

appointed as the Interim Resolution Professional of the Corporate Debtor.

- 2) Applicant submits that the said Admission Order was communicated to the Applicant by the Petitioner and also through Registry only on 24.03.2023.
- 3) Since, there is a delay of 24 days later from the date of the Order, Applicant, in the interest of justice and to comply with the provisions of the Code, move an Application bearing IA No. 1216 of 2023, for exclusion of 24 days. Subsequently, the said period of 24 days was excluded from the statutory period of 180 days of the Corporate Insolvency Resolution Process, *vide* an order of this Bench dt. 10.04.2023.
- 4) Thereafter, Applicant took initial steps to the CIRP and published the notices inviting claims from the Stakeholders of the Corporate Debtor on 25.03.2023 in two newspapers. Applicant submits that pursuant to the same, she has received 3 claims from the Financial Creditors amounting to the tune of Rs. 40,50,84,704.35 and no claims have been received from the Operational Creditors.
- 5) Applicant submits that last date of receipt of claims was 13.04.2023 and she was in process to collate the claims and verification thereto. However, Applicant further submits that on 13.04.2023, he has received a communication from the Original Petitioner that the

Promoters/Directors of the Corporate Debtor have settled the claimed amount with the Original Petitioner and now Original Petitioner do not want to continue with the CIRP. FORM FA dt. 13.04.2023, is annexed here as Annexure 5.

- 6) Original Petitioner informed to the Applicant that the cost of the CIRP, as on date of FORM FA, would be borne by the Corporate Debtor. Accordingly, a payment to the tune of Rs. 3,35,180/- has been made to the Applicant towards the CIRP cost by the Promoters/Directors of the Corporate Debtor through NEFT. The elaborate transaction details have been attached to the present Interlocutory Application as Annexure 6.
- 7) Applicant submits that after receipt of the aforementioned amount, as on date, there is no due left towards the CIRP cost.
- 8) It is submitted that the matter has been mutually settled between the Parties and the Original Petitioner does not want to continue with the CIRP; hence, the Applicant do not have any other alternative than that of presenting this Application.
- 9) It is also submitted that the last date of verification of claims was 13.04.2023 and before formation of the Committee of Creditors, the Applicant has received the FORM FA from the Original Petitioner; therefore, the Applicant could not get an opportunity to form the Committee of Creditors of the Corporate Debtor and since, the CoC is

not formed the provisions of Section 12A of the Code would not come into picture. Counsel for the Interim Resolution Professional submits that the fees and expenses of the Applicant herein, have also been paid by the Corporate Debtor.

10) Applicant also relied on the judgment passed by the Hon'ble Apex Court in the case of *Swiss Ribbons Pvt. Ltd. & Anr. V/s. Union of India & Ors. W.P. (Civil) No. 99 of 2018, dt. 25.01.2019*, wherein it is specifically held that the Adjudicating Authority can invoke its jurisdiction under Rule 11 of the NCLT Rules, 2016 and can permit the withdrawal of the CIRP before formation of the Committee of Creditors.

11) Hence this Application.

Having considered the submissions of the Applicant and on perusal of averments made in the present Interlocutory Application, this Bench is satisfied and is of the Considered view that the present Interlocutory Application is in consonance with Rule 11 of NCLT Rules, 2016 r/w Regulation 30(1)(a) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and the same is liable to be allowed. Accordingly, this Bench permits the withdrawal of the CIRP of the Corporate Debtor, M/s. Enki Glass Industry Private Limited, taking note of the fact that the Corporate Debtor has settled the matter with the Original Petitioner and the Original

Petitioner has desirous to withdraw the CIRP, which was set into motion *vide* an order of this Bench dt. 27.02.2023, passed in CP (IB) No. 749 of 2022.

The Moratorium declared under Section 14 of the IBC 2016, *vide* an order of this Bench dt. 27.02.2023, shall cease to operate here from.

The Corporate Debtor, M/s. Enki Glass Industry Private Limited, is now free from all the clutches and Rigors of the Corporate Insolvency Resolution Process.

Applicant herein is hereby directed to handover all the assets, effects and records of the Corporate Debtor, available with her in the Physical or Electro form to the Promoters/Directors of the Corporate Debtor forthwith.

With the aforesaid observation and direction, the Interlocutory Application bearing IA No. 1667 of 2023, is disposed of. Resultantly, the Company Petition bearing CP (IB) No. 749 of 2022, along with all pending Interlocutory Applications, if any, disposed of. There would however be no order as to costs. File be consigned to record.

Sd/-

**ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)**

Vedant Kedare

Sd/-

**H. V. SUBBA RAO
MEMBER (JUDICIAL)**