



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II

IA.No.5979/2024 In C.P.(IB)/96(MB)/2024

[Under Section 12A of the Insolvency and Bankruptcy Code, 2016 Read with sub-Regulation (1) (a) of Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and Rule 11 of National Company Law Tribunal Rules, 2016.]

IA.No.5979/2024

Debashis Nanda

Interim Resolution Professional

Syska LED Lights Private Limited.

IBBI Reg. No. IBBI/IPA-003/IP-N00040/2017-18/10316

CS-14, C Floor, Ansal Plaza Mall

Vaishali, Ghaziabad, U.P.

... Applicant/IRP

V/s.

Sunstar Industries

Through its partner Mr. Tarrush Gupta

Regd. Office: E-1/18, First Floor

Model Town-2, Delhi – 110009.

... OC/Respondent No.1

Syska LED Lights Pvt. Ltd.

Through Mr. Rajesh Uttamchandani, Suspended Director,

A-6, Clover Gardens, 4 Naylor Road

Pune - 411001.

... CD/Respondent No.2



Intervention Petition/9/2025

IDFC First Bank Limited ... **Intervenor/Financial Creditor**

V/s.

Syska LED Lights Pvt. Ltd. ... **Respondent No.1**

Sunstar Industries. ... **Respondent No.2**

Intervention Petition/10/2025

State Bank of India ... **Intervenor/Financial Creditor**

Intervention Petition/16/2025

Dixon Technologies (India) Limited ... **Intervenor/Operational Creditor**

Intervention Petition/19/2025

QDIGI Services Ltd ... **Intervenor/Operational Creditor**

Intervention Petition/24/2025

Mr. Rakesh Kumar Goel and Anr. ... **Applicant(s)**

V/s

Mr. Debashis Nanda

Interim Resolution Professional

Syska LED Lights Private Limited **Respondent**

Intervention Petition/25/2025

Are Enterprise Private Limited. ... **Intervenor/Operational Creditor**



Intervention Petition/26/2025

Fortuneart LED Lighting Private Limited. ... Intervenor/Petitioner

V/s

1. Mr. Debashis Nanda

Interim Resolution Professional of

M/s. Syska LED Lights Private Limited

2. Sunstar Industries

... Respondents

Intervention Petition/27/2025

Starlite Lamps.

(through its Partner, Mr. Sumeet Nanda)

... Intervenor/Operational Creditor

IA.No.822/2025

Unity Small finance Bank Limited

... Applicant

V/s

Debashis Nanda

IRP of Syska LED Lights Pvt. Ltd. & Anr.

... Respondents

IA.No.564/2025

Shashi Aggarwal

Proprietor of M/s Varun Industries

... Applicant

V/s

Debashis Nanda & Anr.

... Respondents



IA.No.1006/2025

Jailaxmi Enterprises Pvt. Ltd. ... Applicant/Operational Creditor

V/s

Syska LED Lights Pvt. Ltd. ... Corporate Debtor

In the matter of

Sunstar Industries

(Through its Partner, Mr. Tarrush Gupta)

V/s

Syska LED Lights Private Limited

Pronounced: - 18.03.2025

CORAM:

HON'BLE SHRI K.R. SAJI KUMAR, MEMBER (JUDICIAL)

HON'BLE SHRI ANIL RAJ CHELLAN, MEMBER (TECHNICAL)

Appearances: Hybrid

IA.No.5979/2024

For the Applicant : Adv. Harsh Kesharia

**For the Respondent : Sr. Adv. Gaurav Joshi, Adv. Nipun
Gautam (Original OC/ Sunstar Industries)**



For Suspended Director : Adv. Manoj Kumar Garg & Adv. Anuj
Solanki

Intervention Petition/9/2025

For the Intervenor (IDFC) : Adv. Nausher Kohli a/w Adv. Shailesh
Porja and Adv. Dhruvee Patel.

Intervention Petition/10/2025

For the Intervenor (SBI) : Adv. Pulkit Sharma a/w Adv. Shailesh
Porja and Adv. Suyesha Kakarla

Intervention Petition/16/2025

For the Intervenor : Adv. Shreyas Shrivastava a/w.
Adv. Kruthika Shankar

Intervention Petition/19/2025

For the Intervenor : Adv. Aviral Dhirendra

Intervention Petition/24/2025

For the Intervenor : Adv. Pankaj Agarwal a/w. Adv. Shashwat
Srivastava, Adv. Lipsa Pattanaik

Intervention Petition/25/2025

For the Intervenor : Adv. Savita Nangare a/w. Adv. Vinod
Nagula a/w Adv. Harsh Kumar

Intervention Petition/26/2025

For the Intervenor : Adv. Manoj Kumar Mishra.



Intervention Petition/27/2025

For the Intervenor : Adv. Arpit Dwivedi a/w Adv. Ansh
Agal & Adv. Vidur Thanawala.

IA.No.822/2025

For the Applicant : Adv. Naveli Reshamwalla a/w Adv.
Princi Jaiswal.

IA.No.564/2025

For the Applicant : Adv. Varsha Banerjee a/w Adv. Naveli
Reshamwalla and Adv. Janhavi Hirlekar

IA.No.1006/2025

For the Applicant : Adv. Shubham Jain

ORDER

[PER: CORAM]

1. BACKGROUND

1.1 This Interim Application No.5979/2024 (IA) is filed by the Operational Creditor (OC), Sunstar Industries, through Mr. Debashis Nanda, the Interim Resolution Professional (IRP) of the Corporate Debtor (CD), under Section 12A of the Insolvency and Bankruptcy Code, 2016 (IBC/Code) read with Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons)



Regulations, 2016 (CIRP Regulations), *vide* Form FA, for withdrawal of CP (IB) No. 96/MB-II/2024 (Original C.P.), by which the CD was admitted into Corporate Insolvency Resolution Process (CIRP).

- 1.2 The Applicant has prayed for permitting withdrawal of the Original C.P. and to fix the fees and expenses of the IRP from 08.10.2024 until the date of disposal of this IA and for directing the OC to deposit the fees and expenses incurred.

2. SUBMISSIONS OF APPLICANT/IRP

- 2.1. The CIRP of the CD was initiated pursuant to an Order dated 08.10.2024 in CP(IB) No. 96/MB/2024, (Admission Order), passed by this Adjudicating Authority (AA) under Section 9 of the Code and Mr. Debashis Nanda was appointed as the IRP of the CD. In accordance with Regulation 6 of the CIRP Regulations, the IRP made Public Announcement in Form A on 10.10.2024, inviting claims from the creditors.
- 2.2. Meanwhile, Mr. Rajesh Uttamchandani, the director of the suspended board of the CD, filed Company Appeal (AT)(Ins.) No. 1958 of 2024 (Appeal) before the Hon'ble NCLAT against the Admission Order. The matter came up for hearing for the first time on 21.10.2024 before the Hon'ble NCLAT, wherein it was directed not to constitute the Committee of Creditors (CoC), considering the settlement being reached between the OC and the CD.



2.3. Thereafter, the matter came up for hearing before the Hon'ble NCLAT on 11.11.2024, wherein liberty was granted to the OC to file an application under Section 12A of the Code through the IRP. The OC thereafter provided Form FA dated 16.11.2024, in terms of Regulation 30A of the CIRP Regulations, and accordingly, the present IA under Section 12A came to be filed. Later, since this IA having been filed before us, the Hon'ble NCLAT disposed of the Appeal with the direction that the 12A application, which is pending for consideration before this AA may be disposed of within a period of eight weeks. The Hon'ble NCLAT further held that all the FCs and the OCs, who have claims against the CD are free to file their objections before us at the time of hearing of the 12A Application. In view of the liberty granted by the Appellate Tribunal, the State Bank of India, IDFC Bank, K.K. International and large number of other financial and operational creditors have filed interventions and objections to the captioned IA under Section 12A.

3. SUBMISSIONS OF RESPONDENT NO. 2/SUSPENDED DIRECTOR

3.1. Subsequent to the CD being admitted into CIRP, Mr. Rajesh Uttamchandani, the director of the suspended board of the CD, made a part payment of ₹4 Crore out of the total settlement of ₹7.8 Crore to the OC, but filed an Appeal against the Admission Order. The Hon'ble NCLAT passed an interim order on 21.10.2024, directing that CoC shall not be constituted



until 11.11.2024. On the submission of the OC that Section 12A application shall be filed through the RP, the Hon'ble NCLAT, *inter-alia*, directed on 11.11.2024, that the AA shall endeavour to dispose of the 12A Application at an early date and the Appeal stood over to 09.01.2025, by also ordering that the interim order shall continue.

3.2. Pursuant to the Order dated 11.11.2024 by the Hon'ble NCLAT, the Original OC filed this IA under Section 12A of the Code in Form FA, through the IRP seeking withdrawal of the CIRP of the CD. However, a large number of financial and operational creditors of the CD filed Intervention Applications in the IA. Considering that the application under Section 12A has been filed before this AA, the Hon'ble NCLAT disposed of the Appeal with liberty to all the FCs and OCs who have claims against the CD to file their objections before the AA at the time of hearing of the 12A Application.

3.3. However, the CD has already settled the matter with the OC, at whose instance the Original C.P. was filed. Although CIRP of the CD has commenced, the CD has fully and finally settled the dues of the OC. The instant application has been filed in conformity with Section 12A of the Code read with Regulation 30A of the CIRP Regulations, and hence, the AA cannot decline this IA so long as the tests of these provisions are satisfied. Section 12A of the Code read with Regulation 30A and Form FA of the CIRP Regulations only prescribe a simple procedure of withdrawal of applications filed under Sections 7, 9 or 10 of the Code. The subjective



satisfaction of the AA is limited to the fulfillment of the procedural requirements and that there is no abuse of process or fraud involved in the settlement with the OC. In the present case, the settlement between the OC and the CD is genuine and is also bona fide.

3.4. The CD experienced a temporary financial setback due to the COVID-19 Pandemic. However, the CD and its erstwhile management remain committed to revitalising its operations and that they have been actively engaging with potential investors to secure the necessary capital not only to address the outstanding defaults to its creditors but also to meet additional capital requirements essential for the company's growth and stability. Amidst the CD's efforts towards the resolution, several applications and intervention petitions have been filed opposing the settlement with its creditors, complicating the proceedings. The Intervenor/Objectors are only trying recovery and have no genuine interest in the insolvency resolution of the CD.

3.5. The sincere intention to revive the CD and pay its dues to the creditors has been manifested in Mutares SE & Co. KGaA (Mutares), a publicly listed private equity firm headquartered in Munich, Germany, expressing a strong interest in acquiring a majority stake in the CD. A Term Sheet dated 08.01.2025, has also been signed between the parties. Mutares has committed to invest in the CD for a controlling stake in it. Mutares has proposed a strategic acquisition plan that includes One Time Settlement



(OTS) of debt of CD's creditors to facilitate a smooth transition and prevent unnecessary insolvency proceedings.

3.6. Initially, the CD proposed to settle the debts of consortium lenders by offering 70% of the total outstanding principal as on 31.12.2024. In furtherance of discussions with the consortium lenders, the CD revised its offer to pay 75% of the principal outstanding dues to them for a sum of ₹153.93 Crore. However, this proposal too was turned down by the lenders. Therefore, the CD sent a revised proposal of ₹158.03 Crore, as detailed below:

Name of Lender	Outstanding Principal Amount (₹ in Crore)	Settlement Amount (₹ in Crore)
State Bank of India	71.00	54.70
Union Bank of India	48.91	37.70
HDFC Bank	39.82	30.70
IndusInd Bank	30.78	23.70
IDFC Bank	14.73	11.30
TOTAL	205.24	158.03

3.7. The above OTS proposal dated 26.02.2025 is still under consideration. The CD has proactively submitted this settlement proposal despite SBI not formally recalling its financial assistance to the CD. This underscores the CD's commitment to revive the enterprise with the support of an investor and its willingness to enter into a reasonable settlement with the consortium members.



3.8. IDFC Bank, the prime Intervenor in this IA, had filed C.P.(IB) No. 170/MB/2024 under Section 7 of the Code, seeking initiation of CIRP against the CD. Despite this, the suspended management has made various payments aggregating ₹5.20 Crore to IDFC, including payments made after the filing of the Section 7 Application, and even after the initiation of CIRP. These payments have been considered towards principal repayments. The following payment are made until now:

Dates of Payments	Payments (in ₹)
Prior to Jan 18, 2024	85,96,211
3.5.2024	59,30,000
5.7.2024	1,50,00,000
29.7.2024	1,25,00,000
26.9.2024	50,00,000
23.10.2024	50,00,000
Total	5,20,26,211

While the other members of the consortium have not initiated proceedings under Section 7 of the Code, they have been extended an OTS proposal on 26.2.2025. This proposed offer to settle ₹158.03 Crore of the principal outstanding as of 31.12.2024, is currently under active consideration by the consortium members.

3.9. Unity Small Finance Bank (USFB) has filed application under Section 7 of the Code against Syska LED, an associate company of the CD, for an



outstanding amount of ₹3,71,13,627/-. Syska LED had availed a term loan of ₹20 Crore, which was disbursed on 31.01.2023. As per the sanction letter, the repayment was to be made in six monthly instalments of ₹3.45 Crore each, starting from March, 2023. This company has made payments totalling ₹17.58 Crore, which includes principal repayment, interest, and penal interest. However, the last instalment of ₹23.45 Crore remained unpaid, leading to a default on the term loan. Since USFB also had exposure to other entities within the Syska group, the company approached it for a settlement. In furtherance of this, Syska LED made an aggregate payment of ₹3.76 Crore. USFB confirmed that the payments received were adjusted against the overall dues of Syska LED and its vendors. As per the settlement letter dated 19.12.2024, the revised outstanding amount to them stands at ₹2.70 Crore. Additionally, USFB had sanctioned a loan to Bagh Bahar Appliances, a sister concern of Syska LED. In this case, a settlement agreement has already been reached, and the Section 7 proceedings against Bagh Bahar Appliances have been disposed of. The CD has sent a proposal dated 18.12.2024 to USFB, offering to pay the outstanding principal dues of ₹2.70 Crore.

3.10. Mr. Shashi Agarwal, the Proprietor of Varun Industries, filed C.P. (IB) No. 697/2024 under section 7 of the Code, seeking initiation of the CIRP of the CD for an alleged default of ₹6,96,07,769.86/-. The same is pending before this AA. However, the transaction in question does not constitute a financial



debt under the Code. Further, the CD and M/s Goel Lighting have been conducting business together since 2017, and the CD has consistently honoured its payments, either through post-dated cheques or through vendor finance limits. At the request of M/s Goel Lighting, the CD entered into an agreement with Mr. Shashi Agarwal therein for the purpose of making payments. As per agreement entered into between Mr. Shashi Agarwal and the CD, the entire amount was to be disbursed by the applicant into the account of M/s Goel Lighting. Thus, the disbursement by the applicant was actually to third parties and not to the CD. In view of the same, there is no time value of money under the Code. Further, the applicant is not a licensed money lender or licensed NBFC and cannot carry out financing or money lending business.

3.11. Further, Datamini Technologies Private Limited supplied power banks to Syska LED Lights Pvt Ltd. under an arrangement, where Datamini Technologies Private Limited provided a warranty on the products, enabling Syska LED to offer a two-year warranty to its customers. However, due to a slowdown in business for both parties, the volume of defective goods increased significantly. Despite repeated requests from Syska LED to collect the defective goods and settle accounts, Datamini Technologies Private Limited did not respond to any emails. Subsequently, Syska LED formally communicated that, as per the supply chain agreement, any losses incurred due to poor quality or short supply of material by Datamini were to



be reimbursed. The details of such claims are categorised as liquidated damages. As per the latest statement, Syska LED owes Datamini ₹92 Lakh, which falls below the prescribed threshold. Without prejudice to the above, it is submitted that the directors of the suspended board of the CD have made an OTS proposal dated 26.2.2025 offering an amount of ₹71.05 Lakh after reconciliation of accounts by both the parties. The said OTS proposal is under active consideration by Datamini Technologies Private Limited.

3.12. There is already a dispute with Dixon Technologies which has also been captured in the reply to the Original C.P. However, without prejudice to the above, it is submitted that the directors of the suspended board have made an OTS proposal dated 27.2.2025, offering an amount of ₹1.86 Crore after reconciliation of accounts by both parties. The said OTS proposal is under active consideration by Dixon technologies Private Limited.

3.13. Further, KGN Lights (KGN) and ARE Enterprises (ARE) supplied LED products, including emergency lights, to Syska LED, with KGN providing a warranty on its products. Syska LED, in turn, offered a two-year warranty to its customers, relying on the warranties provided by KGN and ARE. However, following a slowdown in business, the volume of defective products increased significantly. Despite multiple requests from Syska LED for KGN and ARE to collect these defective goods and reconcile accounts, there was no response. Syska LED subsequently informed KGN and ARE that, as per their supply chain agreement, losses incurred due to poor



quality materials and supply shortages were to be reimbursed. The CD has detailed these claims under liquidated damages. Presently, Syska LED owes ₹16.66 Lakh to KGN and has a receivable of ₹49.20 Lakh from ARE. The company is open to settling these amounts, contingent upon KGN/ARE retrieving their defective goods which have remained uncollected for over a year.

3.14. Fortune art LED Lighting (Fortune Art) supplied various lighting products, including street lights, floodlights, and beam lights, to Syska LED. Fortune Art provided a warranty on its products, and Syska LED, in turn, extended a two-year warranty to its customers, relying on the backing provided by Fortune Art. However, following a slowdown in business, the volume of defective products increased significantly. Despite multiple requests from Syska LED for Fortune Art to collect the defective goods and settle the outstanding accounts, there was no response to emails from them. Consequently, Syska LED formally informed Fortune Art that, as per their supply chain agreement, any losses incurred due to poor-quality materials and short supply were to be reimbursed. The CD has detailed these claims under liquidated damages. As per the latest statement, Syska LED owes Fortune Art ₹20 Lakh, which falls below the agreed threshold.

3.15. In view of the above facts, the intervention applications, if entertained, would derail a meticulously planned restructuring process and expose the company to unnecessary insolvency risks. Therefore, in the interest of all



stakeholders, including creditors, employees and investors, it is prayed that the Tribunal rejects the intervention applications and allow the withdrawal of CIRP under Section 12A of the Code.

4. CONTENTIONS OF INTERVENORS/OBJECTORS

4.1. Intervention Petition No. 26/2025

Fortune Art has filed this Intervention Petition as an Operational Creditor of the CD for a total claim of Rs.2,13,22,983/-. It is stated that they had filed CP.No.619/2024 before this Tribunal seeking to initiate CIRP against the CD under Section 9 of the Code. However, since the CD has already been admitted into CIRP *vide* Admission Order dated 08.10.2024, this Tribunal *vide* Order dated 14.10.2024, disposed of Fortune Art's Company Petition with liberty to file its claim before IRP of C.P. No. 96/2024 (Original C.P.). Fortune Art was also granted liberty to seek revival of its Company Petition in case the parties in the Original C.P. reach a settlement in the matter.

4.2 Intervention Petition No. 27/2025

This Intervention Petition has been filed by Starlite Lamps, an Operational Creditor. They filed a Company Petition No. 885/2024 for an amount of Rs. 2,21,67,227.76/- under Section 9 of the Code against the CD. Consequent to passing of Admission Order, Starlite filed its claim before the IRP on 06.12.2024, which has duly been admitted.



4.2. Intervention Petition No. 25/2025

This Intervention Petition is filed by ARE Enterprise Private Limited, an Operational Creditor. ARE Enterprises also filed Company Petition No. 675/2024 under Section 9 of the Code, which got disposed of on account of the Admission Order passed by this Tribunal in the original C.P.

4.4 Intervention Petition No. 16/2025

This Intervention Petition has been filed by Dixon Technologies (India Limited), an Operational Creditor. They previously filed C.P.No.216/2024 under Section 9 of the Code, which was dismissed by this Tribunal on the sole ground that the CD had already been admitted into CIRP. Thereafter, the Intervener filed its claims on 19.10.2024 before the Applicant. The present Intervention Petition has been filed by the Intervener to object to the withdrawal of the Original C.P.

4.5 Intervention Petition No. 19/2025

The Intervention Petition is filed by Qdigi Services Limited for placing on record the objections against the withdrawal application filed under Section 12A of the Code. The Intervener had filed C.P.No.11/2025 under Section 9 of the Code for an amount of an Rs.3,33,95,786/-. This case is posted on 17.03.2025 for hearing.



4.6 Intervention Petition No. 24/2025

The applicants are stated to be Financial Creditors of the CD who have filed their claims amounting to Rs.1,55,05,265.75/- and Rs.56,60,08,854.79/-. They seek to continue with the CIRP for the CD.

4.7 Intervention Petition No. 09/2025

This Intervention Petition has been filed by IDFC First Bank Limited, one of the financial creditors of the CD objecting to the withdrawal of CIRP of the CD. It is stated that the intervener filed a Company Petition No. C.P. No. 170/2024 which was disposed of by this Tribunal as infructuous in view of the Admission Order passed by this Tribunal in the Original C.P.

4.8 Intervention Petition No. 10/2025

This Intervention Petition is filed by State Bank of India, a financial creditor raising objections to the withdrawal application filed by the Applicant. The Intervener had filed C.P. No. 170/2024. After admission of Original C.P., this Intervener intervened in the Appeal filed before the Hon'ble NCLAT and raised objections to the settlement between the CD and the Original OC in the light of the recent judgment of the Hon'ble Supreme Court in *GLAS Trust Company LLC Vs. BYJU Raveendran & Ors.* [Civil Appeal No. 9986 of 2024] (*Byjus*). The Intervener is objecting to the withdrawal of CIRP of the CD.



4.9 Interlocutory Application 822/2025

This IA has been filed by USFBL, a Financial Creditor of the CD, raising objections to the 12A Application seeking withdrawal of CIRP initiated against the CD. USFBL states that it granted a loan of Rs. 20 Crore to the CD which is in default and therefore, filed C.P. No. 192/2024 under Section 7 of the Code for initiating CIRP against the CD. During the pendency of the said matter, the CD was admitted into CIRP in the present Original C.P. Consequently, the Company Petition filed by the applicant was rejected with the liberty to revive the same in the event the Original C.P. is dismissed for any reason.

4.10. Interlocutory Application 564/2025

This application has been filed by Shashi Aggarwal, Proprietor of M/s Varun Industries as a financial creditor with an outstanding claim of Rs.7,66,30,975.34/- raising objections to the withdrawal application filed under Section 12A of the Code. The applicant states that he has filed his claim with the IRP but IRP is yet to confirm admission of the claim.

4.11. Interlocutory Application 1006/2025

The applicant in this Interlocutory Application is an Operational Creditor of the CD claiming an amount of Rs.11,58,12,008.79/- and raising objections to the withdrawal application filed under Section 12A of the Code.



5. ANALYSIS AND FINDINGS

5.1 We have heard the Ld. Counsel for the Applicant, the Respondent and the Interveners/Objectors. We have considered the pleadings, contentions and rival contentions of the parties as also the documents available on record. We have also carefully considered the pleadings of the Applicant in paragraphs 3.3 to 3.15, detailing the efforts made by the CD to steer clear of possible insolvency proceedings against it and mitigation of ill-effects of CIRP. All the submissions made by the Ld. Counsel for the Interveners/Objectors have also been considered by us.

5.2 There is no dispute among the parties regarding the facts of the case. This IA has been filed by the IRP under Section 12A of the Code along with the Form FA provided by the OC in accordance with Regulation 30A of the CIRP Regulations. This filing is based on the liberty granted by the Hon'ble NCLAT during the pendency of the Appeal filed against the Admission Order passed by this Tribunal on 08.10.2024. Considering the settlement being reached between the OC and the CD, the Hon'ble NCLAT directed not to constitute the CoC. Since this IA has been filed before the AA, the Hon'ble NCLAT disposed of the Appeal with the direction to the AA to dispose of 12A Application within a period of eight weeks. The Hon'ble NCLAT further directed that all the FCs and the OCs, who have claims against the CD are free to file their objections before us at the time of hearing of the 12A Application. Consequently, many creditors of the CD filed Intervention Applications/Interlocutory Applications objecting to the withdrawal of CIRP



initiated against the CD. In view of the above factual position, this IA is proposed to be disposed of after considering all the objections and contentions raised by the Intervenors/Objectors, in this Order.

5.3 The case of the Applicant in this IA is that all the conditions specified for filing application for withdrawal of CIRP under the law have been complied. It is argued by the Ld. Counsel for the Applicant that the AA should only need to satisfy that the procedure prescribed under Regulation 30A has been fulfilled. It is submitted that the AA cannot decline the withdrawal of CIRP if the procedure outlined in Regulation 30A is satisfied. Furthermore, in pursuance of Section 12A, once an application for withdrawal is filed under Regulation 30A(a) in Form FA, by the IRP, it is between the Applicant and the CD/erstwhile management to end the proceedings. At this stage, since no CoC is constituted, it cannot be said that other creditors than the original Applicant have any say in the matter of withdrawal. Neither Section 12A nor Regulation 30A allows interference/intervention regarding an application filed by the Applicant in Form FA. Where the CD owes monies or has defaulted in payments to other creditors, the creditors are not prevented from pursuing appropriate remedies available to them under the law. Pursuing the rights of intervenors/objectors is not being hindered by the settlement by the CD/erstwhile management with one or some of its creditors and consequent withdrawal of the original Application. Hence, it is not for the AA to reject an application submitted by the Applicant in Form FA, as for the AA, the prime concern should be disposal of the matter by settlement.



- 5.4 Another argument advanced by the Ld. Sr. Counsel for the Applicant is that the mechanism provided under Section 12A read with Regulation 30A of the CIRP Regulations does not require any “adjudication” by the NCLT, rather, the NCLT only needs to “approve” the same, where the processes and format under Form FA are complete. According to the Ld. Sr. Counsel, the withdrawal of an application is merely a procedural compliance under the IBC and the CIRP Regulations. A formal approval of the AA is sufficient to withdraw an application filed under Section 7, 9 or 10. Since every applicant has the right to withdraw from a proceeding initiated by it, fulfilling procedural compliance should suffice to get out of the litigation. The Ld. Sr. Counsel further argues that Regulation 30A has made provisions for withdrawal in an easy and simple manner by just submitting Form FA by the applicant through the insolvency professional. The right of withdrawal of the application solely vests with the applicant who filed it, and hence, third parties do not have any say in matters of withdrawal of applications under the Code. Allowing third parties to intervene in a Section 12A application would infringe the right of the applicant to settle with the creditor that initiated the proceeding. The Ld. Sr. Counsel further emphasises that there cannot be a situation where third parties to the proceeding derail the process of settlement between the applicant and the creditor who initiated CIRP, as this could ultimately hinder the turnaround of CD’s business.
- 5.5 The Respondent No.2, in support of the Application, has stated that the sincere intention of the Suspended Board to revive the CD and pay dues of



its creditors have manifested in Mutares, a publicly listed private equity firm headquartered in Munich, Germany, expressing a strong interest in acquiring a majority stake in the Corporate Debtor. A term sheet dated 08.01.2025 has also been signed between the parties. Mutares has committed to invest in the CD, for a controlling interest stake in the CD. Mutares has proposed a strategic acquisition plan that includes a One Time Settlement of debt of CD's creditors to facilitate a smooth transition and prevent unnecessary insolvency proceedings. Thus, the Suspended Board is committed to revive the enterprise with the support of an investor and is willing to enter into a reasonable settlement with the consortium of lenders/creditors.

5.6 On the other hand, many financial and operational creditors of the CD, through Intervention Applications and Interlocutory Applications vehemently objected to the withdrawal of CIRP of the CD. It is submitted that IBC is not a recovery proceeding and the Code establishes a comprehensive framework for the resolution of insolvency in a collective manner, ensuring equitable treatment of all stakeholders. It is further contended that once an application instituted by a creditor is admitted, the proceeding becomes a 'collective proceeding' or a proceeding *in rem*. Any settlement or withdrawal without involving all creditors undermines the statutory framework of the Code.

5.7 The Interveners/Objectors further submit that unilateral settlement attempts before the constitution of the CoC is risky, as it may lead to preferential payments to select creditors, contrary to Section 43 of the Code. They



apprehend that such actions could lead to dissipation of assets, severely prejudicing the claim prospects of financial creditors. Therefore, allowing the settlement to proceed without adherence to Section 12A of the Code would set a dangerous precedent, undermining the integrity of insolvency proceedings.

5.8 Relying on the position laid down in *Byjus* (supra), it is submitted that in cases of withdrawal where CIRP has been initiated but CoC has not been constituted, the NCLT should conduct an adjudicatory exercise under its inherent powers under Rule 11 of the NCLT Rules to reject or accept the withdrawal application after hearing all concerned parties and considering all relevant factors. Since there is a clear admitted debt and default above the threshold amount specified under the Code, the CD is already found fit to be admitted to CIRP. If the withdrawal application is allowed, the creditors of the CD, particularly the financial creditors, would be highly prejudiced, resulting in manifest injustice and rendering the statutory rights of financial creditors meaningless.

5.9 Before considering the rival contention of the parties, it is appropriate to notice that the debt due by the CD to the financial creditors and operational creditors is more than Rs.200 Crore and as many as 12 Intervenors/Objectors have filed Interlocutory or Intervention applications before us objecting to the withdrawal of CIRP in respect of the CD. The Ld. Sr. Counsel for the Respondent No.2/Suspended Director states at bar that settlement proposal was submitted to the consortium of lenders, which was



even enhanced subsequently and the Suspended Directors are making efforts to arrive at a settlement with them. However, some of the Counsel appearing for the Interveners/Objectors stated that they are yet to receive any proposal of settlement. Be that as it may, the Interveners/Objectors state that no settlement proposal is presently pending their consideration.

5.10 Before dealing with the crucial question of withdrawal of CIRP of the CD, it shall be necessary to consider the locus of other creditors to intervene in the application filed by IRP under Section 12A of the Code read with 30A of CIRP Regulations. On this issue, all the Counsel appearing for the parties relied on the judgement of the Hon'ble Supreme Court in the case of *Byjus* (supra). In the above Judgement, the Hon'ble Supreme Court has reproduced part of the Insolvency Law Committee Report (ILC Report), submitted on 26.03.2018. which led to the insertion of Section 12A as under:

“29.1 ...it was agreed that once the CIRP is initiated, it is no longer a proceeding only between the applicant creditor and the corporate debtor but is envisaged to be a proceeding involving all creditors of the debtor. The intent of the Code is to discourage individual actions for enforcement and settlement to the exclusion of the general benefit of all creditors.”

5.11 Further, the Hon'ble Supreme Court in *Swiss Ribbons* (supra) observed:

“82. It is clear that once the Code gets triggered by admission of a creditor's petition under Sections 7 to 9, the proceeding that is before the adjudicating authority, being a collective proceeding, is a proceeding in



rem. Being a proceeding in rem, it is necessary that the body which is to oversee the resolution process must be consulted before any individual corporate debtor is allowed to settle its claim. A question arises as to what is to happen before a Committee of Creditors is constituted (as per the timelines that are specified, a Committee of Creditors can be appointed at any time within 30 days from the date of appointment of the interim resolution professional). We make it clear that at any stage where the Committee of Creditors is not yet constituted, a party can approach NCLT directly, which Tribunal may, in exercise of its inherent powers under Rule 11 of NCLT Rules, 2016, allow or disallow an application for withdrawal or settlement. This will be decided after hearing all the parties concerned and considering all relevant factors on the facts of each case.”

5.12 Relying on the ILC Report and the observation in *Swiss Ribbons* (supra), the Apex Court in *Byjus* (supra) observed:

“42 From this scheme of Chapter II of the IBC, it appears that the admission of an application is a significant event that alters the nature of the proceedings, and the stakeholders involved. Initially, when the petition is filed by the financial creditor, operational creditor or corporate applicant, as the case may be, the proceedings are in personam and the only relevant stakeholders are the applicant creditor and the corporate debtor. However, once the petition is admitted and CIRP is initiated, several significant changes take place, including the transfer of the management of the affairs



*of the corporate debtor to the IRP, the declaration of the moratorium, and the collation of the claims against the corporate debtor. Therefore, **the proceedings now change character – they become in rem and are no longer the preserve of only the applicant creditor and the corporate debtor and even creditors who were not the original applicants, become necessary stakeholders.***

(Emphasis supplied)

5.13 Moreover, the Hon'ble NCLAT also directed that all the Financial Creditors and the Operational Creditors who have claims against the CD are free to file their objection before the AA at the time of hearing of the 12A Application.

5.14 For what has been discussed above, we are clearly of the view that the Interveners/Objectors are undoubtedly stakeholders in the CIRP of the CD and have locus to raise their concerns regarding withdrawal of the Original C.P.

5.15 Having considered the issue of locus of Interveners/Objectors, we will now consider the prayer regarding the withdrawal of the Original C.P. filed by M/s Sunstar Industries, the Original OC in the matter. The Original C.P. was admitted by this Tribunal *vide* order dated 8.10.2024. The dues of the Original OC, who initiated the process, have been fully settled. This IA has been filed by the IRP in accordance with Section 12A of the Code, along with the Form FA provided by the OC in terms of Regulation 30A of the CIRP



Regulations. Since there is no dispute regarding these facts, we may proceed directly to deal with the contentions of the parties.

5.16 The case of the Applicant is that the AA cannot decline this IA so long as the test of Regulation 30A is satisfied. According to the Applicant, Section 12A of the Code read with Regulation 30A and Form FA of the CIRP Regulations only prescribe a simple procedure for withdrawal of applications filed under Sections 7, 9 or 10 of the Code. The subjective satisfaction of the AA is limited to the fulfillment of the procedural requirements and that there is no abuse of process or fraud. In the present case, the settlement between the OC and the CD is both genuine and bona fide.

5.17 It is therefore worth considering the role of the AA in dealing with the withdrawal of applications:

Section 12A of the Code reads as:

*“12A. 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 prescribed.”* (Emphasis added)

Regulation 30A(6) of the CIRP Regulations:

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



(Emphasis added)

5.18 When the aforesaid legal provisions prescribe that the AA may allow the withdrawal, it implicitly gives the AA the option to either accept or reject an application based on the facts, consequences, and objectives of the Code. Moreover, the Hon'ble Supreme Court in *Byjus* (supra) has unequivocally underscored that the NCLT cannot be considered as a post office that merely puts stamp on the withdrawal application. NCLT does not conduct an adjudicatory exercise when the application for withdrawal is placed before it, and the procedure is not a mere technicality. Based on the above, we have no hesitation to hold the view that we are bound to consider the relevant facts, consequences and objectives of the Code when considering this IA for withdrawal.

5.19 In relation to the facts of the case, the Respondent No.2 asserts that the CD experienced a temporary financial setback due to the COVID-19 Pandemic. Nevertheless, the CD and its erstwhile management entered into a term sheet with Mutares, proposing a strategic acquisition plan to secure the necessary capital to address outstanding defaults to its creditors and to meet additional capital requirements essential for the company's growth and stability. Respondent No.2 also claims that a settlement proposal has already been made to the consortium of lenders for arriving at a settlement. However, the Interveners/Objectors representing the Consortium assert that no settlement proposal is currently under their consideration at all. Additionally, many other creditors



have also stated that there has never been a settlement proposal regarding their dues.

5.20 Thus, it is evident that withdrawal of CIRP would lead to multiple litigations, as many creditors of the CD are either waiting to revive their Applications or intending to file fresh Applications to initiate CIRP against the CD. The filing of multiple applications for initiation of CIRP, combined with the delays in resolving the financial stress of CD would do no good to the parties or the CD who is faced with multiple creditors and debts exceeding Rs.200 Crore. This situation is neither in the interest of either the parties nor the CD itself. The intent of the IBC is to discourage individual actions for enforcement and settlement to the exclusion of the general benefit of all the creditors. In the case of *Swiss Ribbons (supra)*, the Hon'ble Supreme Court reiterated that IBC proceedings aim to preserve and maximise value for all creditors. After admission of CIRP, if private settlement is permitted between the CD and the applicant creditor, the process would create an unfair advantage for certain other creditors. This could occur at the expense of many other lenders who may even have better securities, higher stake, and more involvement in the CD. Such settlements could diminish the pool of assets available to satisfy the claims of other creditors, which contradicts the fundamental goal of insolvency resolution and the orderly distribution of proceeds under the Code.



5.21 While CoC approval is not relevant in this case, the rationale behind setting a very high threshold of 90% in Section 12A after admission and constitution of CoC is noteworthy. It is paramount that settlement is reached with all or most of the creditors of the corporate debtor. No doubt, the mechanism provided under the Code aims to balance the interests of all creditors, especially after the initiation of CIRP. Achieving this balance among all stakeholders is one of the prime objectives of every process under the Code. As observed by the Hon'ble Supreme Court in the *Byjus* (supra), when an application for insolvency resolution is filed, the proceeding is in *personam* between the applicant and the respondent, which changes its character into *in rem* once the application is admitted and CIRP initiated. It is pertinent to recognise that once CIRP begins, a large number of stakeholders become involved in the whole process of resolving insolvency of the CD. It is not uncommon for an applicant creditor who or which initiates the process to receive less or possibly nothing in comparison to their credit exposure during CIRP. Conversely, another creditor might receive more favourable outcomes, depending on the facts and circumstances during the process. Ultimately, the main objective of the CIRP is to facilitate the insolvency resolution of the CD, and not necessarily to ensure recovery for every creditor. The process is well defined under the Code and the allied regulations with overall judicial supervision, scrutiny, approval and "adjudication" by the AA. Therefore, we are obligated under the Code to balance the interests of every



stakeholder and ensure that the process is not abused by any one person or couple of persons involved in the process.

5.22 Having concluded that the AA has the authority to adjudicate the withdrawal application with due regard to the relevant facts, consequences and the objectives of the Code, we may now consider the factual matrix regarding the financial position of the CD. It has been brought to our notice by the Ld. Counsel for the Intervenors/Objectors that the total claims received by the Applicant/IRP till date is about ₹223 Crore, which has not been disputed by the Ld. Counsel for the IRP or Respondent No.2. The settlement of the CD with the initiating Operational Creditor is around ₹8 Crore. The Ld. Sr. Counsel for the Respondent contends that all the creditors are at liberty to explore legal remedies as available to them under law and the present settlement with a creditor and consequent withdrawal of the Original CP does not curtail their rights against the CD. However, we observe that the ability of the CD to settle its dues with all the creditors is one of the relevant factors for considering the withdrawal application. The efforts made by the CD/suspended directors from 08.10.2024 until today to reach a settlement with the consortium of lenders who have an admitted claim of more than Rs.200 Crore have not yielded any positive results. As regards other creditors also, CD has either not submitted any proposal or creditors have already turned down the settlement proposal made by the CD. In the light of the above, we find that the CD has already slipped into insolvency requiring



immediate resolution in accordance with law. Settling with just one creditor for a minimal amount of debt does not indicate the CD's ability to resolve its financial stress by itself. If CIRP is withdrawn, it would lead to multiple legal proceedings against the CD, adversely affecting the interests of other stakeholders, and ultimately causing delays and depletion of economic value of the assets of the CD.

5.23 Based on the discussions hereinabove and after considering the relevant facts of the case, consequences of withdrawal from CIRP and the objectives of the Code, we are of the considered view that the present IA deserves to be rejected and CIRP is to be continued in accordance with the provisions of the Code.

5.24 Thus, **IA 5979/2024 is dismissed and disposed of.** As a result, Intervention Application Nos. 9/2025; 10/2025; 16/2025; 19/2025; 24/2025; 25/2025; 26/2025; 27/2025; and Interlocutory Application Nos. 822/2025; 564/2025; and 1006/2025, have become infructuous.

Sd/-
ANIL RAJ CHELLAN
MEMBER (TECHNICAL)

Sd/-
K. R. SAJI KUMAR
MEMBER (JUDICIAL)