NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
COURT – IV

16. I.A 1887/2023
IN
C.P. (IB)/4248(MB)2018

CORAM:

SHRI PRABHAT KUMAR
MEMBER (Technical)

SHRI KULDIP KUMAR KAREER
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **12.05.2023**

Name of the Parties: India Chapter of International Advertising Association

VS

Business Broadcast News Private Limited

SECTION 12A OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

The Court is convened through Video Conference.

1. Ms. Mitali Bhatt, Ld. Counsel for the Applicant present.
2. This is an Application filed on 02.05.2023 by Mr. Gajesh Labhchand Jain, Interim Resolution Professional of the Corporate Debtor u/s 12A of the Code r/w Regulation 30A of CIRP Regulations, seeking prayer from this Bench for allowing withdrawal of CIRP process initiated against the Corporate Debtor vide order dated 19.04.2023.
3. Ld. Counsel for the Applicant submits that after the initiation of CIRP against the Corporate Debtor, the Operational Creditor and the Corporate Debtor has entered into settlement vide Settlement Deed dated 26.04.2023. Pursuant to settlement deed, the Corporate Debtor also transferred sum of Rs.16,25,000/- in the account of the Operational Creditor. Ld. Counsel for the Applicant further submits that publication was made in Form-A, however, the CoC has not been constituted.

4. The Resolution Professional has also filed form FA for withdrawal of Company Petition.

5. The Hon'ble Supreme Court in Swiss Ribbons Private Limited & Anr. Versus Union of India & Ors., held that:

> *"52 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 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."*

6. In view of the aforesaid, this Bench finds since the conditions for withdrawal for CIRP u/s 12(A) and regulation 30(A) of Insolvency and Bankruptcy Code Board of India (Insolvency Process for Corporate Persons) Regulations 2016 have been complete, this Bench has no objection for withdrawal of CIRP.

7. Accordingly, the Corporate Debtor is brought out from the rigours of CIRP and the IRP is directed to handover the charge of the Assets and Affairs of the Corporate Debtor back to the Suspended Members of the Board of Directors. RP is discharged from his duties.

8. The Ld. Counsel for the Applicant stated that the dues of the Interim Resolution Professional incurred against Public Announcement and legal expenses have paid in full.
9. IA-1887/2023 is allowed and disposed of.
10. In view of the above, C.P.(IB)/4248(MB)2018 is closed.

Sd/-

PRABHAT KUMAR
Member (Technical)
/NP/

Sd/-

KULDIP KUMAR KAREER
Member (Judicial)