

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

ITEM No. 111
(IB)-727(PB)/2018

IN THE MATTER OF:

G.S.T Promoters Pvt. Ltd.
v.
Senior Builders Ltd.

.... Applicant/petitioner
.... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016

Order delivered on 11.03.2019

Coram:

CHIEF JUSTICE (RTD.) M. M. KUMAR
HON'BLE PRESIDENT

SH. S. K. MOHAPATRA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the petitioner: Mr. Anup Kumar, IRP
For the Respondent -

ORDER

CA-425(PB)/2019

This is an application filed under Rule 11 of National Company Law Tribunal, 2016 by the Financial Creditor to withdraw the Corporate Insolvency Resolution Process issued in C.P. No. (IB)-727(PB)/2018 on 26.02.2019. The basis of the application is a memorandum of understanding executed between the applicant-financial creditor and non applicant-corporate debtor.

2. Reliance has also been placed on para 52 of the judgment of the Supreme Court rendered in the case of Civil Appeal No. 99/2018 dated 25.01.2019 *Swiss Ribbons Pvt.Ltd. & Anr.*(supra) which reads thus:-



“52. It is clear that once the Code gets triggered by admission of a creditor’s petition under Sections 7 to 9, the proceeding that is before the Adjudicating Authority, being a collective proceeding, is a proceeding in rem. Being a proceeding in rem, it is necessary that the body which is to oversee the resolution process must be consulted before any individual corporate debtor is allowed to settle its claim. 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 101 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 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.”

3. Notice of the application to Resolution Professional.
4. Mr. Anup Kumar, Resolution Professional has appeared and stated that in pursuance of Insolvency Resolution Process a public notice was issued inviting claims, but Committee of Creditors has not yet been constituted. Ld. RP further states that all his professional charges and expenses incurred stand paid and are satisfied.
5. In view of the above the application (CA-425(PB)/2019) is allowed. The Corporate Insolvency Resolution Process issued on 26.02.2019 is closed in view of the memorandum of understanding



as per law laid down by Hon'ble the Supreme Court in the para 52 of *Swiss Ribbons Pvt.Ltd. & Anr.*(supra).

6. We hope and trust that the parties will abide by the terms of the settlement and avoid another petition with a prayer for triggering of Corporate Insolvency and Bankruptcy Process.
7. The application stands disposed of.
8. All other applications are rendered infructuous.
9. A copy of the order be given dasti to the counsel for the parties.
10. CA-425(PB)/2019 & C.P. No. (IB)-727(PB)/2018 stands disposed of.


(M.M.KUMAR)
PRESIDENT


(S. K. MOHAPATRA)
MEMBER (TECHNICAL)