

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 808 of 2026

&

I.A. No. 3186 of 2026

IN THE MATTER OF:

Chittaranjan Ganesh Naik

...Appellant(s)

Versus

Scharffler Elmotec Statomat Gmbh and Ors.

...Respondent(s)

Present:

For Appellant(s) : Mr. Kumar Anurag Singh, Mr. Zain A. Khan and Mr. Mohd. Abran Khan, Advocates.

Mr. Nausher Kohli, Advocate.

For Respondent(s) : Mr. Krishnendu Datta, Sr. Advocate with Mr. Aman Arora and Ms. Alina Merin Mathew, Advocates.

Mr. Aniruth Purusothaman, Advocate for R2.

ORDER
(Hybrid Mode)

04.05.2026 Heard Ld. Counsel appearing for the Appellant and Shri Krishnendu Datta, Ld. Sr. Counsel appearing for the Respondent.

2. This Appeal has been filed against the order dated 28.03.2026 passed in Company Petition 488 of 2025 by the National Company Law Tribunal, Mumbai Bench.

3. Ld. Counsel for the Appellant submits that application which came for consideration was application for appointment of one Manoj Singhal as Resolution Professional and by hearing the application, intervenor was heard and Adjudicating Authority directed for liquidation of the Corporate Debtor. It is submitted that only Member of the CoC who was Operational Creditor had given form FA to the Resolution Professional to withdraw the proceedings, however, the Adjudicating Authority observed that the 12A cannot be resorted

since form FA can be signed only by the person who has initiated i.e. Financial Creditor who is not the Member of the CoC.

4. We have considered the submissions of the parties and perused the record.

5. From the facts which is on record, it is clear that only Operational Creditor was sole Member of the CoC, whose debts have been cleared by the Financial Creditor, who is related party of the Corporate Debtor but application for withdrawal was not filed by the applicant who initiated the proceedings, hence, present was not a case for permitting the withdrawal under 12A and the Adjudicating Authority has rightly taken a decision, there being no one to carry the CoC, to direct for liquidation which is the only option in the facts of present case.

6. Ld. Counsel for the Respondent has placed reliance on the Judgment of this Tribunal in *CA(AT)(Ins.) No. 2159 of 2024, 'Stros-Sedlcanske Strojirny, A.S. Vs. Poonam Basak IRP For Stros Esquire Elevators and Hoists Private Limited'* decided on 12.08.2025 which Judgment fully support the submission of respondent.

7. The Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Abhishek/md