

DIVISION BENCH - I

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH,
NATIONAL COMPANY LAW TRIBUNAL HELD ON 23.06.2020 at 11.00 A.M.
THROUGH VIDEO CONFERENCING:

PRESENT : SHRI R. VARADHARAJAN, MEMBER – JUDICIAL
SHRI ANIL KUMAR, B. MEMBER – TECHNICAL

APPLICATION NUMBER : IA/417/2020
PETITION NUMBER : IBA/1031/2019
NAME OF THE PETITIONER(S) : M/s. Arrowline Organic Products
Pvt.Ltd.
.NAME OF THE RESPONDENT(S) :
UNDER SECTION : Sec.12A of IBC, 2016.

ORDER

Learned Counsel for 2nd Respondent namely, Mr. Chandramouli Prabhakar, Advocate along with Mr. Asir Raja Selvan, IRP/ Applicant is present through video conferencing.

This is an Application filed under Section 12-A of IBC, 2016 read with Regulation 30-A of IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016 as well as under Provisions as stated in the Application seeking for withdrawal of the Application filed by the Operational Creditor in IBA/1031/2019 filed for the initiation of the CIRP as against the Corporate Debtor in view of the default committed by the Corporate Debtor in the payment of operational debt owed to R2 and based on which this Tribunal was pleased to initiate the CIRP in relation to the Corporate Debtor vide its order passed on 05.05.2020 and wherein the Applicant was appointed as the IRP of the Corporate Debtor.

The Application was heard in the presence of the Applicant and the R2. While the Applicant was present in person, R2 was represented by its Counsel; both through video conferencing portal.

The Applicant represents that in paragraph '6' of the Application, it has been stated that neither the public announcement in accordance with the CIRP Regulations, 2016 was issued nor any CoC has been constituted in terms of the provisions of IBC, 2016 and the applicable Regulations and in the circumstances no prejudice would be caused to any person in allowing this Application.



During the course of submissions by the Applicant / IRP, it was also represented that in view of the pandemic arising out of Covid-19, the Applicant / IRP was not in a position to take control of the assets and office of the Corporate Debtor pursuant to the order of admission passed by this Tribunal.

In the meanwhile, it is submitted by the Applicant / IRP that he was informed that the matter as between the parties has been settled vide a memorandum of settlement executed between R1 and R2 viz. the Corporate Debtor and the Operational Creditor respectively and in the circumstances the authorization also has been annexed as annexure '6' to the Application by the R2. The proof of payment of the settlement amount has also been enclosed as annexure '7' to the typed set filed along with the Application. It is also represented by the Applicant that Form 'FA' has also been filed

In relation to the payment to be made of the fees and expenses of the IRP, Learned Counsel for the R2 brings to the notice of this Tribunal paragraph No.5 in Form 'FA' which reads as follows:-

“Pursuant to the terms of the Memorandum of Settlement dt.04.06.2020, the Corporate Debtor has undertaken to be solely liable and bear all costs pertaining to the fees, incidental expenses and costs to be paid to the Interim Resolution Professional as may be fixed by the Hon'ble Adjudicating Authority, therefore no Bank Guarantee towards the same has been enclosed”.



Upon a query posed by this Tribunal to the Applicant / IRP, whether fees and expenses have been duly quantified and paid, it is represented that in Form 'FA', an assurance has been made as above.

Taking into consideration the Application as filed before this Tribunal seeking for the withdrawal of the Main Application and thereby CIRP initiated against the Corporate Debtor as well as taking into view the decision of the Hon'ble Supreme Court as passed in Swiss Ribbons Private Limited –versus- Union of India (2019) 4 SCC 17 and in view of the assurance given in Form 'FA' in relation to the fees and expenses to be paid to the IRP and of which the IRP is also satisfied, this Tribunal orders the Application accordingly and as a consequence of allowing the Application, the CIRP as initiated in relation to the Corporate Debtor stands **withdrawn**. Learned IRP is directed to hand over, if any records or documents collated or collected from the Corporate Debtor and obtain a due acknowledgment in relation to the same. The Board of Directors of the Corporate Debtor whose powers / suspended by virtue of the provisions of IBC, 2016 stands restored on or from this date.

With the above direction, this Application **stands ordered accordingly**.

-SD-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-SD-
(R.VARADHARAJAN)
MEMBER (JUDICIAL)