

**NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT-I)
CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH,
NATIONAL COMPANY LAW TRIBUNAL, HELD ON **29.03.2021 at 2.00 P.M**
THROUGH VIDEO CONFERENCING

**PRESENT: SHRI R. VARADHARAJAN, MEMBER (JUDICIAL)
SHRI ANIL KUMAR B, MEMBER (TECHNICAL)**

IA/MA/IBA/TCP/TCA/CP/CA No : IA/207/CHE/2021 IN IBA/1428/2019
NAME OF PETITIONER : Rasi Electrodes Ltd
NAME OF RESPONDENT : Balsara Engineering Products Pvt Ltd
SECTION : Rule 11 Of NCLT Rules 2016

ORDER

Ld. Counsel for the Applicant Mr. Shrenik Raj is present through video conferencing mode. None appears for the Respondent.

An Application moved by the Operational Creditor at whose instance the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor was ordered seeking for the Applicant/ Operational Creditor to withdraw IBA/1428/2019. While admitting the Petition on 24.02.2021, one Mr. C. Prabakaran, was appointed as Interim Resolution Professional (IRP). The reason for seeking withdrawal of the main Petition in IBA/1428/2019 as averred in the Application is that the amount claimed from the Corporate Debtor by the Applicant has been duly remitted subsequently to the initiation of the CIRP. In the circumstances, the withdrawal is sought.

Ld. Counsel for the Applicant in support of this Application also relies on Rule 11 of NCLT Rules, 2016 in relation to the inherent powers available to this Tribunal as well as the judgment passed by the Hon'ble Supreme Court in ***Swiss Ribbons Pvt Ltd., & Ors vs. Union of India & Ors (2019) of SCC 17.***

It is also represented by the Ld. Counsel for the Applicant that the IRP appointed by this Tribunal had also filed an Affidavit before this Tribunal on 19.03.2021. Perusal of the said Affidavit shows that till now no charges have been incurred by the IRP in view of the fact that settlement has been arrived at between the parties, in the circumstances, upon the instructions of the parties, the IRP has not

proceeded further as enjoined under the provisions of IBC 2016. However, the statement as made by the IRP in the Affidavit is strange and IRP cannot be shunning of duty on the part of the IRP in relation to the CIRP process, which is required to be carried as provided in the provisions IBC, 2016 and not on instructions of the parties. Be that as it may, it is further seen from the Affidavit that no CoC has been constituted till now and the same is affirmed by the IRP, who is also present in person through video conferencing mode.

Taking into consideration the statement made by the IRP that no CoC has been constituted and that no charges have been incurred in relation to the CIRP of the Corporate Debtor and as well as considering Rule 11 of NCLT Rules, 2016 read along with the decision of the Hon'ble Supreme Court in **Swiss Ribbons Pvt Ltd., & Ors vs. Union of India & Ors (2019) of SCC 17** this Application stands allowed and the CIRP initiated as against the Corporate Debtor **stands withdrawn** and the board of directors of the Corporate Debtor stand restored since no dues are required to be paid in relation to, both the expenses as well as fees of the IRP. The Application is ordered as prayed for. The IRP shall stand discharged of his duties in relation to the CIRP of the Corporate Debtor.

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(ANIL KUMAR B)
MEMBER (TECHNICAL)

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(R.VARADHARAJAN)
MEMBER (JUDICIAL)

MEMBER (JUDICIAL)