IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.301

IA/1273(AHM)2026 in C.P.(IB)/226(AHM)2025

Proceedings under Section Rule 11 of NCLT Rules,2016

IN THE MATTER OF:

Pratiksingh Vijayrajsingh Gautam Shareholder of M/s.Drishan Industries Private Limited ....**Applicant**

V/s

Prem Associates & Another ....**Respondent**

Order delivered on: 07/08/2026

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet.

sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

SJ/ AD /AP

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)

Interlocutory Application No. 1273 of 2026
In
CP (IB) No. 226 of 2025

[Application under Rule 11 of National Company Law Tribunal Rules, 2016]

In the matter of:

Pratiksingh Vijayrajsingh Gautam
Shareholder of M/s Drishan Industries Private Limited
Having its address at:
C-404 Ganesh Glory-11
Near BSNL office, village Jagatpur
Ahmedabad, Gujarat -382470,
Email: pratiksinghgautam@gmail.com ...Applicant

Vs.

1. **Prem Associates**
   Registered Address at
   183, Manekbag Society, Lane No. 15
   Ambavadi, Ahmedabad, Gujarat-380015
   Email: premasso21@gmail.com

2. **Varun Anil Chopra**
   RP of M/s Drishan Industries Private Limited
   Having IBBI Regn. No. IBBI/IPA-001/IP-P-02950/2025-2026/14525
   Having address at:
   C-1002, Ashirvad Avenue, VIP Road,
   OppShyam Baba Mandir, Althan,
   Surat, Gujarat – 395007
   Email: ipvarunchopra@gmail.com ....Respondents

Order pronounced on: 07.08.2026

sd/-

sd/-

Coram:

MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)

MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)

Appearance:

For the Applicant	: Mr. Nipun Singhvi, Adv and Mr. Vedant Dave, Adv
For the Respondent	: Mr. Dheeraj Garg, Adv and Mr. Harshvardhan Nasra, Adv (for R-1)

JUDGEMENT

1. The present application is filed under Rule 11 of National Company Law Tribunal Rules, 2016 by petitioner seeking following prayers:

   a) *To terminate/close the Corporate Insolvency Resolution Process initiated vide order dated 29.07.2026 under CP(IB) No. 226 of 2025 in light of settlement agreement or*

   b) *To recall/set aside the Corporate Insolvency Resolution Process initiated vide order dated 29.07.2026 under CP(IB) No. 226 of 2025 in light of settlement agreement.*

2. The Applicant submits that Prem Associates, a Partnership Firm (Operational Creditor), had filed an application under Section 9 of the Insolvency and Bankruptcy Code, 2016, bearing CP (IB) No. 226 of 2025, seeking initiation of Corporate Insolvency

Sd/-

Sd/-

Resolution Process against Drishan Industries Private Limited (Corporate Debtor) in respect of default of Rs. 1,37,21,643/-, which came to be admitted by this Tribunal vide order dated 29.07.2026, whereby Mr. Varun Anil Chopra was appointed as the Interim Resolution Professional;

3. The Applicant further submits that Pratiksingh Vijayrajsingh Gautam, a shareholder of the Corporate Debtor, and the Operational Creditor, Prem Associates, mutually executed a Settlement Agreement dated 31.07.2026 for settlement of the outstanding debt, pursuant to which the settlement amount is to be paid by the shareholder of M/s Drishan Industries Private Limited for full and final settlement of the dues and for withdrawal of the CIRP initiated against the Corporate Debtor

4. We have perused the written submissions filed by the Applicant and the judgements relied upon by the Applicant are as follows:

   a) *Brilliant Alloys Pvt. Ltd. Vs S. Rajagopal and Ors. – Special Leave to Appeal No. 31557/2018*

   b) *Abhishek Singh vs Huhtamaki Ppl Ltd. & Anr - SLP (Civil) No. 6452 of 2021*

These rulings are given before amendment in the IBC. When specific provision is made in 2026 earlier citations are not applicable.

sd/-

sd/-

5. Applicant has filed affidavit submitting that Corporate Debtor has two secured financial creditors namely State Bank of India and UCO Bank wherein both secured financial creditors have issued their respective no objection certificate dated 03.08.2026 for closure/withdrawal of CIRP. Applicant has also filed Balance Sheet.

6. The applicant was admitted to CIRP on 29.07.2026. The applicant is stated to have signed a settlement with the OC when there are other financial creditors, on 31.07.2026 and this application was filed on same date seeking setting aside of the order admitting the CD (Applicant) under CIRP. During the oral submissions, the Ld Counsel for RP (VP not filed) appeared and it was submitted that there were two other financial creditors who have standard assets as per the balance sheet provided as on 31 March 2025. Two emails of SBI and UCO bank dated 03.08.2026 stating that the CD has credit facilities and consequently permit the closure/withdrawal of the insolvency proceedings in CP IB 226 of 2025 are sent.

7. We observe that a recall of the order is not possible in terms of IBC 2016 as the applicant has tried to file and seek orders under Rule 11 of NCLT Rules 2016. Further from the balance sheet

Sd/- Sd/-

provided of 2025 (not of 31 March 2026 or recent financial statement) there are unsecured loans from SBI Global Factors limited amounting to Rs.25.43 lakhs and dues to others of Rs.1.49 crores as trade payables. Whether there are any dues to MSME is not clearly specified. The Amended Act provision only allows a withdrawal application to be filed under Section 12A of IBC 2016.

8. As per amendment, withdrawal of application for CIRP admitted under Sec 7, 9, 10 of IBC 2016 (as amended) cannot be filed before constitution of COC under Section 12 A to be filed only by the RP with the approval of 90% of COC and shall not be withdrawn before its constitution. If the creditors have no objections the application should be filed along with Form FA and after constitution of COC by RP. FC should not have given such letter as the IBC 2016 provisions are specific and there are other creditors (as per records) in the annual report.

9. The application deserves no further consideration under Rule 11 of IBC 2016. When the specific provision is made for specific relief, Rule 11 need not to be looked into. Applicant and respondent have not followed proper course of law by arriving at such settlement. However, in view of the submissions by

sd/- sd/-

affidavit, the RP is directed to follow due process of law and convene a meeting of COC of financial creditors immediately and obtain their approval, subject to the Corporate Debtor providing a certificate to COC that the debt of other creditors (unsecured/operational) are fully provided/sufficient funds made available as on date of admission to CIRP. Based on their recommendations and compliance an appropriate application under provisions of IBC 2016 can be filed.

10. In view of the above, we pass the following order:

ORDER

IA No. 1273 of 2026 in CP(IB) No. 226 of 2025 is rejected and disposed of.

sd/- sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

CHITRA HANKARE
MEMBER (JUDICIAL)