NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1668 of 2025
&
I.A. No. 7897 of 2025, 2025 of 2026

[Arising out of Orders dated 27.08.2025 passed by the Adjudicating Authority (National Company Law Tribunal, Kolkata Bench, Kolkata), in IA(I.B.C)/1374(KB)2025 in C.P. (IB)/207(KB)2023]

IN THE MATTER OF:

Chandra Prakash Lohia @ Nitesh Lohia ...Appellant

Versus

West Bengal Agro Textile Corporation Ltd. & Anr. ...Respondents

Present:

For Appellant : Mr. Akshay Jain, CA, Mr. Rishabh Jain, Mr. A Kumar, Ms. Kavya, Ms. Shruti Jain and Ms. Ashika Jain, Advocates.

For Respondents : Mr. Shounak Mitra and Mr. Vivek Gautam, Advocates.

WITH

Company Appeal (AT) (Insolvency) No. 1749 of 2025

[Arising out of Orders dated 27.08.2025 passed by the Adjudicating Authority (National Company Law Tribunal, Kolkata Bench, Kolkata), in IA(I.B.C)/1374(KB)2025 in C.P. (IB)/207(KB)2023]

IN THE MATTER OF:

Basanti Devi Lohia ...Appellant

Versus

West Bengal Agro Textile Corporation Ltd. & Anr. ...Respondents

Present:

For Appellant : Mr. Akshay Jain, CA, Mr. Rishabh Jain, Mr. A Kumar, Ms. Kavya, Ms. Shruti Jain and Ms. Ashika Jain, Advocates.

For Respondents : Mr. Shounak Mitra and Mr. Vivek Gautam, Advocates.

J U D G M E N T

ASHOK BHUSHAN, J.

These two appeals have been filed against the same order dated 27.08.2025 passed by the adjudicating authority (National Company Law Tribunal, Kolkata Bench, Kolkata) allowing the I.A. No. 1374/KB/2025 under Section 12A of the Insolvency & Bankruptcy Code, 2016 (for short the **"Code"** or the **"IBC"**) in C.P. (IB) No.1374/KB/2025. The adjudicating authority by the impugned order allowed the I.A. filed by the Interim Resolution Professional (**"IRP"**) and dismissed as withdrawn the Section 9 application filed by the operational creditor. Aggrieved by the order, these two appeals have been filed.

2. Brief facts of the case necessary to be noticed for deciding these two appeals are:

i. The West Bengal Agro Textile Corporation Limited, the corporate debtor 100% Government of West Bengal owned entity used to take supplies from vendors. An application under Section 9 was filed against the corporate debtor by operational creditor Jitendra Jain, on which C.P. (IB) No.207/KB/2023 was registered. Application was filed alleging default of non-payment of invoices claiming an amount of Rs. 1,19,36,635/-.

ii. Appellant also claimed to have filed Section 9 application C.P. (IB) No.2347/KB/2024, 'Chandra Prakash Lohia' Vs. 'M/s. West Bengal

Agro Textile Corporation Ltd.' and C.P. (IB) No. 353/KB/2024, 'Basanti Devi Lohia' Vs. 'M/s. West Bengal Agro Textile Corporation Ltd.'

iii. In Section 9 application filed by Jitendra Jain, an order was passed by the adjudicating authority on 22.08.2025 admitting Section 9 application and appointed one Mr. Pratap Mukherjee as an IRP. Order of admission was passed on 22.08.2025.

iv. A Settlement Agreement dated 18.08.2025 has been entered between the West Bengal Agro Textile Corporation Ltd. and Jitendra Jain, where parties have arrived at settlement dated 18.08.2025 of Rs.1.5 crore.

v. On 23.08.2025, IRP received an email from operational creditor along with copy of Form-FA under Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons), Regulation 2016 (for short the **"CIRP Regulations, 2016"**) seeking to withdraw the C.P. (IB) No.207/KB/2023. The IRP on receiving the request did not carry out any public announcement in Form-FA and sent an email on 24.08.2025 to the IRP to provide copy of Settlement Agreement and receipt of the payment and any other relevant document.

vi. On 25.08.2025, IRP received Settlement Agreement dated 18.08.2025 and copy of the receipt. IRP filed an application under Section 12A dated 25.08.2025 for withdrawal of the Corporate Insolvency Resolution Process (**"CIRP"**).

vii. On 28.08.2025 application came for consideration before the adjudicating authority, on which date adjudicating authority allowed

the application by the impugned order permitting withdrawal of C.P. (IB) No.207/KB/2023. Aggrieved by the aforesaid order 27.08.2025, these two appeals have been filed.

3. We have heard Mr. Akshay Jain, CA for the appellant and learned counsel Mr. Shounak Mitra appearing for the corporate debtor.

4. Learned counsel for the appellant submitted that appellant has already filed Section 9 application against the corporate debtor which were pending consideration. The adjudicating authority could not have allowed the application under Section 12A of the IBC without considering the claim of the appellant. It is submitted that after admission of Section 9 application, the proceeding being in rem proceeding and all stakeholders were entitled to be heard. It is submitted that without giving opportunity to the appellant, 12A application has been allowed. Learned counsel for the appellant has placed reliance on the judgment of the Hon'ble Supreme Court in ***'GLAS Trust Company LLC' Vs. 'BYJU Raveendran & Ors.'*** reported in **[(2025) 3 SCC 625]** and Judgment of this Tribunal dated 05.03.2025 in ***'Himanshu Singh' Vs. 'HDFC Bank Ltd. & Anr.'*** in **[Comp. App. (AT) (Ins.) No.336/2025]** and another judgment of this Tribunal in ***'Chikali Nagaraju, (Suspended Director of Balasore Alloys Ltd.)' Vs. 'MSTC Ltd. (Government of India Enterprise) & Anr.'*** in **[Comp. App. (AT) (Ins.) No. 878/2025]** decided on 25.08.2025. It is submitted that without hearing the appellant, the adjudicating authority committed error in allowing the 12A application.

5. Learned counsel appearing for the corporate debtor submits that the present is the case where Settlement Agreement dated 18.08.2025 had

already been entered between the parties and immediately after admission of Section 9 application on 22.08.2025, operational creditor has given Form-FA to the IRP to withdraw the Section 9 application. The application was filed by the IRP dated 25.08.2025 which has been rightly allowed by the adjudicating authority on 27.08.2025. It is submitted that IRP did not issue any publication nor has constituted the Committee of Creditors (**"CoC"**), hence the application was filed by the IRP as per Regulation 30A of the CIRP Regulations, 2016, which is a procedure prescribed. Adjudicating authority rightly allowed the 12A application. Appellant or no other person filed any objection nor appeared before the adjudicating authority raising any claim. It is submitted that Section 9 application which has been filed by appellant as claimed in appeal has been heard and subsequently rejected by adjudicating authority on 24.03.2026, against which order appeals filed by the appellant Comp. App. (AT) (Ins.) Nos. 819 & 820/2026 have also been dismissed by this Tribunal by order dated 07.05.2026. Appellant cannot be allowed to challenge the impugned order 27.08.2025, which was passed in accordance with the procedure prescribed. Learned counsel for the respondent has placed reliance on the judgment of the Hon'ble Supreme Court in ***'GLAS Trust Company LLC' Vs. 'BYJU Raveendran & Ors.'*** reported in **[(2025) 3 SCC 625]** as well as the judgment of the Hon'ble Supreme Court in ***'Abhishek Singh' Vs. 'Huhtamaki PPL Ltd. & Anr.'*****,** reported in **[(2025) 5 SCC 465].** It is submitted that Hon'ble Supreme Court in ***'Abhishek Singh'*** **(supra)** has permitted withdrawal of CIRP which was filed by the IRP where the application was filed prior to the constitution of the CoC and the said judgment of

***'Abhishek Singh'* (supra)** was also affirmed by the Hon'ble Supreme Court in ***'GLAS Trust Company LLC'* (supra).** It is submitted that withdrawal of the CIRP was in accordance with law which needs no interference.

6. We have considered the submissions of the counsel for the parties and perused the records.

7. The copy of the application filed under Section 12A has been brought on the record in the reply which has been filed by the respondent in Comp. App. (AT) (Ins.) No.1668/2025. The IRP in the application has given relevant facts of the case. IRP's case in the application is that he came to know about the order on 23.08.2025 only when he received the email from the operational creditor seeking withdrawal of the CIRP. To notice the sequence of the event and facts pleaded by the IRP in Section 12A, it is relevant to notice the pleadings in 12A application, in paragraphs 1 to 8:

> *"1. The applicant states that the Operational Creditor has filed an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 for initiating corporate insolvency resolution process against the Corporate Debtor West Bengal Agro Textile Corporation Limited. The said application was admitted on 22nd August, 2025 appointing the applicant as Interim Resolution Professional and the Operational Creditor was directed to deposit a sum of Rs. 2,00,000/- with the applicant to meet the expenses arising out of issuing public notice and inviting claims. A copy of the order dated 22nd August, 2025, is annexed hereto and marked with the Letter- "A".*
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> *2. The Applicant states that he has not received any communication from the Registry of the National Company Law Tribunal. Kolkata Bench, regarding the order initiating the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor. The Applicant became aware of the said order only upon receiving an electronic mail from the Operational Creditor, informing*

him about the withdrawal of the application that had been admitted for CIRP against the Corporate Debtor.

3. On 23rd August, 2025, the applicant has received an electronic mail from the operational creditor along with a copy of Form FA under Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), Regulations, 2016, seeking to withdraw the application bearing case number C.P. (IB) No. 207/KB/2023 which was filed by the operational creditor before this Hon'ble Tribunal under Section 9 of the Insolvency and Bankruptcy Code, 2016. A copy of the said Form FA is annexed hereto and marked with the Letter- "B".

4. The applicant states that since he has received a request from the operational creditor to withdraw the application bearing case number C.P. (IB) No. 207/KB/2023, the applicant has not carried out any public announcements in Form A as prescribed under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), Regulations, 2016.

5. On 24th August, 2025, the applicant has sent an electronic mail to the operational creditor to provide the following documents:

a) A copy of the settlement agreement

b) Receipts of payments made by the corporate debtor to the applicant/operational creditor.

c) Any other relevant documents necessary to be submitted before the Hon'ble Adjudicating Authority.

6. The applicant states that on 25th August, 2025, he has received the settlement agreement dated 18th August, 2025 along with the copy of the receipt from the operational creditor, copy of the same are annexed hereto and collectively marked with the Letter- "C".

7. The applicant states that the CIRP expenses to date have been paid and hence bank guarantee for CIRP expenses is not attached.

8. The applicant states that since committee of creditor ("COC") has not been formed and therefore the instant application is filed under Regulation 30A(1)(a) of IBBI

(Insolvency Resolution Process for Corporate Persons) Regulations, 2016."

8. Application under 12A is dated 25.08.2025. IRP himself has pleaded that no publication has been made by the IRP after receiving of the Form-FA from operational creditor.

9. In the above sequence of the facts, adjudicating authority by the impugned order 27.08.2025 has allowed the application for 12A and withdrew the CIRP. Adjudicating authority has noticed the settlement dated 18.08.2025 between the parties. The Settlement Agreement dated 18.08.2025 was also communicated by the operational creditor to the IRP as noted in the application. It is an admitted fact that no CoC was not constituted and no objections were filed before the adjudicating authority by any person including the appellant. Regulation 30A of the CIRP Regulations, 2016, under which application was made for withdrawal of the CIRP need to be noticed. Regulations 30(A) & 30(A)(1) to 30(A)(4) are 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 3[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."

10. The statutory provisions itself obliged the IRP to file the application for withdrawal under Clause1(a) within three days of the receipt. On 23.08.2025, Form-FA was electronically received by the IRP and within three days, he filed the application. Application under 12A was filed by the IRP in accordance with the procedure prescribed in Regulation 30A of the CIRP Regulations, 2016. There being no objection before the adjudicating authority, adjudicating authority allowed the application which was filed as per the procedure prescribed.

11. The grievance of the appellant is that after admission of Section 9 application, the proceeding has become in rem proceeding and adjudicating authority was obliged to hear all stakeholders including the appellant who had filed their independent application under Section 9. The procedure under

Regulation 30A of the CIRP Regulations, 2016, for filing an application by IRP before the constitution of the CoC does not envisage issuance of any notice by the adjudicating authority to any creditor. Present is the case where even Form-A also was not published by the IRP since he received the Form-FA form the operational creditor on the next day of passing of the order of admission.

12. Now we need to notice the judgments relied by the counsel for the parties. Learned counsel for the parties has placed reliance on the judgment of the Hon'ble Supreme Court in ***'GLAS Trust Company LLC'*** **(supra).** The Hon'ble Supreme Court in the above case was considering an appeal filed by ***'GLAS Trust Company LLC'*** **(supra)** challenging the order dated 22.08.2024 of the NCLAT, where the NCLAT approved the settlement in relation to the dues payable to the operational creditor from the corporate debtor. Appellant had filed an objection before the NCLAT objecting the approval of the settlement, which objection was rejected and NCLAT accepted the settlement. In the above background of facts, the appeals were filed. Hon'ble Supreme Court in the above context had occasion to consider the law pertaining to withdrawal of CIRP. Hon'ble Supreme Court has noted the provisions of 12A read with Regulation 30A of the CIRP Regulations, 2016 and in paragraph 63 has noted the four scenes where application under withdrawal has to be considered. Paragraph 63 of the judgment is as follows:

> ***"63.*** *In essence, after a series of deliberations by the legislature, the executive and nudges by this Court, the framework created by Rule 8 of the NCLT Rules and Section 12-A IBC read with Rule 30-A of the CIRP Regulations lays down an exhaustive procedure for the withdrawal of an application filed by creditors under*

Sections 7, 9, or 10 IBC. Withdrawal may be sought at four stages, all of which have a procedure prescribed under the existing framework. These may be summarised as follows:

63.1. Before the application under Sections 7, 9 or 10 is admitted by NCLT *: Such cases are squarely covered by Rule 8 of the NCLT Rules, which requires that the applicant approach NCLT directly. NCLT may then pass an order permitting the withdrawal of the application. At this stage, as CIRP process has not been initiated, the proceedings are still in personam, as between the applicant creditor and the corporate debtor. Therefore, while approving the withdrawal at this stage, NCLT may restrict its enquiry to only hear the applicant creditor and corporate debtor, and other potential creditors are not stakeholders at this stage.*

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 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.

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

63.4. After an application under Sections 7, 9 or 10 is admitted, the CoC has been formed and the invitation for expression of interest has been issued *: The procedure is the same as that detailed in para 63.3 above, with the added requirement stemming from the proviso to Regulation 30-A(1); in such cases, the applicant must state the reasons for withdrawal at this belated stage.*

13. Hon'ble Supreme Court has noted the facts of the case in ***'GLAS Trust Company LLC'*** **(supra),** where CoC was not constituted. Hon'ble Supreme Court noticed that in the case none of the requirements as provided in Regulation 30A was present. In paragraph 79, following was held by the Hon'ble Supreme Court:

"79. *In such cases, the legal framework mandates that:*

(i) an application for withdrawal be moved;

(ii) the application has to be moved through the IRP; and

(iii) it be placed before NCLT for approval.

None of these requirements were met in the present case. First and foremost, there was no formal

application instituted to seek the withdrawal of CIRP. The settlement agreement was taken on record and approved by Nclat based on the submissions and assurances of the counsel before it and the affidavits/undertakings filed by the parties. Further, the first respondent, who is a former Director of the corporate debtor, did not move the application through the IRP and instead approached Nclat directly. Finally, the request to approve the settlement was moved before Nclat during the appellate proceedings, instead of being placed before NCLT. Despite these grave deviations, Nclat still proceeded with approving the settlement and setting aside CIRP by invoking its inherent power under Rule 11 of the Nclat Rules."

14. Hon'ble Supreme Court in the above case has held that NCLAT could not have exercised the jurisdiction under Rule 11 of the NCLAT Rules, 2016, when specific provision is prescribed for withdrawal of the CIRP. In conclusion, Hon'ble Supreme Court allowed the appeal, set aside the order of this Tribunal and took the view that objection of the appellant was required to be adjudicated. There cannot be any dispute to the proposition as laid down by the Hon'ble Supreme Court in the above case with regard to procedure of withdrawal under 12A read with Regulation 30A of the CIRP Regulations, 2016.

15. Now we need to notice the two judgments of this Tribunal relied by the appellant. In the case of ***'Himanshu Singh'*** **(supra),** which has been relied by the appellant, appeal was filed by the suspended director, where I.A. filed under 12A was rejected. I.A. filed by the HDFC before the adjudicating authority objecting to the settlement was allowed. The facts of the said case have been noticed in paragraph 3 of the judgment, which are as follows:

"3. *Brief background facts necessary to be noticed for deciding the appeals are:*

i. Small Industrial Development Bank of India (SIDBI) has filed an application under Section 7 on 20.03.2020 against the Corporate Debtor, Kriti Prakashan Private Limited.

ii. NCLT Allahabad Bench vide order dated 13.06.2022 admitted Section 7 application and initiated CIRP against the corporate debtor. Mr. Aditya Agarwal was appointed as IRP.

iii. By order dated 15.06.2022, another IRP Anil Kumar Mittal was appointed.

iv. On 19.06.2022, IRP made a publication inviting claim from all the creditors by 30.06.2022.

v. On 21.06.2022, SIDBI sent an email to the IRP about corporate debtor's willingness to repay and settle full and final outstanding amount payable by the corporate debtor.

vi. On 22.06.2022, corporate debtor paid the amount i.e., Rs.1,58,70,199/- to the SIDBI, who issued a No-Objection Certificate (NoC).

vii. On 23.06.2022, 'Form-FA' was given to the IRP by the financial creditor.

viii. On 25.06.2022, IRP on behalf of the financial creditor, SIDBI filed I.A. No. 182/2022 under Section 12A of the Code for withdrawal of the Company Petition.

ix. The Appellant, Himanshu Singh, Suspended Director of the corporate debtor also filed a Comp. App. (AT) (Ins.) No. 708/2022 challenging the order initiating CIRP against the corporate debtor, which appeal was disposed of on 29.06.2022 accepting the request of the counsel for the appellant for withdrawal of the Company Appeal. This Tribunal also noticed that Section 12-A application has already been filed by the IRP. Appellate Tribunal directed that till the disposal of the I.A. under Section 12A, the implementation of the impugned order shall remain stayed.

x. On 30.06.2022, HDFC Bank, another financial creditor of the corporate debtor submitted a claim of Rs.4,30,74,985/- to the IRP. HDFC's claim was not being collated by the IRP, in view of the Order dated 29.06.2022 passed by this Tribunal, HDFC

Bank filed an I.A. 200/2022 before the Adjudicating Authority praying for permitting intervention of the applicant.

xi. It was further prayed that the application filed by the IRP for withdrawal of the CIRP be rejected. Both the applications i.e., I.A. No. 200/2022 & I.A. No. 182/2022 were heard by the Adjudicating Authority and by separate order dated 13.02.2025, I.A. No. 200/2022 was allowed whereas by Order of the same date dated 13.02.2025, I.A. No. 182/2022 filed under Section 12A by the IRP has been rejected.

xii. The Appellant, Suspended Director of the corporate debtor aggrieved by both the aforesaid orders have filed these appeals."

16. In the above background of the facts, this Tribunal took the view that in view of the law laid down by the Hon'ble Supreme Court in ***'GLAS Trust Company LLC'*** **(supra),** adjudicating authority was obliged to consider the objection of the HDFC Bank and HDFC Bank having already filed the claim in pursuance of the publication by the IRP, the claim was required to be considered. In paragraphs 24 to 25 of the judgment, following has been held:

"24. *We are of the view that Adjudicating Authority has rightly allowed the I.A. No. 200/2022 filed by the HDFC Bank opposing the 12A application for withdrawal. The claim was filed by HDFC within the time given by the IRP is a relevant factor and any objection raised by the HDFC Bank to the 12A application cannot be said to be meritless. The Adjudicating Authority has taken into consideration all relevant factors including the quantum of the claim admitted and the quantum of the claim settled with the SIDBI. Adjudicating Authority is not mere post office who has to allow the withdrawal filed under 12A which is filed before the constitution of the CoC which is the ratio of the judgment of the Hon'ble Supreme Court in* ***'GLAS Trust Company LLC' (Supra).***

25. *We, however, hasten to add that mere fact that a stakeholder of the corporate debtor before constitution of the CoC has filed an objection, itself may not be a reason to reject 12A application. Adjudicating*

Authority has to advert to the relevant factors which may include the nature and quantum of claim of the stakeholders. In a case where Adjudicating Authority finds that substantial and majority of claim has already settled with the corporate debtor that may be a factor which may weigh to the Adjudicating Authority in allowing 12A application. No straight jacket formula can be laid down for adjudication by the Adjudicating Authority of a 12A application and the objections filed therein. Facts of each application under 12A and objection therein need to be looked into before taking a decision as to whether the application under 12A be allowed or rejected."

The above judgment does not help the appellant in the facts of the present case.

17. Present is not a case that any objection was filed before the adjudicating authority including by the appellant. In ***'Himanshu Singh'*** **(supra),** the HDFC Bank was objecting to the settlement since it has already filed the claim whose claim was not being verified by the RP. The above judgment is clearly distinguishable and does not help the appellant.

18. Another judgment relied by the appellant is ***'Chikali Nagaraju, (Suspended Director of Balasore Alloys Ltd.)'*** **(supra),** which was a case where appeal was filed by the suspended director challenging the order dated 12.06.2025 by which Section 9 application was admitted. Suspended director pleaded in the appeal that during pendency of the application, corporate debtor paid the principal amount to the operational creditor and before any settlement, matter could have been finally settled, the application was admitted. The above facts have been noted in paragraph 3 of the judgment, which is as follows:

> *"3. During the pendency of the application i.e. CP (IB) No. 36/CB/2022, the CD paid the principal amount to the Operational Creditor/MSTC. However, before the matter could have been finally settled between the CD and OC/MSTC, the application under Section 9 filed by the OC/MSTC was admitted on 12.06.2025."*

19. In the appeal, the appellant prayed that CIRP admitted against the corporate debtor be set aside in exercise of invoking power under Rule 11. Judgment of the Hon'ble Supreme Court in ***'GLAS Trust Company LLC'* (supra),** was also relied. In the above case, financial creditor has also filed an application under their own proceeding, hence it was contended that financial creditor can pursue its proceeding. In the facts of the said case, the financial creditor where several claims were filed and the claim filed by the financial creditor was not verified because of the interim order of the Court. In the above background, this Tribunal held that in view of the presence of the financial creditor, matter cannot be disposed by way of settlement with the other operational creditors and the operational creditor have to comply procedure under Section 12A read with Regulation 30A of the CIRP Regulations, 2016 in paragraphs 27 & 28:

> *"27. We do not agree with the contention of the Appellant that since the FC has already filed CP No. 58 of 2024, therefore, he may pursue the said petition instead of intervening in the present case. At this stage, we would observe that in the present case the claim set up by the FC is more than the threshold amount of Rs. 1 Cr., therefore, he is in a position to file the application under Section 7 but in case, the claim of the FC, hypothetically, is less than 1 Cr. then he would not be in a position to file his own petition under Section 7 and in that situation the only course available to the FC is to file the claim on Form C before the IRP. In that scenario, he would be a 'concerned person' as observed by the Hon'ble Supreme Court in 63(ii) of the judgment in the case of Glass Trust*

Company LLC (Supra), therefore, in our considered opinion, in the presence of the FC/concerned person, this matter cannot be disposed of by this Court by way of a settlement with the other three OCs and the procedure which has been laid down under the Code and Regulation i.e. resorting to Section 12A and 30A has to be followed as held by the Hon'ble Supreme Court in the case of Glass Trust Company LLC (Supra).

28. With these observations, we do no find any merit in the contention of the Appellant, however, while disposing of this appeal, we relegate the Appellant to take its remedy in accordance with law much less by filing an appropriate application through IRP before the Tribunal in terms of Section 12A and 30A. If any such effort is made by the Appellant within a period of 15 days, the IRP may file the application before the Tribunal. The order of stay dated 18.06.2025 shall continue till the application, intended to be filed by the Appellant through the IRP, is decided in one way or other. The said FC shall also be at liberty to file an appropriate application before the Tribunal to contest the said application in accordance with law."

20. The above judgment also does not come to any aid of the appellant, since in the above case appellants were praying to close the CIRP by NCLAT by exercise power under Rule 11. Financial creditor has already filed the claim. The above case is clearly distinguishable and does not help the appellant.

21. Learned counsel for the respondent has placed reliance on the judgments of the Hon'ble Supreme Court in ***'GLAS Trust Company LLC'*** **(supra),** as well as in ***'Abhishek Singh'*** **(supra).** We first need to notice the judgment of the Hon'ble Supreme Court in ***'Abhishek Singh'*** **(supra).** In case of ***'Abhishek Singh'*** **(supra),** Section 9 application was admitted on 01.03.2021 two days thereafter operational creditor and corporate debtor have entered into settlement. Settlement was arrived even before the CoC was constituted. Operational creditor received the payment and made an

application and the IRP made an application on 10.03.2021 under Regulation 30A of the CIRP Regulations, 2016. In paragraphs 3 to 5, facts of sequence of events have been noticed:

> ***"3.*** *The OCs filed a petition under Section 9 IBC before NCLT, stating a total outstanding amount of Rs 1,31,00,825 against the CD. This was registered as CP (IB) No. 503 of 2019.*
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> ***4.*** *NCLT by order dated 1-3-2021 [Huhtamaki PPL Ltd. v. Manpasand Beverages Ltd., 2021 SCC OnLine NCLT 18318] passed an order admitting the petition and initiating CIRP. Two days thereafter i.e. 3-3-2021, the OCs and the CD entered into a settlement wherein the CD was required to pay an amount of Rs 95.72 lakhs. The above settlement was arrived at even before the Committee of Creditors (in short "CoC") could be constituted.*
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> ***5.*** *On 4-3-2021, the OCs received Rs 50 lakhs and again on 8-3-2021, it received the balance amount of Rs 45.72 lakhs. Thus, the total amount to be paid as per the settlement, was paid to the OCs. The interim resolution professional (in short "IRP") on 10-3-2021 moved an application under Regulation 30-A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (in short "the IBBI Regulations") seeking withdrawal of CIRP against the CD. Along with it the application of OCs dated 9-3-2021 was also attached which was moved under Section 12-A IBC. The application for withdrawal was registered as IA No. 196 of 2021."*

22. In the above case against the admission order dated 01.03.2026, appeal was filed in this Tribunal which was withdrawn on 26.03.2025, this Tribunal permitted withdrawal with observation that adjudicating authority to decide 12A application. Further this Tribunal directed CoC not to be constituted. NCLT rejected the application and thereafter CoC was constituted. The Hon'ble Supreme Court issued notice and directed the parties to maintain the status quo. Before the Hon'ble Supreme Court, it was noticed that 35 claims

of creditors both operational and financial has been filed in the meantime. Withdrawal of the CIRP was opposed by IRP. Hon'ble Supreme Court in the above facts of the circumstances has observed that claim of other creditors does not whittled down or adversely affected if the settlement with operational creditor is accepted. In paragraph 28, following was observed:

> ***Multiple claims of OCs***
>
> ***28.*** *With respect to the said objection, it only needs to be mentioned that other creditors would have their own right to avail such legal remedies as may be available to them under law with respect to their claims. The rights of the creditors for their respective claims do not get whittled down or adversely affected if the settlement with the OC in the present case is accepted and the proceedings allowed to be withdrawn.*

23. Hon'ble Supreme Court in the above case has also examined the legality of the impugned order and after noticing the entire procedure under Section 12A read with Regulation 30 of the CIRP Regulations, 2016 in paragraphs 37 & 42, Hon'ble Supreme Court laid down following:

> ***"37.*** *Section 12-A IBC permits withdrawal of applications admitted under Sections 7, 9 and 10 IBC. It permits withdrawal of such applications with approval of 90% voting share of CoC in such manner as may be specified. The role of CoC and 90% of its voting share approving the said withdrawal would come into play only when CoC has been constituted. Section 12-A did not specifically mention withdrawal of such applications where CoC had not been constituted but at the same time it does not debar entertaining applications for withdrawal even before constitution of CoC. Therefore, the application under Section 12-A for withdrawal cannot be said to be kept pending for constitution of CoC, even where such application was filed before constitution of CoC. IBBI which had the power to frame regulations wherever required and in particular Section 240 IBC for the subjects covered therein had accordingly substituted Regulation 30-A dealing with the procedure for*

disposal of application for withdrawal filed under Section 12-A IBC. The substituted Regulation 30-A of the IBBI Regulations as it stands today clearly provided for withdrawal applications being entertained before constitution of CoC. It does not in any way conflict or is in violation of Section 12-A IBC. There is no inconsistency in the two provisions. It only furthers the cause introduced vide Section 12-A IBC. Thus, NCLT fell in error in taking a contrary view.

42. *Both the parties have relied upon para 82 of the judgment in Swiss Ribbons [Swiss Ribbons (P) Ltd. v. Union of India, (2019) 4 SCC 17 : (2019) 213 Comp Cas 198] . According to the appellant, NCLT ought to have exercised its inherent powers under Rule 11 of the NCLT Rules whereas for the interveners it is submitted that this Court had observed that power under Rule 11 would be exercised after hearing all parties concerned. It may be noted that at the time when the application for withdrawal of the proceedings was filed the CoC was not constituted as such there could not have been any other parties concerned except the OC, CD and IRP. It was only because of the delay caused by NCLT in disposing of the applications under Section 12-A IBC and Regulation 30-A of the IBBI Regulations that large number of creditors filed their claims. The inherent powers are to be invoked in order to meet the ends of justice which, in our opinion, NCLT failed to invoke."*

24. Hon'ble Supreme Court in the above case has held that application for withdrawal of the proceedings was filed when the CoC was not constituted, hence there could not have been any other parties concerned except the operational creditor, corporate debtor and IRP. It was due to delay caused by NCLT in disposing of the application, large number of creditors filed their claim. In paragraphs 43 & 44, following was directed:

"43. *Regulation 30-A of the IBBI Regulations provide a complete mechanism for dealing with the applications filed under such provision. The issue raised by the IRP regarding its claim for expenses is well taken care of under the said provision. Various safeguards have been provided in Regulation 30-A of the IBBI Regulations to be fulfilled by the OC which apparently*

have been fulfilled as there is no complaint in that regard either by the IRP nor it is apparent from the impugned order [Huhtamaki PPL Ltd. v. Manpasand Beverages Ltd., 2021 SCC OnLine NCLT 9952] of NCLT. Thus, the objection raised by the IRP does not merit any consideration in this appeal.

44. *For all the reasons recorded above, the impugned order [Huhtamaki PPL Ltd. v. Manpasand Beverages Ltd., 2021 SCC OnLine NCLT 9952] of NCLT cannot be sustained. The application filed under Regulation 30-A of the IBBI Regulations deserves to be allowed."*

25. It is relevant to notice that above judgment of the Hon'ble Supreme Court in ***'Abhishek Singh'*** **(supra),** was noted by the Hon'ble Supreme Court in ***'GLAS Trust Company LLC'*** **(supra),** and the law laid down by the Hon'ble Supreme Court in ***'Abhishek Singh'*** **(supra),** is affirmed. It is useful to notice paragraph 85 of the judgment of the Hon'ble Supreme Court in ***'GLAS Trust Company LLC'*** **(supra),** which is as follows:

"85. *The decision of this Court in Abhishek Singh [Abhishek Singh v. Huhtamaki PPL Ltd., (2025) 5 SCC 465 : 2023 SCC OnLine SC 349] rendered by a two-Judge Bench of this Court speaking through Vikram Nath, J. correctly identifies the legal framework. However, it is distinguishable from the present factual situation and the findings of this Court do not support the case of the respondents. The facts are comparable vis-à-vis the stage of the proceedings — the petition had been admitted, but the CoC had not been constituted. However, in that case, the IRP had moved an application under Regulation 30-A of the CIRP Regulations. Instead of adjudicating upon the application under Regulation 30-A, NCLT took the view that Regulation 30-A is a mere directory provision and dismissed the application. NCLT vacated the stay on the constitution of the CoC and directed that the application under Section 12-A be decided directly (i.e. including for compliance with the requirement of a ninety per cent voting share of the CoC). This Court set aside the order of NCLT on the ground that Regulation 30-A provides a complete mechanism for dealing with the applications filed under such a provision, and it is not necessary to get the approval of a ninety per cent*

voting share of the CoC if the application for withdrawal is moved before the constitution of the CoC. On the other hand, in the present case, there was no application filed through the IRP before NCLT under Regulation 30-A at all. Therefore, this decision is not applicable to the present case."

26. Hon'ble Supreme Court noticed that in ***'Abhishek Singh'*** **(supra),** application was moved before the CoC was constituted, whereas in the case before the Hon'ble Supreme Court in ***'GLAS Trust Company LLC'*** **(supra),** no application was filed by the IRP before the NCLT under Regulation 30A of the CIRP Regulations, 2016.

27. Hon'ble Supreme Court in ***'GLAS Trust Company LLC'*** **(supra),** having affirmed the law laid down in ***'Abhishek Singh'*** **(supra),** we are of the view that facts of the present case which are fully covered by the judgment of the Hon'ble Supreme Court in ***'Abhishek Singh'*** **(supra)** as affirmed in ***'GLAS Trust Company LLC'*** **(supra),** no infirmity can be found in the order of the adjudicating authority permitting withdrawal of 12A.

28. One more feature of the present case need to be noticed, here the Settlement Agreement between the parties dated 18.08.2025 was brought on record and filed along with the 12A application which is dated 18.08.2025, admission order was passed on 22.08.2025 before which settlement has already taken place. It was due to the above reason that operational creditor on the next date had sent the email to the IRP to withdraw the proceeding. Application was thereafter filed by the IRP within three days as per the Regulation 30A of the CIRP Regulations, 2016 and CIRP was withdrawn thereafter on 27.08.2025.

29. We do not find any infirmity in the order passed by the adjudicating authority allowing the withdrawal of CIRP proceedings. No error having been found in the order impugned, both the appeals are dismissed. Pending IAs are disposed of.

[Justice Ashok Bhushan]
Chairperson

[Indevar Pandey]
Member (Technical)

NEW DELHI

25th May, 2026

himanshu