

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

6.M.A. 2472/2019

IN

C.P.(IB)-1785(MB)/2018

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 **15.07.2019**

NAME OF THE PARTIES: Tangent Services

V/s

MDI Laboratories India Pvt.Ltd.

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

MA 2472/2019

This is an Application filed by the IRP under Section 12 A of the Code for withdrawal of the CP which was admitted by this Bench on 17.06.2019. The Counsel for the Petitioner is also present. The IRP is also present and submits that no claims were received by him and consequently COC is not constituted Form FA has filed by the Operational Creditor/Petitioner for withdrawal of the Petition.

Counsel for the Petitioner submits that matter has amicably settled between the parties and the received the entire amount and prays for withdrawal of this petition. 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 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 to invoke Rule 11 of NCLT Rules and accordingly, this Application is allowed permitting the applicant to withdraw the Petition. Consequently the order of CIRP passed in this Petition is recalled and the IRP is discharged from his duties. It is also submitted that the Corporate Debtor has paid the fees and out of pocket expenses to the IRP.

Accordingly, the CP is closed.

Sd/-

V. NALLASENAPATHY
Member (Technical)
/NP/

Sd/-

BHASKARA PANTULA MOHAN
Member (Judicial)

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