IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (LODGING) NO. 30071 OF 2025

Vishal Ganpat Shinde … Petitioner

vs.

Union of India,
Through the Ministry of Corporate Affairs & ors. … Respondents

WITH

WRIT PETITION (LODGING) NO. 31334 OF 2025

M/s. Mohandas Chhataram,
Through its partner Pankaj Somaiya … Petitioner

vs.

Union of India,
Through the Ministry of Corporate Affairs & ors. … Respondents

Mr. Ashish Kamat, Senior Advocate, a/w. Mr. Anukul Seth, i/b. Mr. Fauzan Shaikh for petitioner in WPL/30071/2025.

Mr. Sarosh Damania a/w. Ms. Riddhi Shah for petitioner in WPL/31334/2025 and respondent No.10 in WPL/30071/2025.

Mr. Yash Palan a/w. Mr. Ashish Mehta for respondent No.1 in WPL/30071/2025.

Mr. Vinit Jain a/w. Ms. Shazia Ansari and Mr. Ashutosh Mishra for respondent No.1-Union of India in WPL/31334/2025.

Ms. Akshata Katara (through VC), i/b. Asahi Legal for respondent No.3 in both petitions.

Dr. Birendra Saraf, Senior Advocate, a/w. Mr. Rohan Sawant, Mr. Drupad Vagani, Ms. Gayatri Mohite, Mr. Ashwath Reddy and Ms. Radhika Kabra, i/b. Anchorstone Legal for respondent Nos.4 and 6 in WPL/30071/2025 and for respondent Nos.5 and 6 in WPL/31334/2025.

Mr. Cyrus Ardeshir, Senior Advocate, a/w. Mr. Pratik Divkar, Karunya Raghunath and Ms. Vinita Shetty, i/b. Rajni Divkar for respondent No.5 in WPL/30071/2025 and for respondent No.4 in WPL/31334/2025.

Mr. Gurdeep Sachar for respondent Nos.7 to 9 in WPL/30071/2025 and for respondent Nos.8 to 10 in WPL/31334 of 2025.

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CORAM	**:**	**MANISH PITALE & SHREERAM V. SHIRSAT, JJ**
RESERVED ON	**:**	**09th MARCH, 2026**
PRONOUNCED ON	**:**	**26th MARCH, 2026**

JUDGEMENT (Per Justice Manish Pitale):

. These petitions have been filed by a suspended director of a corporate debtor (Gokul Sugar Industries Limited) and a financial creditor (M/s. Mohandas Chhataram), to challenge an order dated 09.09.2025 passed by National Company Law Tribunal, Mumbai (NCLT). The petitioners claim that although the alternative remedy of filing an appeal before the National Company Law Appellate Tribunal, Mumbai (NCLAT) is available to them, they are entitled to maintain these writ petitions, as there has been flagrant violation of principles of natural justice on the part of the NCLT, while passing the impugned order.

2. By the impugned order, the NCLT allowed the intervention applications filed by the respondents – Union Bank of India and Solapur District Central Co-operative Bank Limited (SDCCBL), both claiming to be the financial creditors of the corporate debtor, thereby holding that an application for withdrawal of Corporate Insolvency Resolution Process (CIRP), submitted by the Interim Resolution Professional (IRP), could not be allowed in view of the said respondents - banks/secured creditors objecting to such withdrawal. The NCLT also dismissed an application of the petitioner - financial creditor as also other applications purportedly supporting the application seeking withdrawal of CIRP.

3. It is the case of the petitioners that while passing the impugned order, the mandatory procedural requirements as per the Insolvency and Bankruptcy Code, 2016 (IBC) as also the Rules and

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Regulations framed therein, were not followed by the NCLT. This resulted in grave prejudice to the petitioners and therefore, they are entitled to maintain the present writ petitions and seek setting aside of the impugned order of the NCLT, only on the ground of violation of principles of natural justice. This is resisted by the respondents - banks/financial creditors and it is claimed that as per the scheme of the IBC and the Rules and Regulations framed thereunder, proper procedure was followed and that the impugned order of the NCLT cannot be said to be suffering from the vice of violation of principles of natural justice. On this basis, it was submitted that the writ petitions ought not be entertained and that the petitioners ought to have taken recourse to the statutory remedy of appeal available under section 61 of the IBC.

4. In the present case, the CIRP was initiated at the behest of the petitioner - financial creditor i.e. M/s. Mohandas Chhataram, when it filed petition under section 7 of the IBC before the NCLT in May 2024. On 27.06.2024, the NCLT passed its order, admitting the corporate debtor in CIRP and appointed IRP who is respondent No.3 in both the petitions. Ancillary directions were issued.

5. Aggrieved by the said order, the petitioner (Vishal Ganpat Shinde) - suspended director of the corporate debtor filed an appeal before the NCLAT. On 23.07.2024, the NCLAT issued notice in the appeal and recorded a statement made on behalf of the suspended director of the corporate debtor (appellant) that he intended to pay the balance amount to the financial creditor, who is the petitioner in Writ Petition No.31334 of 2025. It was recorded that the suspended director of the corporate debtor could pay only ₹ 17 crores out of the settlement amount of ₹ 50 crores. It was recorded that the said appellant prayed for and was granted time of three weeks to make

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the payment. While issuing notice, the NCLAT directed that in the meanwhile, the Committee of Creditors (CoC) shall not be constituted.

6. The NCLAT adjourned the hearing on the said appeal to a future date, while continuing the interim order and eventually disposed of the appeal by an order dated 24.01.2025. On the said date, the NCLAT recorded that the appellant – suspended director of the corporate debtor had settled the dispute with the petitioner – financial creditor, while the financial creditor submitted that he had received certain amount, but still the entire payment had not been made. The NCLAT recorded the statement of the suspended director of the corporate debtor that he shall settle the dispute with the petitioner – financial creditor by making payment and shall also file an application under section 12-A of the IBC read with Regulation 30-A of The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as the IBC Regulations).

7. The respondents – banks/financial creditors had filed intervention applications before the NCLAT in the said appeal. In that light, the NCLAT disposed of the appeal, granting time of three weeks to the suspended director of the corporate debtor to file application under section 12-A of the IBC before the NCLT and also granted liberty to the respondents – banks/financial creditors seeking intervention, to approach the NCLT. Interim order granted by the NCLAT was directed to be continued for a period of three weeks and it was recorded that in the event the suspended director of the corporate debtor files the application under section 12-A of the IBC, further orders would be passed by the NCLT. It was made clear that in the event no such application was filed under the aforesaid section

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or if the same was not allowed, the CoC would be constituted.

8. Although liberty was granted to the suspended director of the corporate debtor to file application under section 12-A of the IBC, for withdrawal from CIRP, he did not choose to file any such application. Instead, on 10.02.2025, the petitioner – financial creditor, at whose instance the CIRP was initiated, submitted Form FA under Regulation 30-A of the IBC Regulations, addressed to the IRP for filing application for withdrawal of CIRP. The IRP was specifically authorized by the petitioner – financial creditor for withdrawal of the company petition before the NCLT. On this basis, on 12.02.2025, the IRP filed an application under section 12-A of the IBC before the NCLT for withdrawal of CIRP, in pursuance of settlement between the petitioner – financial creditor and the petitioner – suspended director of the corporate debtor.

9. As per the the liberty granted by the NCLAT, the respondent – financial creditors i.e. Union Bank of India and SDCCBL filed intervention applications before the NCLT to oppose withdrawal from CIRP. They claimed that the corporate debtor owed huge amounts to them as financial creditors. Respondent – Indian Bank also filed such intervention application to oppose the withdrawal. But, by the time the impugned order was passed, its application was yet to be numbered.

10. The petitioner – financial creditor filed its intervention application bearing IBC No.77 of 2025 in the intervention petition of the respondent – SDCCBL, bearing IBC No.47 of 2025, seeking a direction for furnishing copies of the application. It is a matter of record that the said intervention petition of the petitioner – financial creditor was listed before the NCLT in the said proceedings, when

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none was present on behalf of the said petitioner. The NCLT adjourned the hearing, specifically directing that the arguing counsel for the petitioner shall remain present on the next date of hearing without fail, to make its submissions. On 06.08.2025, the said intervention petition of the petitioner – financial creditor was listed along with other applications/petitions before the NCLT in the said proceedings. The record and proceedings do not show appearance on behalf of the said petitioner on the said date also. In this backdrop, the NCLT directed listing of all the said applications for further consideration on 09.09.2025.

11. On 09.09.2025, NCLT passed the impugned order, holding that withdrawal of CIRP could not be allowed in view of substantial majority of financial creditors, including respondents – banks objecting to the withdrawal. The intervention applications and petitions filed by various parties, including the petitioner – financial creditor were dismissed. On the said date, the counsel for the respondents – banks/financial creditors and also the counsel for the IRP were heard. The NCLT took into consideration the statements made on behalf of the respondents – banks/financial institutions, as regards their claims and dues. Thereupon, the NCLT referred to section 12-A of the IBC as also law laid down by the Supreme Court in the case of *Glas Trust Company LLC vs. Byju Raveendran and others*, **(2025) 3 SCC 625**. The NCLT considered the contentions of the rival parties and passed the impugned order in the aforesaid manner.

12. Aggrieved by the said order, the petitioner – suspended director of the corporate debtor filed Writ Petition (Lodging) No.30071 of 2025, seeking urgent interim relief. A Division Bench of this Court recorded that the urgency in the matter was in the light of

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the CoC proposing to hold a meeting on 26.09.2025. Thus, by the time the said writ petition came up for consideration before this Court, the CoC was already constituted.

13. After considering the specific submission made on behalf of the said petitioner – suspended director of the corporate debtor and in view of the urgency in the matter, this Court granted ad-interim relief in terms of prayer clause (c), thereby staying the effect of the impugned order dated 09.09.2025 passed by the NCLT. The said interim order has continued to operate. The respondents – banks/financial institutions appeared before this Court and prayed for hearing and disposal of the writ petition on the ground that the CoC had been already constituted and that the petitioners clearly had the alternative remedy of approaching the NCLAT. It is relevant to note that the petitioner – financial creditor also filed Writ Petition (Lodging) No.31334 of 2025, which was tagged with Writ Petition (Lodging) No.30071 of 2025, to be heard together. It is in this backdrop that both the petitions were taken up for hearing and disposal.

14. Mr. Kamat, learned senior counsel appearing for the petitioner – suspended director of the corporate debtor in Writ Petition No.30071 of 2025 submitted that the impugned order clearly suffers from violation of principles of natural justice. It was submitted that the said petitioner ought to have been heard, as it was at his behest that the NCLAT had sent the matter back to NCLT for consideration of withdrawal from CIRP, in the light of settlement with the petitioner – financial creditor. In such a situation, it was submitted that the said petitioner was vitally interested, as he had paid the amounts for settling the dispute with the petitioner – financial creditor, who had initiated the CIRP. In such a situation, the NCLT

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could not have passed the impugned order behind the back of the said petitioner.

15. It was further submitted that the copies of the intervention applications/petitions filed by the respondents – banks/financial creditors were not served upon the petitioner – suspended director and no notice was issued to him for hearing of the said applications. In this context, reliance was placed on Rule 34(4) of the National Company Law Tribunal Rules, 2016 (NCLT Rules) and Rule 37 thereof, wherein it is mandated that the NCLT must issue notice to the opposite party on every petition/application, including interlocutory application and that such notice in Form No.NCLT-5, has to be accompanied by a copy of the application and supporting documents. On this basis, it was submitted that the procedure was violated, thereby showing that the impugned order also suffered from a glaring procedural irregularity.

16. It was also submitted that even the financial creditor, who had filed the accompanying petition, was also not issued notice or served with a copy of the applications of the respondents – banks/financial creditors. It was further submitted that as a promoter of the corporate debtor, the petitioner – suspended director was clearly entitled to be heard in the matter, particularly when he had already parted with substantial amount of money to settle the dispute with petitioner – financial creditor and that he was clearly a person concerned, as observed by the Supreme Court in the aforementioned judgment in the case of **Glas Trust Company LLC vs. Byju Raveendran and others** (*supra*). Reliance was also placed on the judgment of a Division Bench of this Court in the case of *Kamal K. Singh vs. Union of India, Through the Ministry of Corporate Affairs and others*, **2019 SCC OnLine Bom 5609**, wherein this Court

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entertained a writ petition and set aside the order of NCLT on the ground that procedure, as prescribed in the IBC and the NCLT Rules, had been violated. On this very ground, it was submitted that the writ petition is clearly maintainable and the petitioner need not be relegated to the alternative remedy of approaching NCLAT.

17. It was further emphasized that in terms of the law laid down by the Supreme Court in the case of **Glas Trust Company LLC vs. Byju Raveendran and others** (*supra*), the NCLT ought not to act as a mere post-office and that once CIRP is initiated, the interests of the erstwhile management of the corporate debtor are distinct from the interests of the corporate debtor. On this basis, it was submitted that merely because the IRP for the corporate debtor had been served with the applications and heard, it could not be said that the principles of natural justice had been satisfied. On this basis, it was submitted that the impugned order deserves to be set aside.

18. Mr. Damania, learned counsel appearing for the petitioner – financial creditor in Writ Petition (Lodging) No. 31334 of 2025, supported the contentions of the petitioner in the companion petition. It was submitted that the petitioner – financial creditor had filed the aforesaid intervention petition bearing IBC No.77 of 2025 before the NCLT, seeking a direction against the respondent – bank/financial creditor i.e. SDCCBL for serving a copy of its application opposing the withdrawal of CIRP. The said application was simply dismissed by the NCLT in the impugned order without any discussion at all. The respondents – banks/financial creditors although opposing withdrawal from CIRP, which was being pursued at the behest of the petitioner – financial creditor, did not serve copies of their applications and no notice was issued by the petitioner – financial creditor about hearing on their applications. In

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the absence of applications being served, the petitioner – financial creditor was deprived of an opportunity to verify the claims made by the respondents – banks/financial institutions about the huge amounts of dues payable by the corporate debtor to them. This deprived the petitioner – financial creditor of crucial information, which could be countered, if opportunity was granted.

19. The learned counsel appearing for the petitioner – financial creditor also relied upon the position of law clarified by the Supreme Court and this Court in the aforesaid judgments and submitted that since there was clear violation of principles of natural justice, the petitioner – financial creditor ought not to be relegated to the alternative remedy of approaching NCLAT. The impugned order deserves to be set aside on this ground alone.

20. On the other hand, Dr. Saraf, learned senior counsel appearing for the respondents – Union Bank of India and Indian Bank (financial creditors) in both the petitions, submitted that the contentions raised on behalf of the petitioners, alleging violation of principles of natural justice, are based on a misunderstanding of the scheme of the IBC, as also the Rules and Regulations framed therein. By referring to sections 12-A, 17 and 25 of the IBC with Regulation 30-A of the IBC Regulations, it was submitted that the IRP had to be served and it was required to be heard, before the NCLT considered the opposition of the said respondents – banks/financial creditors as regards withdrawal from CIRP. The application for withdrawal from CIRP under the scheme of the IBC, was properly moved only by and through the IRP. As a matter of fact, as per Regulation 30-A of the IBC Regulations, the petitioner – financial creditor had submitted Form FA to the IRP, who then moved an application under section 12-A of the IBC for withdrawal from CIRP. The petitioner – suspended

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director did not even move such an application through the IRP. It was submitted that therefore, even as per the law laid down by the Supreme Court in the case of **Glas Trust Company LLC vs. Byju Raveendran and others** (*supra*) and considering the scheme under the IBC as also Rules and Regulations framed thereunder, only the IRP was required to be served with the intervention applications of the respondents – banks/financial creditors opposing the withdrawal from CIRP and so long as the IRP was heard in the matter, the principles of natural justice were satisfied. On this basis, it was submitted that this was not a pure case of violation of principles of natural justice, but issues on merits that could be raised only in a substantive appeal to be filed before the NCLAT, under section 61 of the IBC.

21. It was submitted that the petitioners were confusing the expression 'any person aggrieved' used in section 61 of the IBC, to claim that they were entitled to be heard and served with copies, before the NCLT passed the impugned order. In such statutes, an affected person is indeed granted the facility of filing appeal before the appellate forum, but the original authority has to strictly conduct the proceedings in terms of the scheme of the concerned statute. It was submitted that the NCLT followed the correct procedure and found that the prayer for withdrawal from CIRP could not be granted. No prejudice was caused to the petitioners as the IRP was duly served and heard. It was submitted that if the contentions raised on behalf of the petitioner – suspended director are to be accepted, all the directors and even the shareholders may come forward and claim their right to be heard, which would be against the scheme of the IBC itself. On this basis, it was submitted that the writ petition deserves to be dismissed.

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22. Mr. Ardeshir, learned senior counsel appearing for the respondent – SDCCBL supported the contentions raised by the aforesaid similarly situated respondents – banks/financial creditors. In addition, it was highlighted that although the NCLAT in its order dated 24.01.2025, had granted liberty to the petitioner – suspended director of the corporate debtor to approach the NCLT for withdrawal of CIRP under section 12-A of the IBC, he chose not to file any such application through the IRP. Hence, it cannot lie in his mouth that he was not heard in the matter. The petitioner – financial creditor had moved the IRP for moving application under section 12-A of the IBC, which was correctly disposed of by the impugned order, after granting proper hearing to the IRP. Hence, there was no violation of principles of natural justice.

23. The learned senior counsel for the said respondent highlighted the fact that the petitioner – financial creditor had itself remained absent before the NCLT on 22.07.2025 and 06.08.2025, as also when the impugned order was passed on 09.09.2025 even in its own intervention petition bearing IBC No.77 of 2025. This was despite the fact that the NCLT had directed the said petitioner to remain present through counsel for making submissions. In such a situation, it cannot lie in the mouth of the petitioner – financial creditor that there was violation of principles of natural justice. It was further brought to the notice of this Court that the IRP had also filed an application under section 19(2) of the IBC for direction to the suspended director to give data. The IRP was very much before the Court and it was heard and hence, there is no substance in the contention raised in the writ petitions. Attention of this Court was invited to paragraph No.87 of the judgment of the Supreme Court in the case of **Glas Trust Company LLC vs. Byju Raveendran and others** (*supra*), wherein the Supreme Court took note of the fact that even

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in the said case, the CoC had been constituted and in that backdrop, granted liberty to the parties to invoke their remedies of withdrawal or settlement of claims, in compliance with the legal framework governing such withdrawal of CIRP.

24. It was highlighted that in the present case also CoC was already constituted and therefore, even if withdrawal from CIRP is to be pursued, the same has to be done strictly in accordance with law, which requires approval of 90% members of the CoC for pursuing such an application for withdrawal. On this basis, it was submitted that the writ petitions deserve to be dismissed.

25. Ms. Katara, learned counsel appearing for IRP joined the hearing through video-conferencing and she submitted that the IRP would abide by the orders of this Court.

26. Mr. Sachar, learned counsel appeared for the other suspended directors of the corporate debtor and supported the contentions of the petitioners.

27. Having considered the rival submissions, we find that the petitioners' claim that their writ petitions are maintainable despite availability of alternative remedy of filing appeals before the NCLAT under Section 61 of the IBC is based on the sole ground that principles of natural justice have been violated by the NCLT, while passing the impugned order. The respondents-banks/financial creditors have vehemently opposed the said contention. If this Court finds, on an analysis of the rival submissions, that the petitioners have not been able to make good their case of violation of principles of natural justice, the petitions will have to be dismissed on that score alone, leaving it open for the petitioners to take recourse to the said alternative remedy. On the other hand, if this Court accepts that

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principles of natural justice were violated, upon setting aside of the impugned order, the matter may have to be remitted to the NCLT for consideration afresh.

28. In order to examine the rival submissions in the backdrop of the said question, as to whether the impugned order of the NCLT suffers from violation of principles of natural justice, it would be appropriate to refer to the relevant provisions of the IBC and the aforesaid Regulations framed thereunder. Since the question of withdrawal from CIRP is the subject matter in these petitions, Section 12-A of the IBC and Regulation 30-A of the IBC Regulations are relevant as they pertain to withdrawal application. Since the corporate debtor was admitted to CIRP by order dated 27.06.2024 and IRP was appointed to manage all the affairs of the corporate debtor, the provisions relating to the said aspect of the matter i.e. Sections 17 and 25 of the IBC are also relevant. Sections 12-A, 17 and 25 of the IBC read as follows :

> *"**12A. Withdrawal of application admitted under section 7, 9 or 10.**—The Adjudicating Authority may allow the withdrawal of application admitted under section 7 or section 9 or section 10, on an application made by the applicant with the approval of ninety per cent. voting share of the committee of creditors, in such manner as may be specified.*
>
> ***17. Management of affairs of corporate debtor by interim resolution professional.** – (1) From the date of appointment of the interim resolution professional, –*
>
> *(a) the management of the affairs of the corporate debtor shall vest in the interim resolution professional;*
>
> *(b) the powers of the board of directors or the partners of the corporate debtor, as the case may be, shall stand suspended and be exercised by the interim resolution professional;*
>
> *(c) the officers and managers of the corporate debtor shall report to the interim resolution professional and provide access to such documents and records of the corporate debtor as may be required by the interim resolution professional;*
>
> *(d) the financial institutions maintaining accounts of the*

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corporate debtor shall act on the instructions of the interim resolution professional in relation to such accounts and furnish all information relating to the corporate debtor available with them to the interim resolution professional.

(2) The interim resolution professional vested with the management of the corporate debtor shall –

(a) act and execute in the name and on behalf of the corporate debtor all deeds, receipts, and other documents, if any;

(b) take such actions, in the manner and subject to such restrictions, as may be specified by the Board;

(c) have the authority to access the electronic records of corporate debtor from information utility having financial information of the corporate debtor;

(d) have the authority to access the books of account, records and other relevant documents of corporate debtor available with government authorities, statutory auditors, accountants and such other persons as may be specified; and

(e) be responsible for complying with the requirements under any law for the time being in force on behalf of the corporate debtor.

25. Duties of resolution professional. *– (1) It shall be the duty of the resolution professional to preserve and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor.*

(2) For the purposes of sub-section (1), the resolution professional shall undertake the following actions, namely:—

(a) take immediate custody and control of all the assets of the corporate debtor, including the business records of the corporate debtor;

(b) represent and act on behalf of the corporate debtor with third parties, exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial or arbitration proceedings;

(c) raise interim finances subject to the approval of the committee of creditors under section 28;

(d) appoint accountants, legal or other professionals in the manner as specified by Board;

(e) maintain an updated list of claims;

(f) convene and attend all meetings of the committee of creditors;

(g) prepare the information memorandum in accordance with section 29;

(h) invite prospective resolution applicants, who fulfil

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such criteria as may be laid down by him with the approval of committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified by the Board, to submit a resolution plan or plans.

(i) present all resolution plans at the meetings of the committee of creditors;

(j) file application for avoidance of transactions in accordance with Chapter III, if any; and

(k) such other actions as may be specified by the Board.

29. Regulation 30-A of the IBC Regulations reads as follows :

***30A. – Withdrawal of application. –** (1) An application for withdrawal under section 12A may be made to the Adjudicating Authority –*

(a) before the constitution of the committee, by the applicant through the interim resolution professional;

(b) after the constitution of the committee, by the applicant through the interim resolution professional or the resolution professional, as the case may be:

Provided that where the application is made under clause (b) after the issue of invitation for expression of interest under regulation 36A, the applicant shall state the reasons justifying withdrawal after issue of such invitation.

(2) The application under sub-regulation (1) shall be made in Form FA of the Schedule-I accompanied by a bank guarantee –

(a) towards estimated expenses incurred on or by the interim resolution professional for purposes of regulation 33, till the date of filing of the application under clause (a) of sub-regulation (1); or

(b) towards estimated expenses incurred for purposes of clauses (aa), (ab), (c) and (d) of regulation 31, till the date of filing of the application under clause (b) of sub-regulation (1).

(3) Where an application for withdrawal is under clause (a) of sub-regulation (1), the interim resolution professional shall submit the application to the Adjudicating Authority on behalf of the applicant, within three days of its receipt.

(4) Where an application for withdrawal is under clause (b) of sub-regulation (1), the committee shall consider the application, within seven days of its receipt.

(5) Where the application referred to in sub-regulation (4) is approved by the committee with ninety percent voting share, the resolution professional shall submit such application along with the approval of the committee, to the Adjudicating Authority on

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behalf of the applicant, within three days of such approval.

(6) The Adjudicating Authority may, by order, approve the application submitted under sub-regulation (3) or (5).

(7) Where the application is approved under sub-regulation (6), the applicant shall deposit an amount, towards the actual expenses incurred for the purposes referred to in clause (a) or clause (b) of sub-regulation (2) till the date of approval by the Adjudicating Authority, as determined by the interim resolution professional or resolution professional, as the case may be, within three days of such approval, in the bank account of the corporate debtor, failing which the bank guarantee received under sub-regulation (2) shall be invoked, without prejudice to any other action permissible against the applicant under the Code."

30. The rival parties through counsel made their submissions in respect of the judgment of the Supreme Court in the case of **Glas Trust Company LLC vs. Byju Raveendran and others** (*supra*), as the said case also concerned an application for withdrawal from CIRP. Although, the said application was submitted before the NCLAT, which invoked its inherent powers under the relevant Rules to dispose of such an application, the law pertaining to the manner in which application for withdrawal from CIRP is to be considered, was examined by the Supreme Court. The petitioners claim that the law laid down in the said judgment of the Supreme Court demonstrates that the petitioner – suspended director of the corporate debtor in Writ Petition (Lodging) No. 30071 of 2025 and the petitioner – financial creditor in Writ Petition (Lodging) No. 31334 of 2025, ought to have been put to notice and served with copies of intervention applications filed by the respondents-banks/financial creditors, who were opposing the withdrawal from CIRP. Therefore, it is necessary to consider the rival submissions made in the context of the said judgment of the Supreme Court in the case of **Glas Trust Company LLC vs. Byju Raveendran and others** (*supra*).

31. The said judgment was delivered in the case of an appellant, who claimed to be a financial creditor and it moved an application

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before the NCLAT, objecting to the approval of settlement and consequent withdrawal from CIRP. In other words, the appellant before the Supreme Court was identically placed like the respondents-banks/financial creditors herein, who are also objecting to the withdrawal from CIRP, based on an application submitted by the IRP before the NCLT. It is in the aforesaid factual backdrop that the Supreme Court considered the question, as to whether the appellant therein i.e. a financial creditor, objecting to the settlement and consequent withdrawal from CIRP and who was not a party to the settlement had locus in the proceedings.

32. The Supreme Court considered the statement of objects and reasons of IBC and also traced the amendments brought about in the IBC, in the light of successive orders passed by the Supreme Court, invoking Article 142 of the Constitution of India to permit withdrawal from CIRP after the application filed for CIRP had been admitted. The Insolvency Law Committee (ILC) setup by Ministry of Corporate Affairs of the Government of India, after considering the challenges arising from the implementation of the IBC recommended amendments, so as to facilitate withdrawal applications that could be submitted through the IRP at the behest of a party. The amendment resulted in introduction of Regulation 30-A of the IBC Regulations, providing for such contingencies.

33. The Supreme Court took into consideration the effect of admission of a petition filed before the NCLT, under Section 7 of the IBC. It was held that upon admission, the proceeding became *in rem* and all creditors of the corporate debtor became stake holders in the process. In this context, the Supreme Court in the case of **Glas Trust Company LLC vs. Byju Raveendran and others** (*supra*) held as follows :

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"44.1. Once the petition is admitted, the proceedings are no longer the preserve of the applicant creditor and the debtor. They now become in rem and all creditors of the corporate debtor become stakeholders in the process; and

44.2. Once the petition is admitted, the management of the affairs of the corporate debtor is vested in the IRP and eventually, in the RP. Thus, the corporate debtor no longer exists in the form that it did, before the admission of the petition. Once CIRP is initiated, the interests of the erstwhile management of the corporate debtor must be distinguished from the interests of the corporate debtor."

34. The Supreme Court further took into the consideration the amended Regulation 30-A of the IBC Regulations and discussed the manner in which the application for withdrawal could be filed under Section 12-A of the IBC, when the CoC was yet to be constituted. In this context, the Supreme Court in the said judgment held as follows :

"60. Regulation 30-A(1) now provides for the procedure to make an application for withdrawal before NCLT under Section 12-A, both before and after the constitution of the CoC. Sub-clause (a) of Regulation 30-A(1) states that in cases where the CoC has not been constituted, the applicant may place an application for withdrawal before NCLT, through the IRP. Similarly, sub-clause (b) of Regulation 30-A(1) states that in cases where the CoC is constituted, the applicant may place an application for withdrawal before NCLT, through the IRP or the RP, as the case may be. In essence, at both stages — before and after the constitution of the CoC — the application for withdrawal may only be made through the person appointed to oversee the insolvency proceedings i.e. the IRP or the RP."

35. In reaching the said conclusions, the Supreme Court indeed took into consideration the role of the IRP as specified by Sections 17 and 25, quoted hereinabove. Thereupon, the Supreme Court further held as follows :

"63.2. After an application under Sections 7, 9, or 10 is admitted, but before the CoC has been constituted : Although Section 12-A continues to be silent on this aspect, after the decision in Swiss Ribbons [Swiss Ribbons (P) Ltd. v. Union of India, (2019) 4 SCC 17 : (2019) 213 Comp Cas 198] , Regulation 30-A was amended to provide for this eventuality. An application for withdrawal in

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such cases may be made by the applicant through the IRP. [Regulation 30-A(1), CIRP Regulations, 2016.] The IRP will then place the application before NCLT, which may pass an order either approving or rejecting the application. As noted above, once the application has been admitted, the proceedings are no longer the sole preserve of the applicant creditor and the corporate debtor. They are now in rem and at this stage, NCLT must hear the parties concerned and consider all relevant factors before approving or rejecting the application for withdrawal. NCLT being a quasi-judicial body, must not act as a mere post office, which stamps and approves every settlement agreement, without application of judicial mind.

66.1. Firstly, that the application is to be submitted by the IRP rather than the parties themselves is not a distinction without difference. As noted above, once the application is admitted and CIRP is initiated, it is the IRP who takes charge of the affairs of the corporate debtor. The proceedings become collective proceedings and the interests of the former management of the corporate debtor, become disjunct from the interest of the corporate debtor. Therefore, the parties (such as the former management of the corporate debtor) must submit their application for withdrawal through the IRP who is now the person in control of the insolvency proceedings. To subvert this requirement would run contrary to the scheme of the IBC and the underlying principles discussed in this judgment; and

66.2. Secondly, NCLT cannot be considered a post office that merely puts a stamp on the withdrawal application submitted by the parties through the IRP. The ILC Report, in response to which, the parent provision i.e. Section 12-A was introduced in the IBC specifically discussed the possibility of the creditors, apart from the applicant creditor agreeing to a settlement as the underlying reason to permit withdrawal even after initiation of CIRP. It was never fathomed by the ILC that withdrawal of claims would remain a unilateral process, even though the application is admitted and CIRP has been initiated. Similarly, this Court in Swiss Ribbons [Swiss Ribbons (P) Ltd. v. Union of India, (2019) 4 SCC 17 : (2019) 213 Comp Cas 198] , in response to which Regulation 30-A was amended, specifically observed that in cases where withdrawal is sought after initiation of CIRP, but before the CoC is constituted, NCLT must decide on the application after "hearing all the parties concerned and considering all relevant factors on the facts of each case". Therefore, NCLT does conduct an adjudicatory exercise when the application for withdrawal is placed before it, and the procedure is not a mere technicality."

36. In this backdrop, the Supreme Court emphatically rejected the

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contention that the appellant-financial creditor did not have locus, as the settlement was between the corporate debtor and one of the financial creditors, wherein there was no scope for hearing any other creditor. In this context, the Supreme Court further considered the fact that an appeal before the Supreme Court could be filed by any person aggrieved and observed as follows :

> *"75. The provision stipulates that "any person" who is aggrieved by the order of NCLAT may file an appeal before the Supreme Court within the prescribed limitation period. Similar language is used in Section 61 IBC, which provides for appeals to NCLAT from orders of NCLT. ["**61. Appeals and appellate authority**.—(1) Notwithstanding anything to the contrary contained under the Companies Act, 2013 (18 of 2013), any person aggrieved by the order of the adjudicating authority under this part may prefer an appeal to the National Company Law Appellate Tribunal."(emphasis supplied)] The use of the phrase "any person aggrieved" indicates that there is no rigid locus requirement to institute an appeal challenging an order of NCLT, before NCLAT or an order of NCLAT, before this Court. Any person who is aggrieved by the order may institute an appeal, and nothing in the provision restricts the phrase to only the applicant creditor and the corporate debtor. As noted above, once CIRP is initiated, the proceedings are no longer restricted to the individual applicant creditor and the corporate debtor but rather become collective proceedings (in rem), where all creditors, such as the appellant, are necessary stakeholders. The appellant is not an unrelated party to CIRP, but is in fact, an entity whose claims had been verified by the IRP vide letter dated 19-8-2024. The appellant who claims to be a financial creditor, has expressed reasonable apprehensions about the prejudice it would face if there were roundtripping of the funds, and the prioritisation of the debts of the second respondent, an operational creditor."*

37. Thus, the question before the Supreme Court was, as to whether in an application for withdrawal under Section 12-A of the IBC read with Regulation 30-A of the said Regulations, only the applicant – financial creditor and the corporate debtor were to be heard or other financial creditors were also required to be heard as stake holders. It is in the context of the said factual position that the Supreme Court observed that since the proceedings are *in rem,* in such a situation, the NCLT must hear the parties concerned and

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consider all relevant factors before approving or rejecting the application for withdrawal and that the NCLT is not a mere post-office. The requirement of satisfying the principles of natural justice has to be understood in that context.

38. We find that taking into consideration the law laid down by the Supreme Court in the case of **Glas Trust Company LLC vs. Byju Raveendran and others** (*supra*), as also the above quoted provisions of the IBC and the Regulations framed thereunder, the petitioners cannot claim that the NCLT violated the principles of natural justice, while passing the impugned order. We are of the opinion that the NCLT did hear 'all the parties concerned' in the context of the application for withdrawal filed by the IRP under Section 12-A of the IBC read with Regulation 30-A of the said Regulations. Since the petition filed by the petitioner – financial creditor was admitted by the NCLT and had become a proceeding *in rem* upon appointment of the IRP, all the necessary steps in the context of the corporate debtor could be taken by the IRP. This is evident from Sections 17 and 25 of the IBC. Upon appointment, only the IRP has the authority to take necessary steps in the context of the corporate debtor, including filing of application for withdrawal under the aforesaid provisions of the IBC and IBC Regulations. In the present case when the application for withdrawal was moved under Section 12-A of the IBC, since the CoC was yet to be constituted, as per the Regulation 30-A(1)(a) of the Regulations, the said application could be moved only through the IRP. The petitioner – financial creditor could never have moved such an application on its own, on the basis of the purported settlement with the petitioner – suspended director of the corporate debtor. Equally, even the petitioner – suspended director could not have independently moved any such application for withdrawal before the NCLT.

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39. It is further clear from the document at Exhibit 'E' in Writ Petition (Lodging) No. 31334 of 2025 filed by the petitioner – financial creditor. It is Form FA submitted by the petitioner – financial creditor, paragraph 4 of which reads as follows :

> *"4. We hereby authorize IRP Mr. Neehal Mahamulal to file necessary application before the Hon'ble NCLT for withdrawal of the Company Petition for and our behalf as prescribed."*

40. Thus, insofar as the petitioner – financial creditor is concerned, it had authorised the IRP for taking all necessary steps in the matter. The withdrawal from CIRP can be on the basis of settlement between the financial creditor and the corporate debtor, which is represented by the IRP. The suspended directors of the corporate debtor no longer have any control over the assets, business records, business operations and affairs of the corporate debtor.

41. Even if the petitioner – suspended director of the corporate debtor were to seek withdrawal from CIRP, he would necessarily have to approach the NCLT through the IRP. It is significant to note that in the present case, although the order dated 24.01.2025 passed by the NCLAT in the appeal filed by the petitioner – suspended director of the corporate debtor, allowed him to file application for withdrawal from CIRP under Section 12-A of the IBC before the NCLT within a period of three weeks, the said suspended director of the corporate debtor failed to do so. He never approached the IRP seeking such withdrawal on the basis of the settlement with the petitioner – financial creditor. Hence, it cannot lie in his mouth that he was not heard before the impugned order was passed by the NCLT. In any case, withdrawal application under Section 12-A of the IBC, on the basis of settlement, was moved only by the petitioner – financial creditor by submitting Form FA under Regulation 30-A of the said Regulations, through the IRP. We find that the emphasis placed on

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behalf of the petitioner – suspended director of the corporate debtor, that interest of the erstwhile management are distinct from the interest of the corporate debtor, cannot take his case any further, for the simple reason that the stake holders in the context of an application for withdrawal under Section 12-A of the IBC read with Regulation 30-A of the said Regulations, are the corporate debtor through IRP and the financial creditors. The judgment of the Supreme Court in the case of **Glas Trust Company LLC vs. Byju Raveendran and others** (*supra*) emphasized that a unilateral settlement between the applicant – financial creditor on the one hand and the corporate debtor on the other, without an opportunity of being heard to other financial creditors, cannot be countenanced. In other words, in the facts of the present case, as per the law laid down in the aforesaid judgment of the Supreme Court, if the respondents-banks/ financial creditors were not heard by the NCLT and the withdrawal application had been disposed of, it would have amounted to violation of the principles of natural justice.

42. In the present case, the respondents-banks/financial creditors were heard and so was the IRP, while disposing of the application for withdrawal filed under Section 12-A of the IBC, read with Regulation 30-A of the said Regulations. It is not disputed that copies of the applications of the respondents-banks/financial creditors were served upon the IRP and notice was also served upon it, as required under Rules 34(4) and 37 of the NCLT Rules. The IRP was represented by an Advocate. The NCLT heard the said Advocate, as also Advocates representing respondents-banks/financial creditors, who were objecting to the settlement and thereupon, passed the impugned order. Hence, the principles of natural justice were fully satisfied, as all the stake holders in the context of the said withdrawal application were duly heard by the NCLT. The IRP was arrayed as respondent

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No.3 in both the writ petitions before this Court. It was represented by an Advocate, who joined the hearing through video-conferencing. No grievance was raised in respect of the order passed by the NCLT and the learned counsel representing the IRP submitted that this Court may pass appropriate orders in the present writ petitions.

43. We are of the opinion that there is substance in the contention raised on behalf of the respondent-banks/financial creditors that this is not a pure case of violation of principles of natural justice or a case of procedural irregularity, as all the parties who are crucial stake holders in the context of the consideration of a withdrawal application were before the NCLT, when the impugned order was passed. The IRP was duly heard and the application for withdrawal moved by the petitioner – financial creditor through the IRP was taken into consideration. Upon taking note of the fact that there were huge dues payable to the respondents-banks/financial creditors, the NCLT found substance in the objection raised on their behalf and thereupon, the NCLT held that the application seeking withdrawal from the CIRP could not be allowed in view of substantial majority of financial creditors objecting to the said withdrawal.

44. The emphasis placed by the petitioner on the words 'any person aggrieved' used in Section 61 of the IBC, is also misplaced. The aforesaid words, also found in a number of other statutes, do indicate that apart from the parties and stake holders heard by the original authority, if any other person is aggrieved, an opportunity is available at the appellate stage to raise challenge. But, that in itself cannot inure to the benefit of the petitioner – suspended director and the petitioner – financial creditor, in the light of the fact that upon appointment of the IRP, who takes over management and control of the corporate debtor, it is the IRP that is required to be heard on a

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withdrawal application.

45. We have also taken note of the conduct of the petitioner – financial creditor, which filed its Intervention Petition bearing IBC No.77 of 2025 before the NCLT, but did not care to remain present before the NCLT on successive dates. On 22.07.2025, the NCLT, while adjourning the hearing to 06.08.2025, specifically directed the petitioner – financial creditor through its counsel to remain present for hearing without fail. On the next date also, the petitioner – financial creditor remained absent. On the date on which the impugned order was passed by the NCLT i.e. 09.09.2025, the petitioner – financial creditor again remained absent before the NCLT. As to whether its aforesaid Intervention Petition bearing IBC No. 77 of 2025, seeking a direction to the one of the respondents-banks/financial creditors for a copy of its application, was maintainable or not, is a different matter. But, the record shows that the petitioner – financial creditor, beyond filing such an application, did not even care to remain present before the NCLT. It cannot lie in the mouth of such a party to claim that principles of natural justice were violated.

46. The petitioner – suspended director of the corporate debtor, claimed that since he was making payment to the petitioner – financial creditor to settle the dispute, he should have been heard. But, the settlement, leading to withdrawal from CIRP, was necessarily between the petitioner – financial creditor and the corporate debtor. As noted hereinabove, the petitioner – suspended director also did not care to take benefit of the permission granted by the NCLAT for approaching NCLT under Section 12-A of the IBC, for withdrawal from CIRP. The NCLAT had granted time of three weeks for filing such an application. The petitioner – suspended director of the

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corporate debtor failed to approach the NCLT through the IRP and yet, claims violation of principles of natural justice.

47. We are of the opinion that the factual scenario in the present case shows that the petitioners have raised the argument of violation of principles of natural justice, on a misreading of the provisions of the IBC, as also the IBC Regulations framed thereunder and the law laid down by the Supreme Court in that context.

48. As regards reliance placed on judgment of Division Bench of this Court in the case of ***Kamal K. Singh vs. Union of India, Through the Ministry of Corporate Affairs and others*** (*supra*), we find that the said case is clearly distinguishable. In the said case, there was a gross violation of the procedure, in as much as an application was heard and reserved for orders by the NCLT and the order was uploaded on the website of NCLT without listing the matter for pronouncement of order and that too after the judicial member, who had heard the matter, had demitted office. In the face of such glaring violation of rules and procedure, the Division Bench of this Court found that such violation was detrimental to proper administration of justice. It was also found that there was lack of transparency and the method adopted in the said case by the NCLT gave an impression that conclusions were reached behind closed doors and behind the back of the parties. In that context, the Division Bench of this Court entertained the writ petition, despite availability of alternative remedy of approaching the NCLAT.

49. In view of the above, we are of the opinion that since the petitioners have failed to make out their case of violation of principles of natural justice, the writ petitions cannot be entertained, in the face of alternative remedy of approaching the NCLAT being available with the petitioners. We are conscious of the fact that this

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Court, while exercising writ jurisdiction, imposes a self-restraint of not entertaining a writ petition, due to existence of an alternative remedy and that it is more a rule of discretion and prudence as opposed to being a rule of law. But, a writ petition can be entertained only if an exceptional case is made out on the few recognized grounds, one of which is the ground of violation of principles of natural justice. Since the petitioners raised only the sole ground of violation of principles of natural justice to claim that their writ petitions ought to be entertained by this Court and as they have failed to make good the said ground, this Court is of the opinion that the writ petitions deserve to be dismissed. As a consequence, the interim order passed by this Court will also stand vacated.

50. At this stage, we find substance in the contention raised on behalf of the respondents-banks/financial creditors that even in the case of **Glas Trust Company LLC vs. Byju Raveendran and others** (*supra*), the Supreme Court in paragraph 87 had taken note of the fact that the CoC had been already constituted. In that context, the following observation was made :

> *"87. During the course of the proceedings before this Court, the CoC has been constituted. The parties are at liberty to invoke their remedies, to seek a withdrawal or settlement of claims, in compliance with the legal framework governing the withdrawal of CIRP. Nothing in this judgment should be construed as a finding on the conduct of any of the parties or other stakeholders involved in the insolvency proceedings."*

51. In this case also, as noted in the interim order dated 22.09.2025, passed by this Court, the CoC was already constituted before Writ Petition (Lodging) No. 30071 of 2025 was taken up for consideration. Writ Petition (Lodging) No. 31334 of 2025 was filed later. In the face of the CoC having been constituted, it is evident that now if the prayer for withdrawal from CIRP is to be pursued, it will

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have to be in compliance with the legal framework governing such withdrawal, as per the aforementioned provisions of the IBC and the IBC Regulations.

52. In view of the above, the Writ Petitions are dismissed. The interim order dated 22.09.2025 is vacated.

53. The petitioners are at liberty to take recourse to the remedy of appeal before the NCLAT, in accordance with law.

(SHREERAM V. SHIRSAT, J) **(MANISH PITALE, J.)**

Priya Kambli

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