 18.05.2022 is hereby recalled and the Corporate Debtor is freed from the rigours of the CIRP.
 - b. The Board of Directors of the Corporate Debtor is restored to its original position
 - c. The IRP is hereby directed to handover the Corporate Debtor and all its assets and documents back to the restored Board of Directors of the Corporate Debtor, under proper acknowledgement.
 - d. The IRP shall stand discharged from his role.
7. C.P.(IB) 145(KB)2021 shall consequently stand closed. File be consigned to the records.

(Balraj Joshi)
Member (Technical)

(Rajasekhar V.K.)
Member (Judicial)