



IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH I

IA (I.B.C.) No. 620/2026

In

C.P (IB) No. 488/2025

*An application u/s. 22(3)(b) of the
Insolvency and Bankruptcy Code,
2016;*

In the matter of

**V G V S & Co. Chartered
Accountants Committee of
Creditors**

..... Applicant/Operational
Creditor

And in the matter of

**Schaeffler Elmotec Statomat
GMBH**

..... Financial Creditor

Versus

**Stomat Special Machines
(India) Private Limited**

.... Corporate Debtor



Order Pronounced on 20.03.2026



Coram :

Prabhat Kumar

Sushil Mahadeorao Kochey

Hon'ble Member (Technical)

Hon'ble Member (Judicial)

Appearances :

For the Applicant:

Anand Shaw, Advocate

For the IRP:

Aniruth Purusothaman, Advocate

For the Financial Creditor:

Durgesh Apurkar a/w Aman
Arora and Riddhi B, Advocates

ORDER

1. The Corporate Insolvency Resolution Process (CIRP) of Statomat Special Machines (India) Private Limited (Corporate Debtor) was initiated by Schaeffler Elmotec Statomat GmbH (Financial Creditor/Original Petitioner) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (the Code), and admitted vide order dated 28th November 2025 passed by this Tribunal, whereupon Mr. Shailesh Bhalchandra Desai was appointed as the Interim Resolution Professional.
2. The IRP admitted the claim of the Applicant, an Operational Creditor, to the tune of Rs. 3,50,289/-. The Financial Creditor, having aggregate claims of Rs. 16,54,89,030/-, was excluded from membership of the Committee of Creditors (CoC) being a related party of the Corporate Debtor. Consequently, the CoC stood constituted with the Applicant as its sole member, holding 100% voting rights.





3. The Applicant filed the present application seeking replacement of the IRP and appointment of Mr. Manoj Sehgal as Resolution Professional. The reliefs sought by the applicant in the present application are as follows:

3.1. *Pass an order directing appointment of Mr. Manoj Sehgal, having registration number (IBBI/IPA-002/IP-N00108/2017-18/ 10256) as Resolution Professional of the Corporate Debtor; and*

3.2. *Pass any other order in the interest of equity, justice and good conscience.*

4. The Financial Creditor/intervenor appeared before this tribunal and sought intervention in the manner stating that their application in relation is yet to come on board. The intervenor opposed the application for withdrawal u/s 12A pending for consideration of this Tribunal and prayed for an order directing liquidation of the Corporate Debtor under Section 33 of the Code. This Tribunal, upon consideration, allowed them to intervene and submit their arguments in the present IA.

5. During the hearing dated 26th February 2026, this Tribunal recorded the Financial Creditor's offer to settle the Applicant's claim in full and granted two weeks' time for the same. Relevant para of this tribunals order is as follows:

“Ld. Counsel for the Financial Creditor, who is the only claimant apart from the Applicant herein in the CIRP of the Corporate Debtor, submits that the Applicant herein is





the sole CoC member being an Operational Creditor and they were not admitted as a CoC members being related party, however, they have claim of more than Rs. 16 Crores against the Corporate Debtor and they offered to settle the claim of the Operational Creditor, who is only other creditor in full and do not want to pursue this CIRP any further. Accordingly, two (2) weeks' time is granted to settle their claim."

6. In pursuance thereof, the Financial Creditor discharged the Applicant's entire admitted claim of Rs. 3,50,289/- on 5th March 2026, where after the Applicant herein, the sole CoC member, filed Form FA dated 7th March 2026 under Regulation 30A of the CIRP Regulations, seeking withdrawal of the CIRP.
7. The Financial Creditor, who is a related party and is not part of CoC owing to such relationship, submits that the form FA signed by the Applicant herein for withdrawal of CIRP cannot be considered as Section 12A of the IBC read with Regulation 30 A of CIRP Regulation mandates signing of the said form by the original applicant apart from approval of CoC by at least 90% vote. It is further submitted by the Financial Creditor that it, being the Applicant to the CP (IB) 488 of 2025, is only entitled to seek withdrawal of CIRP process after its commencement. It is further submitted that considering the peculiar facts of the case, where the only creditor of the Corporate Debtor as of now is a related party thereby causing impasse is constitution of the CoC to carry out the CIRP process further, thus, the Corporate Debtor ought to





be admitted to the liquidation process in such facts and circumstances.

8. Heard learned counsels for the Applicant and Financial Creditor.
9. Indubitably, upon receipt of full and final payment of its claim, the Applicant herein ceased to be a 'creditor' of the Corporate Debtor and consequently there remains no member in the CoC to carry out the CIRP process any further, as the only other creditor left out in the CIRP process is a related party disentitled to be a member of the CoC in terms of proviso to section 21(2) of the Code. This is further supported by signing of Form FA by the Applicant herein acknowledging discharge of its dues and its cessation as a creditor of the Corporate Debtor.
10. It is further noted that Regulation 30A of CIRP Regulation requires signing of the Application for withdrawal of CIRP under Section 12A by the original Petitioner, who is a related party as a Financial Creditor and the Applicant in Form FA as tabled before the Tribunal during the argument is executed by the Applicant herein, who is sole CoC member. Accordingly, the said Application is not in consonance in the mandate of Regulation 30A, further consequent upon discharge of the debt owed to the Applicant herein from the Corporate Debtor by the Financial Creditor, the Applicant herein ceased to be a creditor of the Corporate Debtor and the Financial Creditor subrogates the said Applicant in relation to said debt. It has also been held so by Hon'ble NCLAT in *JoinUp Corp. v. R Sugumaran, Company Appeal (AT) (CH) (Insolvency) No. 51/2023*.





11. Further, writing of the debt by the Financial Creditor owed from the Corporate Debtor does not result into discharge of the Corporate Debtor of the debt so due, as such write of is result of merely accounting entry, which requires the companies to account for their assets at its fair value and debit the loss, on account of diminution arising from statement of such assets at its fair value, to the Profit and Loss Account. Accordingly, we do not find any substance in the contention of the Applicant herein that Corporate Debtor does not owe any debt to the Financial Creditor.

12.Ld. Counsel for the Financial Creditor further submits that with the extinguishment of the Applicant's claim, the CoC stands dissolved; the only remaining creditor being the Financial Creditor, who, being a related party, is statutorily debarred from CoC membership. It is urged that the present facts are identical to the situation considered in *STROS Sedlcanske Strojirny, a.s. vs. Poonam Basak, IRP, Company Appeal (AT) (Ins) No. 2159 of 2024*, wherein it was held that the CIRP cannot proceed in the absence of a CoC, and that since withdrawal under Section 12A is equally impermissible in the circumstances, liquidation of the Corporate Debtor is the only legally available course of action. The relevant part of such judgment is reproduced as under: -

“5. The issue is how to remedy a sole related party-financial creditor’s plight within the framework of the IBC. The learned counsel’s submission to accommodate such financial creditor in the CoC based on Phoenix ARC case is impressive, but it requires this Tribunal to provide casus omissus, something Courts in general are wary of doing. Where there





is any ambiguity in a provision of the statute or difficulty in harmonizing provisions within the statute, to iron out the creases, Courts resort to interpretative techniques, but still stay reluctant to supply what the legislature has omitted to do. It is something for the legislature to consider, and this Tribunal, though appreciate the argument of the learned counsel for the appellant, still may not engage in such overreaching exercises.

5.1 What answers has the IBC to offer to the appellant? If the statement of the RP were to be trusted, she has stated that the CD is not a going concern and it is now a company with no commercial activity and is waiting to die. Therefore, it a resolution process may not be attempted, for a resolution process aims to protect a going concern or a running company with stressed assets but not a company in coma with no commercial activities, though there may not be inherently wrong in attempting one. Necessarily the process should now move to liquidation.

5.2 Let the alternate scenario be considered. Even if the CD has commercial existence, still in a scenario where a CoC could not be constituted then the resolution process can never commence. After all, constituting the CoC is central to the theme of resolution process and the IBC has not provided for commencing a CIRP without the CoC at the helm of the said process. The only avenue then open is to pursue liquidation.

6. Looking the issue from both the aspects stated above, the option open is to direct liquidation of the CD. So far as the





impugned Order is concerned, this tribunal is not in agreement with the conclusion of the Adjudicating Authority. It has created an impasse. It must be underscored that no judicial fora which may include the Tribunals can declare its helplessness to remedy a situation and leave the one who approaches it stranded without a solution. Necessarily, the Order now under challenge is liable to be interfered with."

13. In the present case also, there is no eligible creditor remains to constitute a CoC to carry out the CIRP process further, and the Corporate Debtor is undisputedly in default of its obligation towards its Financial Creditor. Following the ratio in *STROS (Supra)*, we considered it appropriate to admit the Corporate Debtor into the liquidation process. The Financial Creditor has placed on record the consent form the existing Resolution Professional to act as a liquidator.

14. In view of the aforesaid discussion we pass the following order: -

a) Prayer of the intervenor in this application for admission of Corporate Debtor into liquidation is allowed. The Corporate Debtor, Statomat Special Machines (India) Private Limited, shall be Liquidated in the manner as laid down in Chapter-III of the Code.

b) **Mr. Shailesh Desai**, an Insolvency Professional bearing IBBI Registration No. IBBI/IPA-001/IP-P00183/2017-2018/10362 is appointed as Liquidator of Statomat Special Machines (India) Private Limited.





c) That the Liquidator for conduct of the Liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the Insolvency and Bankruptcy Board of India (Liquidation Process Regulations), 2016.

d) The Moratorium declared under Section 14 of the Code shall cease to operate here from.

e) Liquidator shall issue public announcement stating that Corporate Debtor is in Liquidation.

f) The Liquidator shall strictly act in accordance with the provisions of IBC, 2016 (viz. Sections 35 to 50 and 52 to 54) and other relevant rules and Regulations including Insolvency and Bankruptcy (Liquidation Process) Regulations, 2017 as amended up to date, enjoined upon him.

g) Subject to Section 52 of the Code no suit or other legal proceedings shall be instituted by or against the Corporate Debtor. This shall however not apply to legal proceedings in relation to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

h) All powers of the Board of Directors, Key Managerial Personnel and partners of the Corporate Debtor shall cease to have effect and shall be vested in the Liquidator.

i) Personnel connected with the Corporate Applicant shall extend all assistance and cooperation to the Liquidator as will be required for managing its affairs.





j) This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

k) The Liquidator shall submit progress reports as per Regulation 15 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

l) 11) The Liquidator is hereby Authorized to represent the Corporate Debtor before the Government Authorities, if need be.

15. Registry shall furnish a copy of this Order to the Insolvency and Bankruptcy Board of India, New Delhi; Regional Director (Western Region), Ministry of Corporate Affairs; Registrar of Companies & Official Liquidator, Maharashtra; the Registered Office of the Corporate Debtor; and the Liquidator, Mr. Shailesh Desai, having address C/o, Headway Resolution and Insolvency Services Pvt. Ltd., 708, 7th Floor, Raheja Centre, Nariman Point, Mumbai – 400021, having E-mail ID ip10362.desai@gmail.com.

16. In terms of the above IA (I.B.C.) 620 of 2026 is dismissed and the prayer for the intervenor in this application for admission of Corporate Debtor into liquidation is allowed.

Sd/-

Prabhat Kumar

Member (Technical)

/A/

Sd/-

Sushil Mahadeorao Kochey

Member (Judicial)



Certified True Copy
Copy Issued "free of cost"
On 24.03.26.

Ripatya
29.03.26
Deputy Registrar

National Company Law Tribunal Mumbai Bench