

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

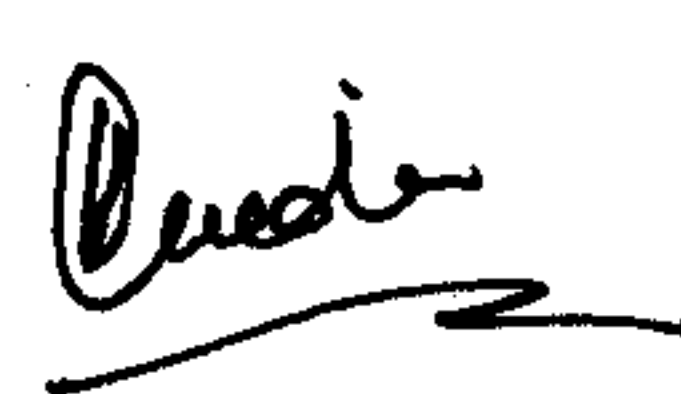

IA 04 of 2020 in C.P.(I.B) No.340/NCLT/AHM/2019

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 02.01.2020**

Name of the Company: Grainspan Nutrients Pvt Ltd
V/s
Om Cotgin Pvt Ltd

Section of the Companies Act : Section 12(A) of the Insolvency and Bankruptcy
Code r.w rule 11 of NCLT Rules, 2016

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	Dr. Kamlesh Vaidanaka	Advocate	Applicant	
2.	Mr. Kedar Ramkolhe	IRP	Self	

ORDER

The parties are represented through learned counsels.

The instant application is filed under Section 12 A of the IB Code by the Operational Creditor with following prayer;

(a). This Hon'ble Adjudicating Authority may kindly be pleased to permit withdrawal of CP(IB) No. 340 of 2019 in view of the Settlement Deed dated 13.12.2019 executed by and between the parties hereto, in the interest of justice;

(b). This Hon'ble Adjudicating Authority may be pleased to pass any other order which this Hon'ble Tribunal may deem fit in the facts and circumstances of the case.





The IRP viz. Mr. Kedar is present in person and submitted that Committee of Creditors is not yet constituted. It is submitted by the Applicant on admission of the application under Section 9 of the IB Code, the Respondent has entered into the settlement with the Operational Creditor and in view of the said settlement, the Petitioner has filed instant application for withdrawal of the present application. The IRP has also conceded the said facts.

In view of the judgment so passed by the Hon'ble Supreme Court in Swiss Ribbon wherein it is clearly observed that the Operational Creditor at any stage can withdraw the application the relevant para of the judgment so passed by Hon'ble Supreme Court is reproduced herein below:

“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.”

Under such circumstances, we allowed the application so filed by the Operational Creditor for withdrawal and in view of that, moratorium ceased to have any effect so passed in CP(IB) 340/2019.


The Petitioner is further directed to clear the dues of the IRP so incurred during this period of his appointment as IRP. The IRP is also discharge from the instant application.

Accordingly, the instant application is disposed-off and as withdrawn.



CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL

Dated this the 2nd day of January. 2020



MANORAMA KUMARI
MEMBER JUDICIAL