

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH
CHENNAI

34(c)

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON 01-11-2018

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

APPLICATION NUMBER : IA/217/IB/2018, MA/484/2018 & MA/536/2018..

PETITION NUMBER : CP/582/IB/CB/2017

NAME OF THE PETITIONER(S) : MR. VIMALCHANDRUNWAL

NAME OF THE RESPONDENT(S) : BRILLIANT ALLOYS PVT LTD & 4 ORS

UNDER SECTION : 60(5)

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
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- 1) B. Dhanaraj -
- 2) S. Raghavopal
3. K. CHANDRASEKARAN

V L R.P -
R P
Counsel for SBI

B. Dhanaraj
S. Raghavopal
K. Chandrasekaran

(34c)

[MA/536/2018 IN CP/582/IB/CB/2017]

ORDER

It is an application filed by the Resolution Professional stating “That the settlement of all the claims was entered into, after publication of Expression of Interest (EOI), wherein and thereafter Section 12 (A) of IBC, 2016 r/w Regulation 30 (A) of IBC and Form FA of IBBI (IPRCP) Regulations, 2016, would not apply in the present case. Therefore, on the basis of the above fact, the Resolution Professional preferring the present application u/s 60 (5) (a) of IBC, 2016 r/w 11 of NCLT Rules, 2016 seeking to allow the withdrawal of CP/582/ (IB)/2017 with appropriate directions to the Directors of the Corporate Debtor to defray the expenses of CIRP process and consequently remove the Corporate Debtor from the clutches of the IBC.”

But as against this relief sought by the Resolution Professional, since Regulation 30A envisages that an application for withdrawal under Section 12A shall be submitted to the Resolution Professional or the Resolution Professional as the case may be in Form FA of the schedule before issue of invitation for Expression of Interest under Regulation 36A and when such conditional clause has been mentioned in the Regulation regarding Section 12A, this Bench cannot pass an order under Section 60 (5) of the Code ignoring the conditional clause in the Regulation 30A of IRPCP Regulations to submit Application u/s 12A of the Code before issue of invitation for Expression of Interest.

Henceforth, this MA/536/2018 is hereby **dismissed as misconceived.**

(Sd)
(S.VIJAYARAGHAVAN)
Member (Technical)

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