

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT NO. V

I.A. 49 of 2021

IN

C.P. (IB) 925/MB/2019

Under Section 12A of IBC, 2016

*In the matter of*

Mr. Mukesh Sumermal Sanghvi  
(Sole Proprietor of Silicon Metal  
Industries)

Shop No. A/22, Groud Floor, Gora Gandhi  
Palace, Plot No. 122, Khetwadi Back  
Road, Girgaon, Mumbai – 400 004

... Petitioner

vs.

R. D. Engineers (India) Private Limited  
A-311B, 3<sup>rd</sup> Floor, Eastern Business  
District, Near Mangatram Petrol Pump, L.  
B. S. Marg, Bhandup (west), Mumbai –  
400 078

... Corporate Debtor

I.A. No. 49 of 2021

Laxman Digambar Pawar

... Applicant/ IRP

Order delivered on: 16.04.2021

Coram: Hon'ble Smt. Suchitra Kanuparthi, Member (J)

Hon'ble Shri. Chandra Bhan Singh, Member (T)

For the Applicant: Ms. Raina Birla, Advocate, Mr. Tejas Deshpande, Advocate

*Per: Chandra Bhan Singh, Member (T)*

**ORDER**

1. This Application is filed by the Resolution Professional ("RP") seeking an Order under Section 12A of the Insolvency and Bankruptcy Code ("Code") for withdrawal of the Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor.
2. A Petition under Section 9 of Code was "Admitted" vide Order dated 26.10.2020 in respect of a Debt amount of Rs. 4,23,77,899/- including interest at the rate of 24% and Mr. Laxman Digambar Pawar was appointed therein as Interim Resolution Professional.
3. The RP had carried out public announcement on 29.10.2020 under Regulation 6 of the Code which was published in two local newspapers "Financial Express" and "The Global Times" dated 29.10.2020.
4. In the meanwhile, a settlement has been arrived at between the Petitioner and the Corporate Debtor regarding the dues of the Petitioner during the CIRP and they entered into the Settlement Agreement cum Consent Terms on 26.10.2020. Through the said Settlement Agreement, the parties have mutually agreed to settle the outstanding debt for a settlement amount/ sum of Rs. 3,45,05,347/- payable by the Corporate Debtor to the Petitioner on the terms mentioned in the Settlement Agreement cum Consent Terms.
5. The Counsel representing the RP submitted that since the said Settlement Agreement cum Consent Terms was entered at the very start of the CIRP even before the publication of the public announcement, so no creditors or financial institutions filed any claim before IRP. Since no Committee of Creditors (CoC) was formed, CIRP was not continued. So, on settlement being done, the Petitioner submitted Form FA under Regulation 30A of Insolvency & Bankruptcy Board of India (Corporate Insolvency Resolution Process for Corporate Persons) Regulations, 2016 to the IRP on 29.10.2020 under Section 12A of the Code for withdrawing the Petition filed by them under Section 9 of the Code.

6. This Bench has perused Form FA filed by the Applicant and is satisfied with the Application which is in accordance with Section 12A and Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2019.

7. On hearing the counsel for the Applicant and ongoing through the pleadings in the Application, this Bench is of the view that this is a fit case to exercise the inherent power of Rule 11 of the NCLT Rules and recalls the order in CP 925 of 2019.

8. Therefore, this Application No. 49 of 2021 is "allowed" with a liberty to the Petitioner that in case of any infringement in the terms of the Settlement, the default if any, be informed to this Court for necessary action.

9. The IRP is discharged and directed to hand over the Corporate Debtor to the erstwhile Directors who can function independently. The Corporate Debtor is relieved from the rigor of the Code and the Corporate Debtor will function under the supervision of the Board of Directors.

10. IA 49 of 2021 in CP 925 of 2019 is "**Allowed**" and consequently, the main Company Petition 925 of 2019 stands disposed of as "**withdrawn**".

Sd/-

Chandra Bhan Singh  
Member (Technical)

Sd/-

Suchitra Kanuparthi  
Member (Judicial)