

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD  
Court 2**

**IA/129(AHM)2021 in CP(IB) 170 of 2020**

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL  
HON'BLE Mr. VIRENDRA KUMAR GUPTA, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH  
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 24.02.2021**

Name of the Company: Darshan Bharatbhai IRP  
for Food Island Pvt. Ltd.

Section 12A IBC r.w reg 30(A) IBBI,2016.

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.				
2.				

**ORDER  
(through video conferencing)**

Mr. Kamil Lokhandwala, advocate, appeared on behalf of the Applicant.

The instant application is filed under Section 12A r.w 30A of the IB Code through IRP for withdrawal of the CP(IB)170/2020.

The Operational Creditor conceded that he has received the amount towards full and final settlement of all the claims from the Respondent, which is reflected at page no. 5 of the application. In view of that, the Operational Creditor filed this application through IRP for withdrawal of the case and duly executed Form-FA.

Gone through the records. It is found that the CP(IB) 170/2020 was admitted on 29.01.2021, appointing IRP Mr. Darshan Bharatbhai Patel. Thereafter, the parties have entered into mutual settlement and accordingly filed Form-FA by the Applicant, which is reflected as **Annexure-B** of the application. It is further submitted by Learned Lawyer for the IRP that COC has not yet constituted.




In view of the settlement between the parties and on filing of application under Section 12A, the prayer for withdrawal of application is allowed. Accordingly, moratorium so granted under Section 14 of the IB Code ceased to have effect and IRP is discharged from his duties. It is submitted by the Learned Lawyer for the IRP that the dues of the IRP have already been cleared.

Further, the Hon'ble Supreme Court in the matter of **Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors., clarified as under;**

*“We made it clear that at any stage where the COC is not yet constituted, a party can approach the NCLT directly, which Tribunal may, in exercise of its inherent power 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 above observation of the Hon'ble Supreme Court that the Adjudicating Authority do not find any impediment in allowing the petition so filed by the Operational Creditor under Section 12A of the IB Code through IRP, duly executed by way of an affidavit.

Accordingly, the instant application is allowed and stand disposed-of as withdrawn.  
No order as to costs.



**VIRENDRA KUMAR GUPTA**  
**MEMBER TECHNICAL**  
Dated this the 24th day of February, 2021



**MANORAMA KUMARI**  
**MEMBER JUDICIAL**

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