

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH
CHENNAI

14

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON 31/05/2019

PRESENT: SHRI B.S.V.PRAKASH KUMAR, MEMBER (JUDICIAL)
SHRI S.VIJAYARAGHAVAN (TECHNICAL MEMBER)

APPLICATION NUMBER : MA/492/2019
PETITION NUMBER : IBA/239/2019
NAME OF THE PETITIONER(S) : G.RAVEENDRAN (RAJALAKSHMI PAPER MILLS
PVT LTD)
NAME OF THE RESPONDENTS : IVAX PAPER CHEMICALS LTD & 1 ANOTHER
UNDER SECTION : 60(5)(c) OF IBC

S.No. NAME (IN CAPITAL) DESIGNATION SIGNATURE
REPRESENTATION BY WHOM

1. AKSHAY BATHIA For Respondent
(ADVOCATE) IVAX

P.H. ARVINDH PANDIAN
FOR
C. THANCHAMANI } Sr Adv
Counsel for Applicant } C. TH
31/5/19

3. MOHAMMED SHADAN Counsel for IRP



(14)

[MA/492/2019 in IBA/239/2019]

ORDER

On MA/492/2019 filed by the Corporate Debtor basing on the Memo of Compromise arrived at between the parties for withdrawal of main Company Petition after the Company Petition was admitted on 28.05.2019, the Applicant counsel has referred to Para No.52 of the order passed by the Honourable Supreme Court of India in W.P.(Civil) No.99 of 2018, which is as follows:

“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 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”.

Apart from referring the above said para, the Corporate Debtor counsel has also stated that no over dues pending payable to any other Creditor except to the Creditor which filed CP/603/IB/2018 pending, wherein also this Corporate Debtor has already paid the full principal amount and as to interest portion is concerned, the settlement is in progress.



(14)

[MA/492/2019 in IBA/239/2019]

-2-

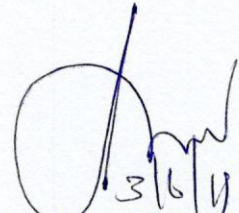
In the backdrop of the factualities, this Bench, looking at the efforts the Corporate Debtor making in paying its over dues, is of the view that this case is fit for withdrawal as envisaged in Para No.52 of the order passed by the Honourable Supreme Court of India in W.P.(Civil) No.99 of 2018.

Accordingly, this Company Petition is hereby **dismissed as withdrawn** by **allowing** this miscellaneous application.


(S.VIJAYARAGHAVAN)
Member (Technical)


(B.S.V.PRAKASH KUMAR)
Member (Judicial)

sr


N. SRIRAMASUBRAMANIAN
ASSISTANT REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH
CORPORATE BHAVAN, 3rd FLOOR
29, RAJAJI SALAI, CHENNAI-600001.

Certified to be True Copy

