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**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

IA(IBC)/370/CHE/2022 in CP/IB/169/CHE/2021

*(Filed under Rule 11 of the NCLT Rules 2016, read with Regulation 30A of
the IRPCP Regulations 2016)*

IN THE MATTER OF:

J Karthiga, Insolvency Professional

Interim Resolution Professional of KKN Holdings Pvt Ltd
Sri Nivas New No 1 Old No 1052, 41st Street,
Korattur, Chennai – 600 080

... Applicant

-Vs-

**RBL Bank India Ltd represented by its
Vice President Mr Anil Dalmia**

India Bulls Centre, Tower 2B, 6TH Floor,
841, Senapathi Bapat Marg, Lower Parel
Mumbai – 400 013

... Respondent

Present:

For Applicant : *Ravi Rajagopalan, Advocate For IRP*
For intervener : *Mr. Jayanth Viswanathan, PCS*

CORAM:

**R. SUCHARITHA, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)**

Order Pronounced on 28th April 2022

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

IA(IBC)/370/CHE/2022 is an application filed by an Applicant
/ Interim Resolution Professional of the Corporate Debtor viz. KKN
Holdings Private Limited under Rule 11 of NCLT Rules, 2016 read

with Regulation 30A of the IRPCP Regulations 2016 seeking relief as follows;

- a) Allow the present Application;
- b) Direct that :
 - i. The CIR Process against the CD Company KKN Holdings Pvt Ltd stands withdrawn and **CP/IB/169/CHE/2021**.
 - ii. The CD Company stands released from the rigors of the code and the management of the CD stands restored to its Board of Directors with immediate effect.
- c) Grant such other incidental reliefs as may be deemed fit and proper by this Hon'ble Adjudicating Authority.

2. This Application has been under Rule 11 of NCLT Rules, 2016 seeking for closure of the CIRP which commenced by an order dated 11.03.2022 and the Applicant herein was appointed as the Interim Resolution Applicant (IRP).

3. The Learned Counsel for the Applicant submitted that the Corporate Debtor had settled the dues of the Financial Creditor and had submitted Form FA to the Interim Resolution Professional on 29.03.2022. On 30.03.2022, the IRP had confirmed through mail that the FC had received a sum of Rs.2.25 Crore vide DD.No.045541 and 045544 against the settlement of dues and the same is placed at page No 33 of the Application. Thereafter, it was also confirmed that the IRP had received Rs.1,01,460/- towards

the payment of the entire CIRP cost and further confirmed that there is no dues in respect of the CIRP cost and the same is placed at page no 34 of the application.

4. The Applicant had placed reliance on the following judgments in support of the present application:

- a) **Swiss Ribbons Pvt Ltd Vs Union of India** (Writ Petition (Civil) No. 99 of 2018)
- b) **Anuj Tejpal Vs Rakesh Yadav & Ors - In Re OYO Hotels and Homes P Ltd** (IA/815/2021 in CA(AT)(Ins) 298 of 2021)
- c) **Streamline Refrigeration Pvt Ltd vs VRV Engineers Pvt Ltd** (IA/238/2021 in IBA/1410/2019)

5. During the hearing the intervenor, Learned PCS Mr. Jayanth Viswanathan, appearing for the RP of Uniply Industries Limited had sought permission to file a memo by raising objections to the present application. Thereafter, the Intervener had filed a memo on 18.04.2022 by making objections to the present withdrawal application by stating that the Uniply industries Limited had filed a claim in Form B on 24.03.2022 for a sum of Rs.643,41,37,720/- which is the amount due to the Operational Creditor viz., Uniply Industries Limited which is higher than that of the Financial Creditor Viz., RBL Bank Ltd and considering the same this application ought to be dismissed. In this regard, this Tribunal wishes to refer to the Judgment of the Hon'ble Supreme Court in

the matter of **Kamal K. Singh -Vs- Dinesh Gupta & Anr.** in *Civil Appeal No. 4993 of 2021* vide order dated 25.08.2021 has held as follows;

We have heard learned counsel for the parties. It is not in dispute that CoC has not been constituted so far. This Court in *Swiss Ribbons Private Limited and Anr. v. Union of India and Others - (2019) 4 SCC 17* has held that at any stage, before a Committee of Creditors is constituted, a party can approach National Company Law Tribunal (NCLT) directly and that the Tribunal may, in exercise of its inherent powers under Rule 11 of NCLT Rules, allow or disallow an application for withdrawal or settlement. It was held thus :

"82. 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 NCLT directly, which Tribunal may, in exercise of its inherent powers under Rule 11 of NCLT Rules, 2016, allow or disallow an application for withdrawal or settlement. This will be decided after hearing all the parties concerned and considering all relevant factors on the facts of each case."

6. Having heard learned counsels, we observe that the Applicant had filed Form FA as per Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016 to the Interim Resolution Professional and that the said Form -'FA' was duly signed by the Financial Creditor seeking for the

withdrawal. The said Form -'FA' was received by the IRP and pursuant to it the present application has been filed before this Tribunal. A further perusal of Form -'FA' as filed along with the application shows that the entire payment due to the IRP towards expenses incurred has been fully paid.

7. Thus taking in to consideration, the provisions of IBC, 2016 as well as exercising the power as vested with the Tribunal under Rule 11 of NCLT, Rules, 2016 and additionally Form -'FA' as required has also been filed before this Tribunal intimating about the settlement of accounts as between the parties, the CIRP initiated as against the Corporate Debtor in **CP/IB/139/CHE/2021** stands closed and the IRP is directed to hand over affairs and management of the Corporate Debtor to the Board of Directors of the Corporate Debtor whose powers stood suspended by virtue of the initiation of the CIRP by this Tribunal while admitting the Petition in CP/IB/169/CHE/2021 vide order dated 11.03.2022 and whose powers stand restored consequent to the withdrawal of CIRP in relation to the Corporate Debtor. The IRP stands discharged from the assignment. Accordingly, IA(IBC)/370(CHE)/2022 stands **allowed.**

-Sd-
SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-
R. SUCHARITHA
MEMBER (JUDICIAL)