

NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, MUMBAI

CORAM : SHRI BHASKARA PANTULA MOHAN, MEMBER (J)  
SHRI V. NALLASENAPATHY, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL  
COMPANY LAW TRIBUNAL ON **09.05.2019**

NAME OF THE PARTIES: Mascon Techneeds

V/s

Hydrocons Systems Pvt. Ltd

UNDER SECTION 9 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016.

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**ORDER**

15. M.A. 1671/2019

IN

C.P.(IB)-4285(MB)/2018

This is an Application filed by the Applicant (Mascon Techneeds) for withdrawal of C.P. 4285/2018 admitted by this Bench vide order dated 23.04.2019. Counsel for the Corporate Debtor submits that they have settled the dues of the Operational Creditors and the accountant of the Operational Creditors is present and submits that they have received the amount in full quit. The Hon'ble Supreme Court in the matter of "Swiss Ribbons Pvt. Ltd. & Another Vs Union of India & Others" at Para 52 of the order held as below:-

*"It is clear that once the Code gets triggered by admission of a creditor's petition under Sections 7 to 9, the proceeding that is before the Adjudicating Authority, being a collective proceeding, is a proceeding in rem. Being a proceeding in rem, it is necessary that the body which is to oversee the resolution process must be consulted before any*

*individual corporate debtor is allowed to settle its claim. 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 101 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 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.”*

In view of the order of the Hon'ble Supreme Court, this case is a fit case for the Adjudicating Authority to invoke Rule 11 of NCLT Rules and accordingly this application is allowed and the Order of CIRP passed in this Petition is recalled and the IRP is discharged from his duties.

Accordingly, the Application is allowed and the CP No. 4285/2018 is dismissed as withdrawn.

Sd/-

V. NALLASENAPATHY  
Member (Technical)

sd/-

BHASKARA PANTULA MOHAN  
Member (Judicial)