

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

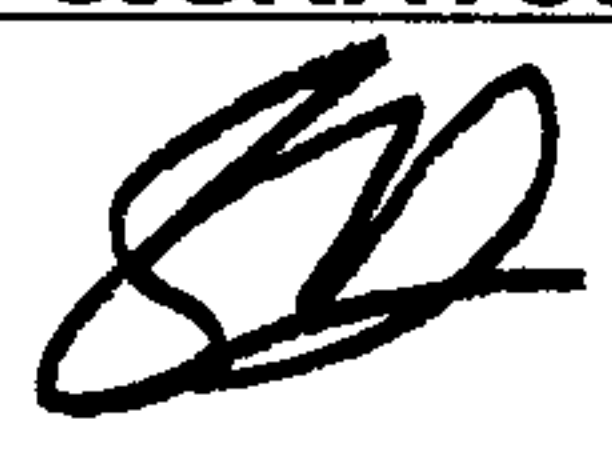


IA 362/2019 in/with C.P. (I.B) No. 26 /9/NCLT/AHM/2019

Coram: **Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 28.06.2019**

Name of the Company: Khanna & Khanna Ltd.
V/s.
Raj Rayon Industries Ltd. & Anr.

Section of the Companies Act: IA for Withdrawal of Main Petition filed u/s 9 of
the Insolvency and Bankruptcy Code

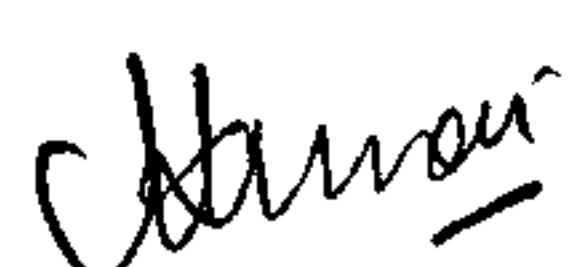
<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	Sahil Thakore	Advocate	O.C	
2.	NATASHA SHRUMAN SHAH	ADV.	IRP	
3.	Aditya Agnik with Jayanti B. Shah	Adv.	Corporate Debtor	

ORDER

The parties are represented through their respective learned counsels.

The instant application is filed by the Petitioner as well as Respondent jointly with a prayer to recall the order dated 29.05.2019 passed by this Bench in CP(IB) 26/2019 filed under section 9 of the IB Code, in view of the settlement arrived between the parties.

On perusal of the record, it is found that vide order dated 29.05.2019 the application was admitted and accordingly IRP was appointed with a direction to make a public announcement under section 15 of the Code. Thereafter, the Corporate Debtor approached the Operational Creditor and agreed to pay the entire outstanding amount together with the interest and entered into consent terms on 19.06.2019.

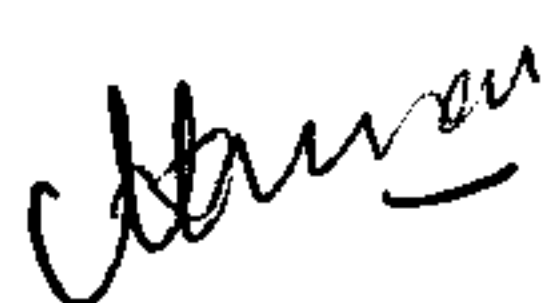


On filing of the instant application notice was issued to the IRP. The IRP appeared through its conducting lawyer and stated that in view of his appointment he has issued notice for convening the meeting of COC and further submitted that he has no objection provided his dues are cleared and submitted that approximately Rs. 8 lacs have been spent by the IRP. However, in support of such contention no documents and/or payment receipt or any invoice filed in respect of the expenditure incurred. Since, party has settled mutually, I found no reason to reject the petition so filed by the petitioner jointly for withdrawal of the application at this stage relying on a judgment of the **Hon'ble Supreme Court in the matter of Swiss Ribbons vs. Union of India** (Writ Petition (Civil) No.99 of 2018 decided on 25.01.2019) For the sake of convenience, the relevant paragraph of the same Judgment is being reproduced herein below;

“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 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”.

With the above stated observations/conditions, the present Interlocutory Application No.362 of 2019 in CP(IB) No.26/9/NCLT/AHMD/2019 succeeds and is allowed.

Consequently, the CIRP in respect of the Corporate Debtor of the CP(IB) No.26/9/NCLT/AHMD/2019 is hereby recalled and the main IB Petition stands disposed of as withdrawn.


MANORAMA KUMARI
(MEMBER JUDICIAL)

Dated this the 28th day of June, 2019