

DIVISION BENCH

O-110

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P. (IB)/1733(KB)2018
IA(I.B.C)/19(KB)2021, IA(I.B.C)/251(KB)2021,
IA(I.B.C)/378(KB)2021, IA(I.B.C)/1187(KB)2020,
IA(I.B.C)/1419(KB)2020, IA(I.B.C)/640(KB)2021,
IA(I.B.C)/697(KB)2021, IA(I.B.C)/653(KB)2021

**Present: 1. Hon'ble Member(J), Shri Rajasekhar V.K.
2. Hon'ble Member(T), Shri Harish Chander Suri**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 14th September, 2021, 10:30 A.M

Name of the Company		GAINWELL COMMOSALES PRIVATE LIMITED Vs. ROCKWELL RESOURCES EARTHMOVERS PRIVATE LIMITED	
Under Section		IBC Under Sec 9(CIRP)	
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

Counsel / Authorised Representative appeared through video conference:

- | | |
|--|------------------------------------|
| 1. Mr. Subhankar Chakraborty, Advocate |] For ICICI Bank |
| 2. Mr. Saptarshi Bhattacharjee, Advocate |] |
| 1. Mr. Vikram Wadehra, Advocate |] For applicant in IA/1419(KB)2020 |
| 2. Ms. Vidushi Chokhani, Advocate |] |
| 1. Ms. Manju Bhuteria, Advocate |] For Operational Creditor |
| 2. Ms. Meenakshi Manot, Advocate |] |
| 3. Mr. Saubhik Chowdhury, Advocate |] |
| 4. Mr. Dripto Majumdar, Advocate |] |
| 5. Ms. Ayusmita Sinha, Advocate |] |
| 1. Mr. Rishav Banerjee, Advocate |] For Resolution Professional |
| 2. Mr. Aishwarya Kumar Awasthi, Advocate |] |
| 3. Mr. Amit Choraria, RP |] Self |

ORDER

1. Ld. Counsel for the parties present.

2. **IA(IBC)/1419(KB)2020**– Ld. Counsel appearing for the applicant submits that he has instructions to seek withdrawal of the present application. Recording his submissions IA(IBC)/1419(KB)2020 is dismissed as withdrawn.

3. **IA(IBC)/697(KB)2021**

- (a) This is an application filed by Mr. Amit Choraria, Resolution Professional of the Corporate Debtor, Rockwell Resources Earthmovers Private Limited, u/s. 12A of the IBC read with regulation 30A of the CIRP Regulations seeking leave to close the CIRP and to restore the Board of the Corporate Debtor to its original position.
- (b) We have noted the presence of Mr. Rishav Banerjee, Ld. Counsel for the Resolution Professional and Ms. Manju Bhuteria, Ld. Counsel for the original petitioning creditor.
- (c) The brief facts leading to the present application that the CIRP was initiated against the Corporate Debtor *vide* order dated 25/11/2019. On 19/12/2019 the present Applicant was appointed as Resolution Professional. Invitation of claims was made *vide* publication advertised on 22/11/2019 in the “*Business Standard*” (English) and “*Aajkaal*” (Bengali) newspapers. In response thereto, except for the original petitioning creditor, no other claim was received as averred by the Resolution Professional in para 4(vi), at page 29 of the application.
- (d) Since the CoC has already been constituted, the proposal for settlement was placed before the CoC, which considered the same at its 12th meeting held on 02/08/2021. The minutes of the said meeting are placed at page 56 of the application and the relevant Agenda is at page 64, Agenda Item No. 11. The CoC, comprising of the sole Operational Creditor has accepted the proposal and directed the Resolution Professional to file an appropriate application for withdrawal of the CIRP.
- (e) The fees of the Resolution Professional have already been paid on 02/08/2021 as confirmed by the Resolution Professional. Therefore, there is no requirement for obtaining Bank Guarantee in terms of regulation 30A(2) of the CIRP Regulations. Only the other application pending for consideration is IA(IBC)/1419(KB)2020, filed by the Hinduja Leyland Finance Limited, has been dismissed as withdrawn *vide* separate order.
- (f) No other circumstances exist that militate against closure of the CIRP. Therefore, we hereby ordered as follows:
 - (i) CIRP initiated against the Corporate Debtor *vide* order dated 25/11/2019 shall stand closed;
 - (ii) The Board of Directors of the Corporate Debtor is restored to its original position;

- (iii) The moratorium imposed *vide* order dated 25/11/2019 shall come to an end forthwith;
 - (iv) The Resolution Professional is hereby directed to hand over to the Board of Directors of the Corporate Debtor all its assets, books of account and other documents immediately;
 - (v) The Resolution Professional shall stand discharged of his duties and responsibilities subject to compliance of any filing requirements with the IBBI and the Registrar of Companies. The Resolution Professional shall stand fully discharged of his responsibilities only after completion of the filing requirement with the Registrar of Companies, which shall be done within 48 hours from now under all circumstances.
 - (vi) With these directions CP(IB) No. 1733(KB)2018 shall stand disposed of. All other pending IAs shall stand closed as of being no consequences.
4. The Registry is hereby directed to send e-mail copy of the order forthwith to all the parties.
5. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Harish Chander Suri
Member (Technical)

Rajasekhar V.K.
Member (Judicial)

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