



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

IA/553/CHE/2022 IN CP(IB)/157(CHE)/2021

(Under Section 12A of the Insolvency and Bankruptcy Code, 2016 r/w Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016)

*In the matter of **RAMCHARAN COMPANY PRIVATE LIMITED***

Mr.S.VASUDEVAN

Interim Resolution Professional of
Ramcharan Company Private Limited
Plot 5, 2nd Floor, Manasarovar Apt,
Bagavanthy Nagar,
MedavakkamKoot Road,
Medavakkam – 600 100

... Applicant/Interim Resolution Professional

-Vs-

CLASSIC EXPORTS

(Represented by Nishant Harsukh Doshi – Partner)
G-21, 2nd Main Road, Ambattur Industrial Estate,
Chennai – 600 058

.....Respondent No.1/Petitioning Creditor

RAMCHARAN COMPANY PRIVATE LIMITED

(Represented by its Director)
No.505, Fifth Floor, Delta Wing, Raheja Towers,
Old No.113-114, New No.177, Anna salai,
Chennai – 600 002

.....Respondent No.2/Corporate Debtor

*Order Pronounced on **21st June 2022***

CORAM:

Justice (Retd) S.RAMATHILAGAM, MEMBER (JUDICIAL)

SAMEER KAKAR, MEMBER (TECHNICAL)

*For Applicant: Ramaswamy Meyappan, Advocate
For Intervenor : E.Omprakash, Senior Counsel*



ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

The Present Application has been filed on 06.06.2022. This is an Application filed by the Interim Resolution Professional (IRP) of the Corporate Debtor viz., **RAMCHARAN COMPANY PRIVATE LIMITED** under Section 12A of the Insolvency & Bankruptcy Code, 2016 (**IBC, 2016**) r/w Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and Rule 11 of National Company Law Tribunal Rules, 2016 seeking reliefs as follows:

- a) To allow the withdrawal of the Company Petition numbered as CP(IB)/157(CHE)/2021;
- b) To discharge the Applicant herein from his responsibilities as the Interim Resolution Professional of the Corporate Debtor and direct the Applicant herein to hand over the possession of all the records and assets of the Corporate Debtor back to its Board of Directors and reinstate the Board of Directors of the Respondent No.2 herein to manage the affairs of the Company; and/or
- c) To pass such other order/ directions as this Hon'ble Bench may deem fit and proper in the facts and circumstances of the case.





2. It was submitted by the learned Counsel for the Applicant that at page No.32 of the Application Form FA dated 03.05.2022 has been filed wherein the Petitioner of CP(IB)/157(CHE)/2021 is seeking permission to withdraw this Petition.

3. Learned Counsel for the Applicant submits that CIRP in the matter commenced vide order dated 21.04.2022. Subsequently, Form-A publication was effected in the newspapers on 25.04.2022.

4. It was averred in the application that this Tribunal has disposed of an application filed by the Operational Creditor viz, Witman Industries Private Limited under Section 9 of IBC, vide Order dated 21.04.2022 in CP(IB)/79(CHE)/2021 with the direction to file a claim before the Applicant herein. It was further submitted that subsequently a Memorandum of Understanding dated 23.04.2022 was executed between the shareholder and Promoter of the Corporate Debtor and Witman Industries Private Limited for amicable Settlement of its claim.

5. Learned Counsel for the Applicant / IRP states that the Applicant in CP(IB)/157/CHE/2021 and the Corporate Debtor have entered into final settlement. Hence seeks an order of withdrawal of the CP. He further states that the IRP expenses have also been paid by the Operational Creditor and Committee of Creditors is yet to be formed.



6. Learned Senior Counsel Mr.E.Omprakash appears for the Intervenor and strongly opposes the order of withdrawal under Section 12A of IBC, 2016. Learned Counsel Senior Counsel Mr.E.Omprakash states that he represents one of the Financial Creditors whose IBA is pending before NCLT Bench I and further states that more than one Application in respect of the same Corporate Debtor is pending for admission before NCLT, Chennai.

7. Learned Senior Counsel appearing for the intervenor states that RP should constitute the CoC and place the proposal of withdrawal before the CoC. Thereafter, only Application for withdrawal shall be filed by the IRP or the RP as the case may be.

8. It is an admitted fact that the present application is signed by the Applicant in CP(IB)/157/CHE/2021 and Form FA is placed at Page No. 32 of the typed set. The same was filed before constitution of CoC. We are unable to accept the contention raised by the Learned Senior Counsel appearing for the intervenor. It is pertinent to point out the judgment passed in Civil Appeal No.4993 of 2021 by the Hon'ble Supreme Court of India. The extract of the same is furnished below:-

"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

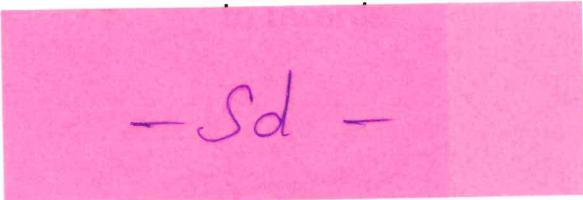


resolution professional). We make it clear that at any stage where the Committee of Creditors is not yet constituted, a party can approach NCLT directly, which Tribunal may, in exercise of its inherent powers under Rule 11 of NCLT Rules, 2016 allow or disallow an application for withdrawal of settlement.”

9. Further, it is pertinent to refer the Judgment of Supreme Court in the matter of *Swiss Ribbons Private Limited and Anr. vs Union of India and others – (2019) 4 SCC Online SC 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 the Application for withdrawal.

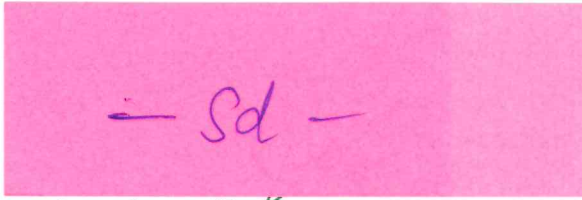
10. In view of the above, the Corporate Debtor is released from all rigours of the IBC, 2016. The IRP is discharged from all his responsibilities. The Corporate Debtor shall operate through its own Board.

11. Accordingly IA/553/CHE/2022 stands **allowed** and CP(IB)/157(CHE)2021 stands **dismissed as withdrawn**. File sent



— Sd —

SAMEER KAKAR
MEMBER (TECHNICAL)



— Sd —

Justice (Retd) S. RAMATHILAGAM
MEMBER (JUDICIAL)

SriramAnanth.V