

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH, COURT-III

I.A. No. 2785/2026

IN

IB-1348(ND)/2019

IN THE MATTER OF IB-1348(ND)/2019:

Nisus Finance and Investment Managers LLP & Anr. ... **Financial Creditor**

VERSUS

Earthcon Universal Infratech Limited

... **Corporate Debtor**

AND IN THE MATTER OF I.A. NO. 2785/2026:

*Under Section 12A read with Regulation 30A of IBBI (CIRP Regulations), 2016
and Rule 11 of the NCLT Rules, 2016*

MR. GAURAV KATIYAR

(Resolution Professional – Earthcon Universal Infratech Limited)

Address:

D-32, East of Kailash, New Delhi-110065

... **Applicant**

Pronounced On: 15.10.2026

CORAM:

SHRI BACHU VENKAT BALARAM DAS,

HON'BLE MEMBER (JUDICIAL)

SHRI RAVINDRA CHATURVEDI,

HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Mr. Rishabh Jain, Adv.

For the CoC : Mr. Mrinal Harsh Vardhan, Ms. Rituparna Patra,
Mr. Abhinav Mishra, Advs.

For the Suspended Board : Mr. Sarwar Raza, Mr. Rachit Mittal, Mr. Sahil
Khan, Advs.

For the Intervenor : Mr. Sumesh Dhawan, Mr. Mohak Sharma, Ms.
Khyati Khemka, Adv. In Intervention.P-46/2026

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ORDER

PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

1. This application has been filed by the Resolution Professional of the Corporate Debtor, Earthcon Universal Infratech Private Limited, under Section 12A read with Regulation 30A of the IBBI (CIRP) Regulations seeking approval of the withdrawal proposal of Mr. Shadab Khan, ex-director/promoter, and termination of CIRP of the Corporate Debtor. The application has been filed seeking the following prayers:

- “1. approve the section 12A withdrawal/settlement proposal of Mr. Shadab Khan, Ex-Director/promoter of the Corporate Debtor and resolution passed by the CoC in its 42nd meeting;*
- 2. terminate the Corporate Insolvency Resolution Process of the Corporate Debtor i.e., Earthcon Universal Infratech Private Limited;*
- 3. discharge, Mr. Gaurav Katiyar, Insolvency Professional from the duties of Resolution Professional of Earthcon Universal Infratech Private Limited, restore the suspended board of the company and allow Mr. Gaurav Katiyar, Resolution Professional to handover all assets, records, books, affairs of the Corporate Debtor i.e., Earthcon Universal Infratech Private Limited etc. in the hands of restored management;*
- 4. pass any other order(s) as this Hon'ble Adjudicating Authority may deem fit and proper in the facts and circumstances of the case.”*

SUBMISSIONS ON BEHALF OF THE APPLICANTS:

2. The Applicant submitted that, vide order dated 08.01.2020, this Adjudicating Authority initiated the Corporate Insolvency Resolution Process (“CIRP”) of the Corporate Debtor and Mr. Jitender Arora was appointed as the Interim Resolution Professional. On 24.02.2020, the Committee of Creditors (“CoC”) was constituted, and on 02.03.2020, Mr. Deepak Gupta was appointed as Authorized Representative of Financial

Creditors in the class of Home Buyers. Thereafter, in the 2nd CoC meeting held on 15.10.2020, the Applicant was appointed as the Resolution Professional.

3. The Applicant submitted that on 07.05.2021, the CoC approved the Resolution Plan submitted by Saya Homes Private Limited in consortium with Saya Buildcon Consortium Private Limited and Roseberry Developers Private Limited with 91.46% voting and was thereafter placed before this Adjudicating Authority for approval. Subsequently, pursuant to the order of this Adjudicating Authority dated 23.07.2021 allowing I.A. No. 1606/2021 and directing exclusion of 205 flats from the common pool of the Corporate Debtor, Nisus Finance and Investment Managers LLP was removed as a secured financial creditor, the Information Memorandum was amended, and the Resolution Plan was reconsidered. Thereafter, the revised Resolution Plan submitted thereafter by M/s Saya Homes Private Limited was rejected by the CoC as being non-compliant with Section 30(2)(b) and (e) of the Code. The order dated 23.07.2021 was, however, assailed before the Hon'ble NCLAT.
4. Thereafter, a fresh Form-G (2nd Form-G) was issued, and the Resolution Process was undertaken accordingly. On 27.06.2022, the CoC approved the Resolution Plan submitted by DS Infraheights Private Limited in consortium with Svarrnim Infrastructure Private Limited and OSS Construction Private Limited with 78.94% voting. The Resolution Professional filed I.A. No. 3051/2022 for approval of the said Resolution Plan.
5. During the pendency of I.A. No. 3051/2022, the Hon'ble NCLAT, vide judgment dated 25.01.2023, set aside the order dated 23.07.2021 and directed that the 205 flats be treated as part of the assets of the Corporate Debtor. Pursuant to the order of the Hon'ble NCLAT dated 25.01.2023, the RP restored the position of Nisus Finance and Investment Managers LLP as a secured financial creditor to the position existing before the order dated 23.06.2021. Thereafter, the RP placed the judgment before the CoC, and in the 20th CoC meeting, the CoC decided

to withdraw the pending Resolution Plans and authorised the RP to seek a further extension of the CIRP period by 120 days. The extension was subsequently allowed vide order dated 22.03.2023, while exclusion of 206 days was allowed vide order dated 31.03.2023. A fresh Form-G (third Form-G) was issued.

6. The process pursuant to the Form-G was undertaken, and the CoC in its 26th meeting considered the Resolution Plans submitted by the Consortium of M/s. D S Infraheights Private Limited and Anand Buildtech Private Limited, and the Consortium of M/s. Nirala Projects Private Limited and Iftikar Ahmed. On 19.08.2023, the Resolution Plan submitted by the Consortium of M/s. D S Infraheights Private Limited and Anand Buildtech Private Limited was approved by 70.18%, and the Applicant/Resolution Professional filed an application bearing I.A. No-4466/2023 for approval of the Resolution Plan before this Adjudicating Authority.
7. During the pendency of I.A. No-4466/2023, this Adjudicating Authority, vide order dated 02.05.2024 in I.A. No-5238/2023 filed as objections to the Plan by M/s. Nisus Finance & Investment Managers LLP & Anr., directed that the then SRA had not met the eligibility criteria, and the Resolution Professional was directed to publish fresh Form-G.
8. Thereafter, the Consortium of D.S. Infraheights Private Limited and Anand Buildtech Private Limited, the then SRA and RP filed an appeal before the Hon'ble NCLAT. The Hon'ble NCLAT, vide order dated 21.07.2025, dismissed all appeals and upheld the order dated 02.05.2024 passed by this Adjudicating Authority.
9. Thereafter, Consortium of D.S. Infraheights Private Limited and Anand Buildtech Private Limited filed Civil Appeal No(s)-10267-10271/2025 before the Hon'ble Supreme Court. Vide order dated 14.08.2025, the Hon'ble Supreme Court directed parties to maintain status quo. Further, vide order dated 11.02.2026, the Hon'ble Supreme Court vacated the status quo order and allowed the CIRP to continue, while directing that no resolution plan shall be finalized during the interregnum.

10. The Applicant submitted that the CoC advised the Resolution Professional to seek exclusion of 181 days. Thereafter, this Adjudicating Authority vide orders dated 19.02.2026 and 11.03.2026 allowed exclusion of 430 days and 181 days, respectively.
11. The Applicant submitted that on 09.03.2026, a withdrawal/settlement proposal under Section 12A by Mr. Shadab Khan, the suspended director, was received by the Resolution Professional. The proposal was placed before the CoC in its 40th meeting held on 16.03.2026. The Authorized Representative of real estate allottees pointed out certain negotiations on the Section 12A proposal on behalf of the allottees, and the meeting was adjourned to 24.03.2026. On 24.03.2026, Punjab and Sindh Bank pointed out certain negotiations on behalf of the bank, and the meeting was further adjourned to 30.03.2026. On 30.03.2026, e-voting was kept in abeyance as I.A. No. 1320/2026 was filed by Mr. Shadab Khan for seeking reclassification of the claim of GNIDA.
12. The Applicant submitted that the CoC in its 41st meeting held on 06.04.2026 approved publication of Form-G and the 4th and last Form-G was published on 16.04.2026. On 20.04.2026, a revised withdrawal/settlement proposal was received from Mr. Shadab Khan incorporating the negotiations of allottee(s) and Punjab and Sindh Bank made in the 40th meeting. On 27.04.2026, the amended withdrawal/settlement proposal under Section 12A was deliberated and put for e-voting in the 42nd CoC meeting.
13. The Applicant submitted that the e-voting for Punjab and Sindh Bank, which holds an 08.75% voting share in the CoC, was extended by 15 days vide order dated 08.05.2026 in I.A. No. 2046/2026. Thereafter, in I.A. No. 2318/2026, the e-voting period was extended to 25.06.2026 vide order dated 02.06.2026. The e-voting on the Section 12A withdrawal/settlement proposal finally concluded on 15.06.2026, and the resolution was passed with 97.98% voting. The Resolution Professional announced the e-voting results on 17.06.2026.

14. The Applicant submitted that the resolution passed by the CoC accorded consent to approve the settlement proposal and addenda thereto submitted by Mr. Shadab Khan, Suspended Director, to terminate the CIRP of the Corporate Debtor under Section 12A of the IBC, and to authorize the Resolution Professional to file appropriate applications before this Adjudicating Authority and the Hon'ble Supreme Court.
15. The Applicant submitted that as per Form-FA, the justification for withdrawal/settlement under Section 12A after issuance of Form-G is that Mr. Shadab Khan had amicably resolved all disputes and outstanding claims through a mutually agreed omnibus settlement. The Applicant further submitted that the withdrawal/settlement proposal was approved by the CoC in its 42nd meeting with 97.98% voting in favour. The resolution passed by the CoC u/s 12A is as under:

***“RESOLVED THAT** pursuant to section 12A of I & B Code, 2016, read with Regulation 30A of IBBI (CIRP) Regulation, 2016 the consent of the members of the committee of creditors of Earthcon Universal Infratech Private Limited be and is hereby accorded to approve the settlement proposal and addendums thereto submitted by Mr. Shadab Khan, Directors (Power suspended).*

***RESOLVED FURTHER THAT** the consent of the members of the committee of creditors of Earthcon Universal Infratech Private Limited be and is hereby further accorded to terminate the Corporate Insolvency Resolution Process of Earthcon Universal Infratech Private Limited u/s 12A of IBC, 2016 in terms settlement proposal and addendums thereto submitted by Mr. Shadab Khan, Directors (Power suspended).*

***RESOLVED FURTHER THAT** the consent of the members of the committee of creditors of Earthcon Universal Infratech Private Limited be and is hereby further accorded to authorise Mr. Gaurav Katiyar, Resolution Professional, to file appropriate application(s) before the Hon'ble NCLT, New Delhi and Hon'ble Supreme Court to give effect to aforesaid decision.”*

16. The Applicant submitted that the Hon'ble Supreme Court in *Glass Trust Company LLC v. BYJU Raveendran & Ors.*, Civil Appeal No. 9986/2024, considered the stages of withdrawal under Section 12A and Regulation 30A. The Applicant further relied upon the judgment of the Hon'ble Supreme Court in *Vallal RCK v. Siva Holdings and Industries Limited & Ors.*, Civil Appeal No. 1811-1812 of 2022, as stated in the application.
17. The Applicant submitted that the Ministry of Corporate Affairs, vide S.O. 2625(E) dated 22.05.2026, notified Section 8 of the Insolvency and Bankruptcy Code (Amendment) Act, 2026, substituting Section 12A. The Applicant submitted that the amended provision came into effect on 26.05.2026 and that the withdrawal process in the present case had commenced from the 40th CoC meeting held on 16.03.2026. The Applicant further submitted that the withdrawal/settlement proposals were received on 09.03.2026 and 20.04.2026, before the amended Regulation 30A was notified on 01.06.2026.
18. The Applicant submitted that the present case has no resolution plan approved by the CoC presently, and that the earlier two Resolution Plans approved by the CoC were permitted to be withdrawn. The Applicant further reiterated that the last Resolution Plan approved in August 2023 was rejected by this Adjudicating Authority on 02.05.2024 by allowing the objections to the Resolution Plan in I.A. No. 5238/2023.
19. The Applicant submitted that the Corporate Debtor is a real estate company with approximately 1600 allottees and that the Corporate Debtor has been in CIRP for the last five years. The Applicant further submitted that the withdrawal/settlement proposal provides for an omnibus settlement with all the stakeholders of the Corporate Debtor, as stated in Schedules I, IA, II, III, IV and V of the withdrawal/settlement proposal.

20. The rationale for withdrawal/termination of CIRP of the Corporate Debtor u/s 12A provided by the withdrawal/settlement proposal is as under:

- “i. The proposal provides for a comprehensive, time-bound settlement of stakeholder claims and envisages revival under the supervision of the erstwhile management, which possesses intimate knowledge of the project and is best placed to ensure efficient execution. This approach significantly enhances feasibility, reduces execution risk, and aligns with stakeholder interests.*
- ii. The Hon’ble Supreme Court has repeatedly emphasised that the IBC is a value-maximisation framework, not merely a recovery mechanism. Where CIRP fails to deliver a viable resolution and a better alternative exists, withdrawal under Section 12A is both legally sound and commercially prudent.*
- iii. In the present case, the proposed settlement framework demonstrably offers superior value realisation compared to liquidation or resolution under CIRP, while also ensuring project completion and restoring stakeholder confidence.*
- iv. Accordingly, approval of this proposal by the Committee of Creditors will enable (a) maximisation of asset value, (b) timely and improved recovery for creditors, (c) completion of the project, and (d) protection of the interests of approximately 1,800 homebuyers. It is therefore submitted that this proposal represents the most practical, equitable, and value-accretive course of action, warranting approval for withdrawal of CIRP under Section 12A of the IBC.”*

SUBMISSIONS OF THE INTERVENOR:

- 21. An application was filed by Consortium of M/s. DS Infraheights Pvt. Ltd. seeking leave to intervene in I.A. No. 2785 of 2026 filed by the Resolution Professional under Section 12A of the Code.
- 22. The Consortium of M/s. DS Infraheights Pvt. Ltd. brought to the notice of this Adjudicating Authority the order dated 23.07.2026 passed by the Hon’ble Supreme Court in Civil Appeal Nos. 10267-10271/2025,

whereby an opportunity of being heard was directed to be given to the parties, including the Consortium of M/s. DS Infraheights Pvt. Ltd. and the homebuyers, in the applications seeking approval of the withdrawal/settlement proposal and termination of the CIRP. In view thereof, vide order dated 06.08.2026, the Intervention Application was allowed, and the intervenor, Consortium of M/s. DS Infraheights Pvt. Ltd., was allowed to make submissions in the present withdrawal application, I.A. No. 2785 of 2026, under consideration.

23. The Intervenor submitted that Section 12A of the Code, as amended, provides that, subject to sub-section (2), the Adjudicating Authority may allow withdrawal of an application admitted under Section 7, 9 or 10 on an application made by the Resolution Professional with the approval of ninety per cent voting share of the CoC in the manner specified.
24. The Intervenor submitted that Section 12A(2) specifically provides that an application admitted under Section 7, 9 or 10 shall not be withdrawn before constitution of the CoC and after the first invitation for submission of a resolution plan has been issued by the Resolution Professional.
25. The Intervenor further submitted that Regulation 30A(1) of the CIRP Regulations, 2016 provides that an application for withdrawal under Section 12A shall be made by the Resolution Professional within three days of approval by the CoC and that such application shall not be made before constitution of the CoC and after the issue of invitation for expression of interest under Regulation 36A.
26. The Intervenor submitted that the amendment to Section 12A of the Code was notified by the Ministry of Corporate Affairs vide S.O. 2625(E) dated 22.05.2026 and came into force with effect from 26.05.2026. It was submitted that the present Section 12A proposal was approved by the CoC on 15.06.2026, i.e., after the amendment came into force.
27. The Intervenor submitted that I.A. No. 2785 of 2026 was filed on 18.06.2026 and, therefore, the filing of the application under Section 12A was after the amended Section 12A and Regulation 30A had come into

force. It was submitted that the amended provisions bar the filing of the application and withdrawal of the CIRP after the issue of invitation for expression of interest under Regulation 36A.

28. The Intervenor submitted that any order allowing withdrawal of the CIRP under Section 12A after 26.05.2026 would be contrary to the amended Section 12A of the Code and Regulation 30A of the CIRP Regulations, 2016. It was further submitted that the present application raises a question of law as to whether the approval of the CoC with the requisite voting share and adjudication of the Section 12A application, both taking place after the amendment came into force, are permissible under the amended provisions.
29. In support of the aforesaid submissions, the Intervenor relied upon the judgment of the Hon'ble Supreme Court in *Bank of Baroda & Another v. MBL Infrastructure Limited and Others*, (2022) 5 SCC 661.

SUBMISSIONS OF THE COMMITTEE OF CREDITORS:

30. The CoC submitted that the settlement proposal under Section 12A was initiated on 09.03.2026, when the unamended provision was in force. The amendment to Section 12A, though enacted on 06.04.2026, came into force only on 26.05.2026 and, therefore, cannot be applied retrospectively to a process already initiated under the earlier statutory regime. The CoC further submitted that Regulation 30A is procedural in nature and, in view of the judgments of the Hon'ble Supreme Court in *Brilliant Alloys* and *GLAS Trust v. BYJU Raveendran*, its procedural requirements cannot be construed as an absolute bar to withdrawal under Section 12A after issuance of Form-G.
31. It is further submitted that the CoC did not mechanically proceed with the settlement proposal. The proposal was considered over several meetings, concerns raised by the members were addressed, negotiations were undertaken, and a revised proposal dated 20.04.2026 was placed for consideration. Simultaneously, the CoC proceeded with a fresh Form-G process, pursuant to which five EoIs were received; however, all the

prospective resolution applicants were found ineligible. The settlement proposal was thereafter put to vote and received an overwhelming approval of 97.98% of the voting share of the CoC, after adequate opportunity was afforded to all members to participate.

32. In response to the objections of the Intervenor, the CoC submitted that their resolution plan had already been rejected by this Adjudicating Authority and they have no vested right to insist upon continuation of the CIRP. Their participation in the earlier process does not confer any right to veto a subsequent settlement approved by the CoC. The order of the Hon'ble Supreme Court dated 23.07.2026 permitting them to be heard only affords an opportunity of hearing and does not confer any substantive right to challenge or obstruct the commercial decision of the CoC.
33. The CoC accordingly submitted that the settlement represents the considered commercial wisdom of an overwhelming majority of the creditors, particularly when the subsequent resolution process failed to yield any eligible Resolution Applicant. In the absence of any demonstrated prejudice to the stakeholders or any illegality in the decision-making process, the objections raised against the Section 12A proposal, according to the CoC, do not constitute a ground for withholding approval of the settlement. The CoC therefore seeks approval of the settlement proposal and consequential termination of the CIRP.

SUBMISSIONS OF THE SUSPENDED DIRECTOR/ SETTLEMENT PROPOSER:

34. The Suspended Director, Sh. Shadab Khan, filed an affidavit dated 10.08.2025, wherein it was submitted that he is the Suspended Director of the Corporate Debtor, M/s. Earthcon Universal Infratech Pvt. Ltd. and the Proposer of the Settlement Proposal under Section 12A of the Code. He submitted that the present affidavit was being filed pursuant to the directions of this Adjudicating Authority vide order dated 06.08.2026, to place on record a specific undertaking regarding the treatment of CIRP

costs, other accrued dues and admitted claims upon approval of the Section 12A Settlement Proposal.

35. It is further submitted that the Settlement Proposal was approved by 97.98% voting share of the CoC and that, out of 1,599 homebuyers, 1,554 voted in favour, 27 abstained, and 18 opposed the proposal.
36. The Suspended Director submitted that to implement the project effectively, it proposed to constitute a project implementation committee with the following members:
 - (a) Proposer.
 - (b) Three representatives of the Proposer.
 - (c) Three representatives of 'Casa Royal' homebuyers.
 - (d) One representative of secured creditors, and
 - (e) Two representatives from Swamih fund.
37. The Ex-Director submitted that the said Committee shall review the progress of construction and shall appoint a site engineer to independently monitor the quality of construction, and that the stakeholders shall be part of the implementation process.
38. The Suspended Director/Proposer further submitted and undertook that all CIRP costs incurred up to the date of termination of the CIRP and restoration of the management of the Corporate Debtor shall be paid in full, in accordance with the provisions of the Code and the IBBI (CIRP) Regulations, 2016. He further submitted and undertook that all other admitted claims, including those of Operational Creditors and other stakeholders, shall be honoured by the Corporate Debtor/Proposer to the extent they are legally payable and/or are specifically covered by the Section 12A Settlement Proposal approved by the requisite majority of the CoC. He clarified that the Corporate Debtor shall fulfil the said commitments without seeking any unlawful concession and that such liabilities shall be dealt with in accordance with the CoC-approved terms and applicable law.

39. The Suspended Director/Proposer further submitted and undertook that he shall abide by the timeline provided in the Settlement Proposal, and that the project shall be completed within 27 months from the date on which the Corporate Debtor is discharged from the CIRP and its management and control are restored to its Board of Directors. He further submitted and undertook to adhere to the financial discipline provided in the Settlement Proposal.

ANALYSIS AND FINDING:

40. We have considered the submissions made by the Applicant/Resolution Professional, the Intervenor, the Committee of Creditors and the Suspended Director/Proposer, and perused the material on record.
41. The present application seeks withdrawal of the CIRP under Section 12A of the Code based on the settlement proposal submitted by Mr. Shadab Khan, suspended director. The proposal was received on 09.03.2026 and placed before the CoC in its 40th meeting held on 16.03.2026. After deliberations and negotiations with the stakeholders, a revised proposal was received on 20.04.2026 and considered in the 42nd CoC meeting. The proposal was ultimately approved through e-voting concluded on 15.06.2026, with a 97.98% voting share in favour.
42. The Intervenor has objected that the amendment to Section 12A came into force on 26.05.2026 and that, after issuance of Form-G, withdrawal is barred under the amended Section 12A and Regulation 30A. The CoC and the Applicant/ RP, on the other hand, submitted that the withdrawal process commenced on 09.03.2026 when the unamended provision was in force. The Applicant relied upon *GLAS Trust Company LLC v. BYJU Raveendran & Ors.*, and *Vallal RCK v. Siva Holdings and Industries Limited & Ors.* in support of its submissions.
43. The Hon'ble Supreme Court in the matter of *GLAS Trust Company LLC v. BYJU Raveendran & Ors.*, Civil Appeal No-9986/2024, held that the framework under Rule 8 of the NCLT Rules, 2016, Section 12A of the IBC and Regulation 30A of the CIRP Regulations prescribes an exhaustive

procedure for withdrawal of applications filed under Sections 7, 9 or 10 of the IBC at four stages: (i) before admission; (ii) after admission but before constitution of the CoC; (iii) after constitution of the CoC but before issuance of the EOI; and (iv) after issuance of the EOI. Where withdrawal is sought after constitution of the CoC, as in the present case, the withdrawal request must be placed before the CoC and, upon approval by a 90% voting share, be submitted by the RP to the Adjudicating Authority. Where the EOI has already been issued, the applicant must additionally state the reasons for seeking withdrawal at that belated stage. The said order of the Hon'ble Supreme Court reads as under:

“63. In essence, after a series of deliberations by the legislature, the executive and nudges by this Court, the framework created by Rule 8 of the NCLT Rules and Section 12A of the IBC read with Rule 30A of the CIRP Regulations lays down an exhaustive procedure for the withdrawal of an application filed by creditors under Sections 7, 9, or 10 of the IBC. Withdrawal may be sought at four stages, all of which have a procedure prescribed under the existing framework. These may be summarized as follows:

- (i) Before the application under Sections 7, 9 or 10 is admitted by the NCLT: *****
- (ii) After an application under Sections 7, 9, or 10 is admitted, but before the CoC has been constituted: *****
- (iii) After an application under Section 7, 9 or 10 is admitted, the CoC has been constituted and the invitation for expression of interest has not been issued: Section 12A read with Regulation 30A provides exhaustively for this scenario. In such cases, the application for withdrawal is to be placed before the NCLT, through the IRP or the RP. The application is first placed before the CoC and after ascertaining approval with a ninety percent voting share, the RP shall submit the application to the NCLT.*

(iv) After an application under Section 7, 9 or 10 is admitted, the CoC has been formed and the invitation for expression of interest has been issued: The procedure is the same as that detailed in (iii) above, with the added requirement stemming from the proviso to Regulation 30A (1). in such cases, the applicant must state the reasons for withdrawal at this belated stage.”

44. Further, the Hon'ble Supreme Court in the matter of *Vallal RCK v. Siva Holdings and Industries Limited & Ors.*, Civil Appeal No-1811-1812 of 2022, held that “*when 90% and more of the creditors, in their wisdom after due deliberations, find that it will be in the interest of all the stakeholders to permit settlement and withdraw CIRP, in our view, the adjudicating authority or the appellate authority cannot sit in an appeal over the commercial wisdom of CoC*”.
45. The material on record shows that the withdrawal proposal was received on 09.03.2026, prior to the amendment coming into force on 26.05.2026, and was thereafter considered in successive CoC meetings. The CoC also published the 4th and last Form-G on 16.04.2026. Thus, consideration of the settlement proposal had commenced before the amendment.
46. Pursuant to the fresh/4th Form-G, five EoIs were received, but all prospective Resolution Applicants were found ineligible. Thereafter, the withdrawal/settlement proposal was put to vote and approved by 97.98% of the voting share of the CoC.
47. The earlier Resolution Plan submitted by the Intervenor/Consortium of D.S. Infraheights Private Limited and Anand Buildtech Private Limited had been rejected by this Adjudicating Authority vide order dated 02.05.2024, which was upheld by the Hon'ble NCLAT vide order dated 21.07.2025. The Intervenor, therefore, cannot have any vested right in continuation of the earlier resolution process.
48. The Hon'ble Supreme Court, vide order dated 23.07.2026, directed that an opportunity of hearing be given to the parties, including the Intervenor

and homebuyers, in the applications seeking approval of the withdrawal/settlement proposal. Such opportunity has been afforded in the present proceedings. The said order does not confer any right upon the Intervenor to have its earlier Resolution Plan revived or to substitute the commercial decision of the CoC.

49. The Suspended Director/Proposer has undertaken to pay all CIRP costs incurred up to termination of CIRP and restoration of management in accordance with law, honour the other admitted claims to the extent legally payable and/or covered by the approved settlement proposal, and complete the project within 27 months from restoration of management and control.

ORDER:

50. In view of the above, we are satisfied that the requirements for withdrawal under Section 12A of the Code read with Regulation 30A of the CIRP Regulations stand fulfilled, particularly considering that the withdrawal proposal was initiated before 26.05.2026, subsequently considered and approved by 97.98% voting share of the CoC. Further, the fresh Form-G process did not result in any eligible Resolution Applicant.
51. Moreover, the requirements laid down by the Hon'ble Supreme Court in *GLAS Trust Company LLC v. BYJU Raveendran & Ors.* and *Vallal RCK v. Siva Holdings and Industries Limited & Ors.* stand satisfied. The CoC, after due deliberations, has approved the withdrawal proposal in exercise of its commercial wisdom, with 97.98% voting share. Accordingly, we find no ground to withhold approval of the withdrawal proposal under Section 12A of the Code.
52. The withdrawal/settlement proposal submitted by Mr. Shadab Khan, the Suspended Director, as approved by the CoC with 97.98% voting share is hereby approved.

53. Accordingly, the ***present application bearing I.A. No. 2785 of 2026 is allowed, and the main application under Section 7 of the Code is dismissed as withdrawn.***
54. Consequently, the Corporate Debtor, Earthcon Universal Infratech Private Limited, is released from the rigors of the CIRP and the ***CIRP of the Corporate Debtor stands terminated.***
55. ***Further, all pending I.A.s are consequently disposed of.***
56. We direct that the Corporate Debtor be revived and restored to its original position with the following directions:
- i. The Corporate Debtor shall remain bound to comply with the statutory requirements in accordance with the law.
 - ii. The Corporate Debtor shall be responsible for paying all the statutory dues, including but not limited to Income Tax dues, as per law.
 - iii. This order shall not be construed as a waiver of any statutory obligations/liabilities of the Corporate Debtor and the same shall be dealt with by the appropriate authorities concerned as per relevant laws.
 - iv. The moratorium order passed by this Adjudicating Authority under Section 14 of the Code shall cease to have effect from the date of this order.
57. The Resolution Professional is directed to hand over the records and assets of the Company, if any, to the management of the said Corporate Debtor forthwith.
58. The Court Officer/Registry is directed to send a copy of this order to the Applicant for the necessary steps to be taken at their end, within a week.

Sd/-

(RAVINDRA CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)