

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

IA 641 of 2019 in

C.P.(LB) No. 542/NCLT/AHM/2019

Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL

HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 24.10.2019**

Name of the Company: Saiyed Paper Mills Ltd
V/s
Ivax Paper Chemicals Ltd & Anr

Section of the Companies Act : IA for Directions

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1.	PRATIK THAKKAR	Adv.	Resp. 2 CIRP	<i>P. Thakkar</i>
2.	Bhash Mankad	Advocate	Operational Creditor	<i>Bhash</i>
3.	Venodkumar S. Shah	PCS	Applicant	<i>Venodkumar S. Shah</i>

ORDER

The parties are represented through learned counsels and PCS.

The Learned Lawyer appearing on behalf of the Org. Petitioner/Operational Creditor filed the withdrawal pursis.

It is submitted that the petition filed under section 9 of the IB Code was admitted on 01.10.2019 and thereafter on 14.10.2019, the Corporate Debtor moved an application along with the proof, informing inter alia that the Corporate Debtor has paid all the due amount to the Operational Creditor to which the Learned Lawyer appearing on behalf of the Org. Petitioner conceded.

Heard the Operational Creditor, Corporate Debtor as well as the IRP and also seen the records.

On perusal of the record, it is found that the Corporate Debtor moved an application and informed that all dues of the Operational Creditor are paid in full. In view of the said application notice was issued to the Operational Creditor and the IRP. Both of them are present today through their respective lawyers and have conceded to have received the full and final payment. The Corporate Debtor has also paid the dues of

IRP, amounting to Rs. 75,000/- by way of cheque today towards the expenses incurred by IRP, as the Operational Creditor was reluctant to pay.


Thus in view of amendment in IB Code by inserting section 12 A and as also observed by the Hon'ble Supreme Court, in the matter of *Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors.*, which is as under:

“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.”

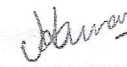
We find there is no impediment in allowing the Operational Creditor to withdraw the C.P. (I.B) 542/2019, when the Corporate Debtor has settled the dues of Operational Creditor as well as of the IRP.

Thus, in exercise of power under section 12 A of the IB Code r.w. Rule 11 of the NCLT withdrawal of C.P.(I.B) 542/2019 by Operational Creditor is allowed and order so passed on 01.10.2019 is ceased to have any effect forthwith. Further, the IRP is directed to defreeze the account, if any, and release the custody of assets of the Corporate Debtor movable as well as immovable, immediately.

Accordingly, the instant IA and IA, if any pending, are disposed of. No Cost.


CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL

Dated this the 24th day of October, 2019


MANORAMA KUMARI
MEMBER JUDICIAL