

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

IA/378/2020 IN IBA/1195/2019 filed for withdrawal of Section 9 Application under Section 12A of the Insolvency and Bankruptcy Code, 2016 read with Regulation 30A (1) (a) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the National Company Law Tribunal Rules.

In the matter of ***M/s. ASP Computers Pvt. Ltd.***

**Mr. Chandrasekhar Sagotoor,
Interim Resolution Professional
of ASP Computers Private Limited,**

IBBI Reg. No. IBBI/IPA-001/IP-P00960/2017-18/11581
Salma Arcade Complex Arcot Road,
Trustpuram, Kodambakkam,
Chennai 600 024

... Applicant / IRP

Order pronounced on 09th June, 2020

CORAM :

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

For Applicant / IRP : Mr. J. Varun, Advocate.

ORDER

Per: R. VARADHARAJAN, MEMBER (JUDICIAL)

1. This is an Application filed by the Interim Resolution Professional appointed by this Tribunal as such when initiating the Corporate Insolvency Resolution Process (CIRP) under Section 9 of Insolvency and Bankruptcy Code, 2016 (IBC, 2016) in relation to the Corporate Debtor vide order dated 05.05.2020.



2. The averments contained in the Application discloses that consequent to the initiation of the CIRP, paper publication, as required under the provisions of IBC, 2016 r/w Attendant Regulations have been given by the IRP on 10.05.2020 in "Financial Express" and "Makkal Kural". Despite 20 days, at the time of filing the Application had elapsed, no claims have been filed by the Creditors of the Corporate Debtor.

3. In the meanwhile, it is brought to the notice of this Tribunal that the parties, viz., the Operational Creditor and the Corporate Debtor have jointly arrived with a compromise and a "Compromise Agreement" has been entered into on 21.05.2020 which is annexed along with the Application.

4. In the absence of any claims being submitted by the Creditors, pursuant to the public notice issued and as no Committee of Creditors (CoC) has been constituted and also in view of the compromise arrived, this Application has been filed seeking for withdrawal of the Application in IBA/1195/2019 filed under Section 9 of IBC, 2016.

5. Perusal of the Application shows that the Application has been filed under Section 12A of IBC, 2016 r/w Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 in short IRCP Regulations r/w Rule 11 of National Company Law Tribunal Rules, 2016 in relation to the inherent powers that can be exercised by this Tribunal.

①

6. It is seen that Form 'FA' submitted by the Applicant / Operational Creditor has been annexed as Annexure 'C' to the Application. Perusal of it discloses that the fees and expenses payable to the IRP, has been paid.

7. From the averments contained in the Application, it is also evident that as such the Committee of Creditors (CoC) has not been constituted as disclosed in paragraph '3' of the Application, as pointed out in the Application.

8. Taking into consideration the decision of the Hon'ble Supreme Court of India in the matter of Swiss Ribbons Prvt. Ltd. and Anr. Vs. Union of India & Otrs. (2019) 4 SCC 17), under such circumstances when the CoC has not been constituted, this Tribunal has got the power to exercise Rule 11 of NCLT Rules, 2016, this Application stands **Allowed** and the CIRP initiated in relation to the Corporate Debtor stands **withdrawn** from this date and as a consequence the moratorium imposed upon the Corporate Debtor shall stand revoked. The Board of Directors whose powers stood suspended shall also stand revoked. The IRP is directed to hand over all records and documents collated as well assets if any collected during the course of the CIRP to the management of the Corporate Debtor and obtain a due discharge in relation to the same.

10. With the above directions, this Application stands **allowed**.

-SD-

(ANIL KUMAR B)
MEMBER (TECHNICAL)

-SD-

(R.VARADHARAJAN)
MEMBER (JUDICIAL)

ghk