IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI
COURT--IV

IA(IBC) No.67/2025

IN

C.P. (IB) No. 834/MB/2020

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

IA.No.67/2025

Mr. Purusottam Behera

Interim Resolution Professional of

Skill Infrastructure Limited

708, Raheja Centre, 7th Floor,

Nariman Point, Mumbai - 400021.

...Applicant/Interim

Resolution Professional

V/s.

Amluckie Investment Company Ltd.

10, Princep Street, 2nd floor,

Kolkata-700002.

… Respondent /Original Applicant

In the matter of

Amluckie Investment Company Ltd.

……. Financial Creditor

V/s.

Skill Infrastructure Ltd.

………. Corporate Debtor

INTERVENTION PETITION/23/2025

Bank of India

… Intervenor/Applicant

V/s.

Mr. Purusottam Behara

… Respondent No.1

Amluckie Investment Company Ltd.

… Respondent No.2

INTERVENTION PETITION/28/2025

UCO Bank

… Intervenor/Applicant

V/s.

Mr. Purusottam Behara

… Respondent No.1

Mr. Bhavesh Gandhi

… Respondent No.2

INTERVENTION PETITION/35/2025

Edelweiss Asset Reconstruction Company Limited

… Intervenor/Petitioner

Pronounced: 13.08.2025

CORAM:

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

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

Appearances: Hybrid

IA(IBC) No. 67/MB/2025

For Applicant/IRP: Adv. Nausher Kohli a/w. Adv. Aniruddha Lad and Adv. Biju Joseph i/b. KLT Law Associates

For Financial Creditor: Adv. Devansh Jain and Adv. Shrishti Jeswani

For Suspended Board: Adv. Pulkit Sharma a/w. Adv. Gunjan Shah & Adv. Henna Daulat i/b. GS Legal

Intervention Petition No. 23/MB/2025

For Intervenor: Adv. Malhar Zatakia a/w. Adv. Kaushal Ameta i/b. Legal Prism

Intervention Petition No. 28/MB/2025

For Intervenor: Adv. Aditya Mishra

Intervention Petition No. 35/MB/2025

For Intervenor: Adv. Rohan Agarwal a/w. Adv. Rohan Rajadhyaksha, Adv. Vinayak Tiwari and Adv. Mithila Damle i/b. Actus Lit Partners

COMMON ORDER

[PER: K. R. SAJI KUMAR, MEMBER (JUDICIAL)]

1. BACKGROUND

1.1 This IA No. 67/MB/2025 is filed 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), in Form FA, (Withdrawal IA), by Mr. Purusottam Behara, the Interim Resolution Professional (IRP) of SKIL Infrastructure Limited, the Corporate Debtor (CD), for withdrawal of C.P.(IB) No.

834/MB/2020 (Original CP), by which the CD was admitted into Corporate Insolvency Resolution Process (CIRP).

1.2 Pursuant to the filing of this Withdrawal IA, various Financial Creditors (FCs) namely, Bank of India, UCO Bank and Edelweiss Asset Reconstruction Company Limited (Edelweiss ARC), filed Intervention Petitions Nos. 23/MB/2025; 28/MB/2025; and 35/MB/2025, respectively, to challenge the maintainability of the Withdrawal IA on the grounds of their alleged exclusion from the CD's settlement proceedings, and consequent adverse effects on their interests. A director of the suspended board of the CD, Mr. Bhavesh Gandhi, has also filed an affidavit in reply stating that he is a stakeholder in the Withdrawal IA. Therefore, as agreed by all the parties, the Withdrawal IA and the Intervention Petitions are being disposed of by this Common Order.

2. <u>CONTENTIONS OF APPLICANT/IRP</u>

2.1 The Original CP was filed on 20.02.2020, by the FC, Amluckie Investment Company Limited (Original FC), against the CD under Section 7 of the IBC for default amount of Rs.3,70,32,768/-. The CIRP in respect of the CD was initiated, *vide* order dated 01.02.2024 (Admission Order) of this Tribunal and Mr. Purusottam Behara was appointed as the IRP of the CD. The IRP made Public Announcement in Form A on 02.02.2024, inviting claims from the creditors.

2.2 Meanwhile, Mr. Bhavesh Gandhi, the director of the suspended board of the CD, filed Company Appeal (AT)(Ins.) No. 244 of 2024 (Appeal) on 03.02.2024, before the Hon'ble NCLAT against the Admission Order. The Appeal came up for hearing for the first time on 05.02.2024, and on 12.02.2024, the Hon'ble NCLAT passed an interim order, wherein it was directed that Committee of Creditors (CoC) of the CD shall not be constituted.

2.3 During the pendency of the Appeal, the Original FC and the director of the suspended board of the CD amicably settled their disputes and entered into a Settlement Agreement dated 17.10.2024 read with Addendum dated 13.12.2024, and the same were placed before Hon'ble NCLAT, which is recorded in its order dated 08.11.2024. In the said order, the intention of the Applicant/IRP to file application under Section 12A of IBC before this Tribunal, is also recorded. Pursuant to the Hon'ble NCLAT's order, the Applicant/IRP filed the present Withdrawal IA, to withdraw the Original CP under Section 12A of the IBC read with Regulation 30A of the CIRP Regulations. Hence, the Applicant/IRP prays that this IA is to be allowed, freeing the CD from the rigors of CIRP.

3. <u>CONTENTIONS OF DIRECTOR OF SUSPENDED BOARD</u>

3.1 Mr. Bhavesh Gandhi, director of the CD's suspended board of directors submits that being a director of the CD, he is a necessary and proper party in the Withdrawal IA as well as the aforesaid Intervention Petitions. Since the alleged claims of the creditors of the CD could be broadly classified into (i) claims from the lenders of Reliance Naval and Engineering Limited (Now Swan Defence and Heavy Industries); (ii) claims from the associate companies of the CD; and (iii) claims from the direct creditors of the CD itself, the list of claims prepared by the Applicant/IRP cannot be made binding upon the CD in the absence of CoC. Further, the Intervenors have to first establish that they are creditors.

3.2 The CD refutes the claims of the Intervenors and the same was also accepted by the Applicant/IRP. The copies of the CD's Annual Report for the Financial Years

(FYs) 2016-2017; 2017-2018; 2018-2019; 2019-2020; 2020-2021; 2021-2022; and 2022-2023, would substantiate this position.

3.3 The alleged claims against the CD are neither crystallised nor legitimate. The claims admitted by the Applicant/IRP cannot be binding on the CD until such time as the CoC is constituted. Pursuant to the order of the Hon'ble NCLAT in the Appeal dated 12.02.2024, no CoC has been constituted. Thus, there is no requirement of obtaining approval of 90% of the CoC members on the settlement with the Original FC. The objective of the order in Appeal is to encourage settlement, which has been done by the CD, as evident from the Settlement Agreement dated 17.10.2024 read with the Addendum dated 13.12.2024. Therefore, allowing the Intervention Petitions would only lead to delay in the proceedings and would defeat the purpose of the settlement under Section 12A of the IBC read with Regulation 30A of the CIRP Regulations.

3.4 During the hearing of the IA before this Tribunal, the Applicant/IRP served notice of hearing to the creditors of the CD, on the directions passed by this Tribunal. After serving of the notice, except the present Intervenors such as Bank of India; UCO Bank; and Edelweiss ARC, no other creditor objected to the withdrawal of CIRP of the CD.

3.5 When the Applicant/IRP has not been diligent in collating claims and has wrongfully included certain disputed claims, the director of the suspended board has every right to challenge the action of the IRP. The reliance given by the Intervenors on the judgment of the Hon'ble Supreme Court in *GLAS Trust Co. LLC Vs. Byju Raveendran and Ors.,* [(2024) ibclaw.in 275 SC] and NCLT Mumbai's decision in *Debasish Nanda (IRP) Vs. Sunstar Industries & Anr.,* [(2025) ibclaw.in 308 NCLT], is misplaced as the facts of the aforesaid decisions were different from those of the present one. Unlike the aforesaid decisions, in the present matter, the CD has disputed the claims of Intervenors much prior to the commencement of CIRP. In view of the above, the director of the suspended board prays for allowing the Withdrawal IA and dismissal of the Intervention Petitions.

4. CONTENTIONS OF INTERVENORS/OBJECTORS

4.1 Intervention Petition No. 23/MB/2025

(a) This Petition is filed by Bank of India challenging the Withdrawal IA. This Intervenor is one of the nineteen lenders of Reliance Naval & Engineering Limited (Erstwhile Pipavav Defence & Offshore Engineering Company Limited and Reliance Defence & Engineering Limited, which is the Principal Borrower), while the present CD is its corporate guarantor.

(b) The Principal Borrower went into CIRP pursuant to the order dated 15.01.2020, by *NCLT Ahmedabad in IDBI Vs. Reliance Naval & Engineering Limited.,* [(2020) ibclaw.in 700 NCLT]. The CD, being the promoter and corporate guarantor of the Principal Borrower, is liable to the Intervenor's claims to the extent of Rs.908.26 Crore. The Applicant/IRP has received total claims of Rs.13,715.15 Crore, out of which Rs.12,504.74 Crore is the admitted claim. This is evident from the email dated 28.11.2024, sent by the Applicant/IRP to the Intervenor. This Intervenor had also filed Intervention Petition *vide* Diary No. 9910110/00100/2025, in the Appeal before the Hon'ble NCLAT challenging the stay on the constitution of CoC.

(c) The CIRP of the CD is not just between the Original FC and the CD, but a collective proceeding *in rem*. The Intervenor, being a public sector bank, has direct and legitimate interest in the outcome of the CIRP of the CD, along with those of other creditors, as held by the Hon'ble Supreme Court in *Byju* (supra) and the NCLT Mumbai in *Debashis Nanda* (supra). Hence, the Intervenor is entitled to object to the Withdrawal IA as the same is only to be dismissed and CoC should be ordered to be constituted, lest it would lead to serious prejudice to it.

4.2 <u>Intervention Petition No. 28/MB/2025</u>

This Intervention Petition is filed by UCO Bank, another financial creditor of the CD, seeking participation in the CIRP of the CD*, inter alia,* on the ground that-

(a) The corporate guarantee given by the CD for the loan provided to the Principal Borrower is the basis for the claim of the Intervenor;

(b) It has an admitted financial claim of Rs.7,353.37 Crore, as confirmed by the Applicant/IRP, pursuant to submission of its claim to him;

(c) Withdrawal of CIRP must be in compliance with the procedural safeguards provided in Section 12A of the IBC;

(d) The dispute regarding the invocation of Corporate Guarantee dated 30.03.2015, executed by the CD in favour of the Intervenor, is the subject matter of a civil proceeding instituted in 2021, which is still pending adjudication. Since there is no stay in that matter, the Intervenor's claim based on the corporate guarantee is not diluted;

(e) Allowing Withdrawal IA is prejudicial to the interests of the stakeholders, including the Intervenor. Hence, it is to be dismissed.

4.3 Intervention Petition No. 35/MB/2025

This Intervention Petition is filed by Edelweiss ARC, again challenging the maintainability of the Withdrawal IA, on the ground that-

(a) The Intervenor, *inter alia,* had filed C.P.(IB) No. 403/MB/2022, on 25.02.2022, before this Tribunal to initiate CIRP against the very same CD for default amount of Rs.805,35,13,990/- as on 31.01.2022;

(b) On account of the present CD being admitted into CIRP, C.P.(IB) No. 403/MB/2022 was disposed of as infructuous by Court-V of this Tribunal, with liberty to submit claim before the Applicant/IRP;

(c) Pursuant to the public announcement dated 02.02.2024, the Intervenor submitted claim before the Applicant/IRP on 14.02.2024 for Rs.1103,49,65,229/-.

(d) The Applicant/IRP has already confirmed admission of claim of Rs.1294,39,45,685/-;

(e) Subsequently, it came to know about the settlement between the Original FC and the CD, and the filing of the present Withdrawal IA;

(f) The CD holds 35% equity stake in a company named 'Urban Infrastructure Holdings Private Limited' (UIHPL). During the pendency of the Withdrawal IA, a coordinate bench of this Tribunal allowed the share capital reduction of UIHPL, *vide* order dated 24.03.2025, in C.P. No. 6 of 2025, which would enable the CD to receive Rs.1000,00,00,000/-;

(g) The value of CD's equity share in UIHPL is approximately Rs.3178 Crore. The CD is expected to receive significant consideration as a shareholder;

(h) In the event of allowing the Withdrawal IA, the erstwhile management of the CD would then be able to exercise control over the CD. This would lead to misappropriation of the funds to be received from UIHPL's share capital reduction, to the detriment of the creditors, including this Intervenor;

(i) There is nothing to suggest that the present Applicant/IRP had raised any objection to the capital reduction of UIHPL;

(j) The fact that the Applicant/IRP admitted the claims of the Intervenor is sufficient to infer the bona fides of its claim, which is not disputed;

(k) The Adjudicating Authority has to consider the overall facts and circumstances of the case before allowing withdrawal under Section 12A of the Code. Hence, the Withdrawal IA is to be dismissed, and the CIRP of the CD should be ordered to be continued.

5. ANALYSIS AND FINDINGS

5.1 We have perused all the documents and pleadings and heard all the Ld. Counsel for the Applicant/IRP; director of the suspended board; and also, the Intervenors/Objectors.

5.2 The Withdrawal IA has been filed by the Original FC through the Applicant/IRP under Section 12A of the IBC, read with Regulation 30A(1)(a) of the CIRP Regulations, in Form FA. The only issue to be decided in the matter is whether the Withdrawal IA is to be allowed or not. The facts of the case are not disputed by the parties. One of the directors of the suspended board of the CD filed the Appeal before the Hon'ble NCLAT, against the Admission Order dated 01.02.2024. Considering the settlement reached between the Original FC and the CD, the Appellate Tribunal, *vide* order dated 08.11.2024, directed that CoC shall not be constituted. The Appellant sought time from the Hon'ble NCLAT to file an application for withdrawal. The present Withdrawal IA is filed pursuant to the liberty granted by the Hon'ble NCLAT during the pendency of the Appeal. However, subsequently, many creditors of the CD filed Intervention Applications before us, objecting to the Withdrawal IA. In view of the above factual position, the contentions of the Applicant/IRP and the objections raised by the Intervenors/Objectors as well as the contentions of the director of the suspended board of the CD need to be examined.

5.3 The case of the Applicant/IRP is that during the pendency of the Appeal, the Original FC; the CD; and the Personal Guarantor to the CD have amicably settled the disputes, and have entered into the Settlement Agreement on 17.10.2024 read with the Addendum dated 13.12.2024, which were placed before the Hon'ble NCLAT. As per the agreement, the settlement amount would be paid to the Original FC, in instalments, in the manner as set out in the above said documents. It is, therefore, argued by the Ld. Counsel for the Applicant/RP that the Original FC has every right to withdraw from the proceedings. The Ld. Counsel for the Applicant/IRP has further argued that the Withdrawal IA has been filed in accordance with Section 12A, read with Regulation 30A of the Code, in proper Form FA, which provides for complete mechanism for withdrawal of applications. Hence, all the statutory provisions have been duly complied with. If the contention of the Intervenors, allegedly disputed creditors, is entertained, no company capable of revival would be able to resurrect, and this would defeat the legislative intent of Section 12A, read with Regulation 30A. Further, these creditors are at liberty to file their own independent actions/proceedings to agitate their respective claims. The Ld. Counsel for the Applicant/IRP also submits that the Withdrawal IA is bona fide, and hence, it deserves to be allowed.

5.4 On the contrary, the Intervenors submit that the CD is the promoter of another Company, Reliance Naval & Engineering Ltd, and the holding company of 'Navi Mumbai Smart City Infrastructure Limited', which availed/restructured their financial assistance from Banks/Institutions based*, inter alia,* on the corporate guarantees furnished by the CD. Pursuant to the Admission Order, the creditors of the CD submitted their claims for Rs.13,715.45 Crore, out of which claims to the extent of Rs.12,504.74 Crore have already been admitted by the Applicant/IRP, and the balance of Rs.1210.71 Crore is under verification by him. Thus, the financial debt of the Original FC is less than 0.03% of the admitted debt of other financial creditors.

5.5 However, it is noticed that one of the Intervenors, Edelweiss ARC, filed C.P.(IB) No. 403/MB/2022, under Section 7 of the Code, which was heard and reserved by Court-V of this Tribunal. Subsequently, based on the submissions that the settlement was at an advanced stage, the case was de-reserved by that Court. It was recorded that, in case the parties finally fail to arrive at a settlement, the Tribunal would proceed to decide the matter on merits. Whilst the case stood thus, the Admission Order was passed. In view of the Admission Order, the Company Petition filed by the Intervenor Edelweiss ARC was disposed of as 'infructuous' and the Intervenor was directed to file its claim before the present Applicant/IRP. Thereafter, the claims filed by Edelweiss ARC have been admitted by the IRP. When deciding a withdrawal application under Section 12A of the Code, although there is no need for this Tribunal to adjudicate the dispute, the admission of the claims of Intervenors by the Applicant/IRP is sufficient to treat them as creditors for the purpose of deciding this Withdrawal IA. However, the Ld. Counsel for the Applicant/RP fairly concedes that the stakeholders of the CD have the locus to raise their concerns regarding the withdrawal of CIRP of the CD, based on the judgement of the Hon'ble Supreme Court in *Byju* (supra) as well as the order of this Tribunal in *Debashish Nanda* (supra).

5.6 As regards the contention of the suspended director that he should also be considered a stakeholder, especially when other creditors have sought to intervene in the Withdrawal IA, we observe that the debt due by the CD to its creditors is thousands of crores of rupees. There are 3 Intervenors/Objectors before us objecting to the Withdrawal IA. It is the admitted case of the Applicant/RP that the Original FC; the Personal Guarantor and the director of the suspended board have entered into the Settlement Agreement on 17.10.2024, wherein the director has agreed to settle the dispute for an amount of Four Crore Forty Lakh Rupees, in instalments, as set out in the Agreement and in the Addendum. During the course of the Appeal, a sum of Rs.60,00,000/- was deposited by the director of the suspended board with the Registry of the Hon'ble NCLAT, New Delhi. In the Settlement Agreement, it is stated that the director, for and on behalf of the CD, has admitted the liability on account of default towards the Original FC. The director of the suspended board of the CD has agreed to pay Rs.3,72,50,000/- to the Original FC and the same is endorsed by the Personal Guarantor to the CD. Although it was decided to submit the Settlement Agreement before the Hon'ble NCLAT, in the Appeal, the Appellate Court has then directed them to move appropriate application before this Tribunal for withdrawal. It was agreed between the Original FC and the director of the suspended board that the former shall not object to the Withdrawal IA before this Tribunal. Further, it is agreed that, if an application for the withdrawal of application is filed based on a settlement with the erstwhile management of the corporate debtor, only the directors of the suspended board would be equipped to present all the relevant factors for the Tribunal's consideration. It is also relevant that the same director contested the Admission Order, and that he has entered into a settlement with the Original FC. This underscores the continued interest of the directors of the suspended board in the CD. In view of the above, we hold that the director of the suspended board is also a stakeholder in the present Withdrawal IA.

5.7 The Ld. Counsel for the director of the suspended board submitted that many of the direct lenders of the CD have not objected to the Withdrawal IA. Further, it is argued that the financial statements of the CD filed on a year-to-year basis, from 2017-2018 to 2023-2024, reflect that the CD has been disputing some of these claims right from the year 2018. Since the disputed claims date back to the Admission Order, they ought not be considered at this juncture as these claims have not been adjudicated upon as yet. Even among the indirect lenders, only three creditors have objected to the present Withdrawal IA. With regard to the contention that the Intervenors are indirect creditors based on corporate guarantees furnished in respect of the loans granted to other companies, it is noticed that the Code does not make any distinction between the direct and indirect creditors of a corporate debtor. This distinction, attempted to be raised by the erstwhile management, is thus, devoid of any merit, and therefore, rejected.

5.8 The validity of Section 12A of the IBC has since been upheld by the Hon’ble Supreme Court in *Swiss Ribbons Pvt. Ltd. Vs. UoI* [(2019) 4 SCC 17]. Further, the nature of the insolvency resolution process under the IBC has also been clarified in the judgment by the Hon’ble Court, as follows:

"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****."* (emphasis supplied).

5.9 Further, the law on withdrawal of applications under Section 12A of the Code is already settled by the Hon'ble Supreme Court in *Byjus* (Supra)*, inter alia,* holding that*:*

"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).

5.10 The above principle has also been followed by the Hon'ble NCLAT Principal Bench, New Delhi, in *Himanshu Singh Vs. HDFC Bank Ltd. and Anr.* [(2025) ibclaw.in 168 NCLAT]. Hence, the only conclusion that can be arrived at is that the present Intervenors are important and necessary stakeholders in the CIRP of the CD. Considering the proceeding is *in rem* after admission of the CD, they are entitled to intervene and assert their rights when the Withdrawal IA is considered by this Tribunal. The bona fide nature or otherwise of the settlement among the Original FC; the CD; and the Personal Guarantor to the CD, is immaterial when the Intervenors, who are financial creditors, to whom large sums of monies are due and payable by the CD, intervene in the Withdrawal IA. The CD cannot be allowed to settle only with the Original FC. The present proceeding, being *in rem* after the Admission Order, other creditors also have their say.

5.11 In view of the above discussions, it is incumbent upon this Adjudicating Authority to consider all the relevant factors constituting the Settlement Agreement among the Original FC; the CD; and the Personal Guarantor and the consequent

Withdrawal Application. One of the Intervenors, Bank of India submits that their Principal Borrower went into CIRP on 15.01.2020, by the order of NCLT Ahmedabad, and the CD is the promoter and guarantor to the Principal Borrower. The CD, is, therefore, liable to the claims of Rs. 908.26 Crore submitted to the Applicant/IRP. Further, the Applicant/IRP has admitted their claim to the extent of Rs.12,504.74 Crore. If the Withdrawal IA is allowed, it would be a unilateral settlement with one of the creditors, which would act detrimental to their interests. Another Intervenor, UCO Bank has provided evidence as to their admitted financial claim to the tune of Rs.7,353.37 Crore. The third Intervenor, Edelweiss ARC, whose C.P.(IB) No. 403/MB/2022 to initiate the CIRP against the CD for a default amount of Rs.805,35,13,990/- as on 31.01.2022, became infructuous owing to the Admission Order in the present Company Petition. It had made a claim of Rs.1103,49,65,229/-; however, an amount of Rs. 1294,39,45,685/- has been admitted by the Applicant/IRP.

5.12 It is observed that both Section 12A of the IBC and Regulation 30A of the CIRP Regulations provide discretion to the Adjudicating Authority in allowing a withdrawal application. Hence, in the interest of justice and to subserve the overall objectives of the IBC, it is necessary for us to exercise our discretion by considering all facts and circumstances in the instant matter. Section 12A and Regulation 30A are not reproduced for brevity. A plain reading of these provisions clearly indicates that the power exercisable by the Adjudicating Authority is discretionary. The same position has been upheld by the Hon’ble Supreme Court in *Byjus* (supra) and the Hon’ble NCLAT in *Himanshu Singh* (supra).

5.13 To sum up, by the Admission Order, this Tribunal has already found that there exists debt and default by the CD above the threshold specified under the IBC. In the Settlement Agreement, one of the directors of the suspended board also has stated that the CD is in default. Moreover, the Applicant/IRP has already admitted claims of thousands of crores of rupees made by the Intervenors. This points to the real financial position of the CD, indicating that its insolvency resolution process is the only solution for it to get out of the present financial distress. The Settlement Agreement reveals that the director of the suspended board of the CD, along with the Personal Guarantor to the CD, is attempting to settle the financial disputes with the Original FC for about Rs.4 Crore, while, the claims received by the Applicant/IRP is Rs.12,504.74 Crore, which has not been disputed by the Applicant/IRP or the director of the suspended board. Moreover, settlement with the Original FC for a comparatively meagre sum of Rs. 4 Crore, would not resolve the insolvency of the CD, when thousands of crores of rupees are due and payable to the other creditors such as the present Intervenors. In view of the above, we are of the considered view that the CD does not have the ability to settle dues with the creditors, who are the present Intervenors.

5.14 From the above discussion, it is evident that the Corporate Debtor is burdened with significant debts and faces threats of legal action from creditors without a visible solution. When multiple creditors and stakeholders are involved, finding a resolution without an effective legal framework becomes complex and nearly impossible. Therefore, a time-bound insolvency resolution within the legal framework under the IBC is essential to protect the assets of the CD from dilution as well as enforcement and to safeguard the interests of various stakeholders. The most effective way to achieve these objectives is to continue with the CIRP that has already been initiated, unless all the creditors express their willingness to seek a resolution otherwise than CIRP under the Code. In this case, there is no such proposal.

5.15 In conclusion, we are of the view that the CD is already in the zone of insolvency by virtue of the Admission Order. The only remedy for it to get out of financial distress is reorganisation and insolvency resolution under the IBC. In any case, allowing the Intervenors and the other creditors to continue multiple legal proceedings against the CD is no answer. It would rather shift the focus from insolvency resolution of the CD to defending the legal proceedings, which is likely to undermine the objective of maximizing the value of assets of the CD, which has already slipped into insolvency.

ORDER

In view of the above discussions, we are of the considered view that the Withdrawal IA does not deserve to be allowed. For a complete resolution of insolvency of the of the CD, CIRP is to be continued in accordance with the provisions of the IBC. The Applicant/IRP is directed to constitute CoC forthwith and to conduct the process as per law.

In the result, **IA(IBC) No. 67/MB/2025 is dismissed.** Consequently, **Intervention Petition Nos. 23/MB/2025; 28(MB)/2025; and 35/MB/2025** are disposed of accordingly**.**

Sd/-	**Sd/-**
ANIL RAJ CHELLAN	**K. R. SAJI KUMAR**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

//LRA-Tanmay Jain//