NATIONAL COMPANY LAW APPELLATE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins.) No. 222 of 2025

(Arising out of order dated 18.12.2024 passed by the National Company Law Tribunal, Jaipur Bench, Rajasthan in I.A. (IBC) No. 549/JPR/2024 in CP (IB) No. 79/9/JPR/2020)

In the matter of:
Deepak Modi
S/o Ram Sharan Modi
Residing at C-1301, AIS Residency,
Haldi Ghati Marg, Jaipur-302033.

...Appellant

Vs.

1. **Shalfeyo Industries Private Limited**
having its Registered Office at:
250/47, RHB Pratap Enclave
Haldhighati Marg, Pratap Nagar,
Sanganer Jaipur-302017 (Rajasthan)

Acting through its Resolution Professional
Mr. Umang Jain
having office address at:
380, Gayatri Nagar-A, Maharani Farm,
Durgapura, Jaipur-302018 (Rajasthan)

2. **Axis Bank Limited,**
Axis House, Tower 2, 2nd Floor,
Jaypee Greens Wish Town, Sector 128,
Noida - 201304.

3. **Prime Impex,**
A partnership firm,
having its Office Address at:
7/59 Vidhyadhar Nagar,
Jaipur-302039 (Rajasthan)

Also at:-
H-103, Badharna Marble Mandi,
VKI Extension Jaipur-302013 (Rajasthan)

...Respondents

Present:

For Appellant: **Mr. Sandeep Bajaj, Advocate.**

For Respondents: **Mr. Anupam Singh and Mr. Roshini Nathwani, Advocates.**

J U D G M E N T

(7th September, 2026)

INDEVAR PANDEY, MEMBER (T)

The present Appeal CA AT (Ins.) No. 222 of 205, has been preferred by **Mr. Deepak Modi, Suspended Director of Shalfeyo Industries Private Limited ("Corporate Debtor")**, against the impugned order dated 18.12.2024 passed by the National Company Law Tribunal, Jaipur Bench ('Adjudicating Authority') in **IA (IBC) No. 549/JPR/2024** in **CP (IB) No. 79/9/JPR/2020**, whereby the application filed by the Appellant under Section 12A of the Insolvency and Bankruptcy Code, 2016 ("hereinafter referred to as 'Code') read with Regulation 30A of the CIRP Regulations seeking withdrawal of the CIRP of the Corporate Debtor was dismissed. The CIRP was initiated at the instance of **Prime Impex (Operational Creditor)/Respondent No.3** on 16.08.2022, and **Mr. Umang Jain** appointed as the Resolution Professional. **Axis Bank Limited,** the financial creditor is the **Respondent No.2** in these proceedings.

FACTS OF THE CASE

2. The brief facts of the case relevant for the instant appeal are given below:

i.) Prime Impex, the Operational Creditor, initiated the insolvency proceedings under Section 9 of the Code against Shalfeyo Industries Private Limited. The Corporate Insolvency Resolution Process ('CIRP') proceedings were admitted by the Adjudicating Authority on 16.08.2022, pursuant to which Mr. Umang Jain was appointed as the Interim Resolution Professional who was subsequently confirmed as Resolution Professional (RP).

ii.) Pursuant to the public announcement, Axis Bank Limited submitted its claim as the sole Financial Creditor, and the (Committee of Creditors) was accordingly constituted with Axis Bank as its sole member. In the 1st CoC meeting held on 15.09.2022, Axis Bank stated that the Corporate Debtor had no meaningful assets and that continuation of the CIRP would serve no useful purpose, and accordingly requested that steps be taken for closure of the CIRP.

iii.) Consequent to the initiation of CIRP proceedings, the Appellant's personal property, which had been furnished as collateral to Axis Bank, was sold and the Appellant deposited the balance outstanding of the Axis Bank thereby meeting the entire claim of Financial Creditor.

iv.) As the claim of the Financial Creditor/ Axis Bank was fully satisfied the Bank withdrew its claim, following which the RP reconstituted the CoC, replacing Axis Bank with Prime Impex, the Operational Creditor/ Respondent No. 3. The said reconstitution was challenged by the Appellant, and the Adjudicating Authority subsequently directed restoration of the CoC to its original composition, namely with Axis Bank as the Financial Creditor.

v.) During the CIRP, the CoC also decided for liquidation of the Corporate Debtor. The resolution for liquidation was passed on **05.11.2022**, when the CoC comprised of the Operational Creditor as the sole CoC member, despite two Expressions of Interest having been received.

vi.) Subsequently, the Financial Creditor continued to remain the relevant creditor for the purpose of the CoC, and during the 6th CoC meeting held on 18.09.2023, Axis Bank noted that the entire insolvency proceedings had originated from a claim of approximately Rs. 12 Lakhs and had continued for about one and a half years. Axis Bank accordingly took an initiative to facilitate settlement between Deepak Modi and Prime Impex. The Appellant initially offered payment of Rs. 8 Lakhs along with return of materials valued at Rs. 4 Lakhs and subsequently offered to settle the entire claim of approximately Rs. 12 Lakhs, but the offer was not accepted as the Operational Creditor sought additional compensation and litigation costs.

vii.) In respect of the Operational Creditor, the Appellant agreed to pay the **entire claimed amount of Rs. 11.90 Lakhs** and placed a demand draft bearing No. 722222 dated **03.12.2024** towards the said amount. The Appellant also provided the draft of **Form FA** to the Operational Creditor and undertook to pay such fees and expenses of the Resolution

Professional as might ultimately be determined by the Adjudicating Authority.

viii.) As the sole Financial Creditor had been fully paid, and that the only other creditor, Prime Impex, had also been offered full payment of its claim, the Appellant sought withdrawal of the CIRP under Section 12A of the IBC read with Regulation 30A of the CIRP Regulations. The withdrawal application in the form FA was filed as IA (IBC) No. 549/JPR/2024 in CP (IB) No. 79/9/JPR/2020 by the Appellant on 20.11.2024 in his capacity as the suspended director of the Corporate Debtor.

ix.) The Adjudicating Authority, while considering **IA (IBC) No. 549/JPR/2024**, recorded that the application had been filed by **Deepak Modi, a suspended director**, seeking withdrawal under Section 12A; that the debt of the sole Financial Creditor was stated to have been settled; that the entire claim of the sole Operational Creditor amounting to **Rs. 11.90 Lakhs** had been offered through demand draft; and that the Appellant had undertaken to pay the RP's fees and expenses as determined by the Adjudicating Authority.

x.) The Adjudicating Authority duly noted that the Appellant has fully paid the claims of Financial Creditors it has also offered 100% claims of the OCs claims through Demand Draft and the application of IRP for determination of CIRP Cost is pending with the Adjudicating Authority. However, relying on the judgment of Hon'ble Supreme Court in the matter of *Glass Trust Company LLC v/s Byju Raveendran and Others* 2024 SCC

OnLine SC 3032. The Ld. Adjudicating Authority dismissed the prayer filed under Section 12A of the Code as the application has been filed by the applicant who is the suspended Director of the Corporate Debtor and not through the Resolution Professional as mandated under the Code. Ld. Adjudicating Authority further held that the proposal required to be filed with the approval of 90% of voting shares of the CoC, which was not done in this case. It therefore dismissed the application on the grounds that it does not fulfil the mandate of the Code as laid down in Section 12A. The present appeal arises from the same impugned order dated 18.12.2024.

Submissions of the Appellant

3. The Ld. Counsel for the Appellant submits that the present matter has, by subsequent developments, reached a position of complete stalemate, notwithstanding the Appellant's repeated efforts to bring the CIRP to an end. It is submitted that the Appellant had continued to service the loan account even during the CIRP and, in the 5th and 6th meetings of the CoC, Respondent No. 2 itself acknowledged that the account remained regular and that there was no creditor other than the sole Financial Creditor and the Operational Creditor. Respondent No. 2 had also indicated that the CIRP was being unnecessarily prolonged and had facilitated efforts towards settlement. In this process, the Appellant offered to pay Rs. 8 lakhs and return material worth Rs. 4 lakhs lying at site and subsequently even offered the entire amount of Rs. 12 lakhs, but the Operational Creditor declined the offer and sought further compensation and litigation costs.

4. The Ld. Counsel submits that, during the pendency of the said proceedings, the judgment of the Hon'ble Supreme Court in *Glass Trust Company LLC v. Byju Raveendran and Others (2024 SCC OnLine SC 3032*) necessitated compliance with the procedure prescribed therein. The Appellant accordingly made further bona fide efforts to resolve all outstanding issues. He agreed to pay the entire claimed amount of Rs. 11.90 lakhs to the Operational Creditor through a demand draft and furnished the requisite Form FA, requesting that the same be forwarded to the RP and placed before the CoC. However, the Operational Creditor declined to forward the Form FA, citing legal advice. Thereafter, the Appellant and the Operational Creditor also attempted to resolve the matter with the RP, but the RP declined the settlement and insisted that his fees and CIRP expenses be determined by the Adjudicating Authority. The Appellant has no objection to such determination.

5. It is therefore submitted that, as on date, the substantive claims have either been fully discharged or are capable of being satisfied, and the only surviving issue concerns the CIRP/RP expenses and the procedural steps necessary for closure. The Appellant has consistently expressed his willingness to make payment of any amount found legitimately payable. Even in relation to the RP's fees, the Appellant has stated that any additional amount which the Adjudicating Authority considers just and proper may be paid so as to bring the proceedings to a close. The Appellant accordingly submits that continued continuation of the CIRP serves no useful purpose when the Financial Creditor's dues stand settled, the Operational Creditor's claimed amount has been offered

in full, and the remaining issue can be resolved by determination of the RP's legitimate fees and expenses.

6. The Ld. Counsel for Appellant submits that the subsequent developments demonstrate that the matter has reached a stalemate. The Appellant is willing to discharge the amounts found payable, while the necessary steps for placing the withdrawal proposal before the CoC and bringing the CIRP to an end have not materialised. The Appellant therefore prays that, keeping in view the peculiar subsequent developments and the fact that continuation of the CIRP would serve no meaningful insolvency-resolution purpose, appropriate orders may be passed to bring the CIRP to its logical closure, subject to determination and payment of such legitimate CIRP costs, RP fees and expenses as may be found payable by the Adjudicating Authority.

Submissions of the Respondent No.1/RP

7. Ld. Counsel submits that the Appellant has presented a distorted account of the proceedings and has attributed the delay in the CIRP to the Respondent, he submits that the record demonstrates that the CIRP has been prolonged on account of repeated disputes, applications and lack of effective cooperation. The Respondent had, from the commencement of the CIRP, attempted to discharge its functions as Resolution Professional, including taking steps for securing the assets and conducting the meetings of the Committee of Creditors. Directions were also passed by the Adjudicating Authority for handing over possession of the assets of the Corporate Debtor. However, the disputes concerning

possession, constitution and reconstitution of the CoC, CIRP expenses and other pending applications continued to prevent any effective progress in the CIRP.

8. He submits that the subsequent course of the proceedings is particularly relevant. Axis Bank, which ultimately came to constitute the sole CoC member with 100% voting share, had earlier withdrawn its claim, pursuant to which the CoC was reconstituted with operational creditor as sole member of CoC who proposed liquidation of the Corporate Debtor. On an application filed by the Appellant, Ld. Adjudicating Authority passed an order dated 11.08.2023 vide which the CoC was again restored to its original composition with Axis Bank as the sole member. Thereafter, Axis Bank gave consent for proceeding with the liquidation application already pending before the Adjudicating Authority. However, even after repeated proceedings before the Adjudicating Authority, the matter did not progress towards resolution or revival of the Corporate Debtor and instead remained caught between the proposed liquidation, pending applications and the disputes raised by the parties.

9. Ld. Counsel submits that the subsequent developments make it clear that the CIRP has effectively reached a stalemate. The 10th CoC meeting records that the application filed by the Appellant under Section 12A seeking withdrawal of the CIRP had been dismissed by the Adjudicating Authority on 18.12.2024, while Axis Bank stated that the entire payment had already been received in its loan account and sought clarity regarding the return of the security documents. The discussions further recorded the competing positions concerning the payment made by the Appellant in his capacity as personal guarantor and the course to

be followed for bringing the CIRP to an end. Significantly, during the said proceedings, the RP/Chairman of CoC recorded that there was no possibility of settlement, while the parties themselves discussed either closure of the CIRP or proceeding towards liquidation.

10. Ld. Counsel submits that, in view of these subsequent developments, the numerous allegations and disputes raised by the Appellant need not be examined independently for determining the present appeal. The record shows that despite the CIRP having continued for a considerable period, no effective resolution has emerged; the liquidation application remains pending, the Section 12A application has been dismissed; the sole CoC member has expressed its position regarding closure/liquidation; and the parties have themselves failed to arrive at any workable settlement. The Respondent therefore submits that the proceedings have reached a point of complete stalemate, and continuation of the CIRP without any realistic prospect of resolution would serve no useful purpose. The appeal may accordingly be considered in light of these subsequent developments and disposed of in accordance with the circumstances now prevailing.

Submissions of the Respondent No.2/ Axis Bank

11. Ld. Counsel for Financial Creditor submits that the present appeal arises from the order dated 18.12.2024 passed by the Learned Adjudicating Authority in CP No. (IB)-79/9/JPR/2020, whereby withdrawal of the CIRP was declined. The CIRP has since continued and reached a stalemate.

12. He submits that Axis Bank Ltd. was the sole financial creditor of the Corporate Debtor, but its entire financial exposure was discharged by the Appellant from his own funds by 24.09.2024, resulting in a NIL balance and release of the mortgage and security documents. Axis Bank, therefore, has no subsisting financial claim or continuing interest in the Corporate Debtor.

13. It is further submitted that after initiation of the CIRP on 16.08.2022, Axis Bank withdrew its claim under Regulation 12A by emails dated 01.10.2022 and 06.10.2022, and its withdrawal was recorded in the CoC meetings held on 17.10.2022 and 05.11.2022. Consequently, Axis Bank ceased to be a member of the CoC from 07.10.2022 and had no role in the subsequent conduct of the CIRP or the decision to liquidate the Corporate Debtor.

14. Ld. Counsel submits that the CIRP costs claimed by Respondent No. 1, stated to be approximately Rs. 35 lakhs against the original operational debt of approximately Rs. 12 lakhs, require independent scrutiny and determination strictly in accordance with Regulation 34B of the IBBI Regulations. In any event, Axis Bank cannot be fastened with costs incurred after its withdrawal from the CoC and cessation of its role in the CIRP.

15. Ld. Counsel submits that, in view of the statement recorded on 05.08.2026 by this Appellate Tribunal, Axis Bank has no objection to disposal of the appeal in terms of the proposed settlement, whereby the Appellant has offered Rs. 18,00,000/- to Respondent No. 3 along with CIRP costs as determined by the Learned Adjudicating Authority, and supports early closure of the CIRP.

Submissions of Respondent No.3/ Prime Impex

16. Ld. Counsel for Operational Creditor submits that the application for closure of CIRP filed by the Appellant Under Section 12A of the Code was not compliant with Regulation 30A, as the Form FA relied upon was unsigned and merely a draft, and requisite bank guarantee towards CIRP costs was not furnished with application. The Learned Adjudicating Authority, therefore, rightly dismissed the application, in view of the law laid down by the Hon'ble Supreme Court in ***"Glass Trust Company LLC Vs. Byju Raveendran & Ors.,*** reported in *2024 SCC OnLine SC 3032".*

17. Ld. Counsel submits that, as recorded in the order passed by this Appellate Tribunal on 05.08.2026, the Appellant has expressed willingness to pay Rs. 18 lakhs to Respondent No. 3 along with the CIRP costs determined by the Learned Adjudicating Authority. Respondent No. 3 is willing to accept the said amount and, upon payment of the CIRP costs so determined, execute Form FA under Section 12A of the IBC read with Regulation 30A for bringing the CIRP to an end.

18. Ld. Counsel submits that the amendment to the IBC effective from 26.05.2026 does not cure the defects in the application already filed, particularly as the CIRP had proceeded to the stage of invitation of expressions of interest.

19. Ld. Counsel submits that, insofar as the order dated 26.09.2022 is concerned, the appeal in which the said interim order was passed was dismissed on 31.03.2023, whereas the liquidation application was filed thereafter on

01.05.2023. There was, therefore, no deliberate violation of the said order. Without prejudice, Respondent No. 3 has already tendered an unconditional apology in case this Hon'ble Appellate Tribunal takes a different view.

20. In view of the aforesaid, Respondent No. 3 prays that the appeal be dismissed. In the alternative, appropriate orders may be passed to give effect to the aforesaid settlement, subject to payment of Rs. 18 lakhs and the CIRP costs determined by the Learned Adjudicating Authority.

Analysis and Findings

21. We have gone through the documents on record and heard the parties through their Ld. Counsels.

22. The CIRP of the Corporate Debtor was initiated on 16.08.2022 on the application of Prime Impex, the Operational Creditor, whose claim was approximately Rs. 11.90 lakhs. Axis Bank was the sole Financial Creditor and had filed a claim of approximately Rs. 1.04 Crore. In the course of the CIRP, no resolution could be achieved as Corporate Debtor has no tangible assets and the CoC resolved to proceed towards liquidation. The Resolution Professional thereafter filed **IA No. 243/JPR/2023** under Section 33(2) of the Code seeking liquidation of the Corporate Debtor. The Resolution Professional also filed **IA No. 160/2023** for determination of the CIRP costs, which is pending with Ld. Adjudicating Authority.

23. Several efforts were made at various stages of proceedings to reach a settlement. The record shows that settlement was discussed on several occasions during the CIRP itself. In the CoC proceedings, the Financial Creditor had noted that the CIRP had been initiated for a claim of only about Rs. 12 lakhs and had continued for a considerable period. The Financial Creditor had also taken an initiative for conciliation and settlement between the parties. The Appellant had made different settlement offers, including an offer to settle the entire claim of the Operational Creditor, though those efforts did not result in a final settlement at that stage.

24. The application filed by the Appellant under Section 12A was ultimately dismissed by the Adjudicating Authority by order dated 18.12.2024, principally on the ground that the statutory procedure contemplated under Section 12A of the Code read with Regulation 30A of the CIRP Regulations, 2016 had not been complied with. In particular, the Adjudicating Authority noted the requirement relating to Form FA, approval of the CoC and the CIRP-cost related security/Bank Guarantee. We are conscious that these statutory requirements cannot ordinarily be ignored and that the present proceedings cannot be closed by a simple order allowing withdrawal under Section 12A.

25. However, during the pendency of the present Appeal, there have been material developments. On 05.05.2026, this Tribunal recorded that settlement discussions were taking place between the Appellant and the Operational Creditor, but that the parties had reached a deadlock particularly with regard to the CIRP costs, which were already the subject matter of proceedings before the

Adjudicating Authority. On 19.05.2026, it was informed that the settlement talks had failed. Thereafter, on 01.07.2026, the Appellant offered Rs. 17 lakhs to the Operational Creditor in full and final settlement, including interest and other amounts, and undertook to pay the CIRP costs as determined by the Adjudicating Authority. Importantly, on being specifically asked by this Tribunal, the Operational Creditor did not dispute the amount of Rs. 17 lakhs and the remaining issue was stated to be with regard to Form FA and the Bank Guarantee. We accordingly directed the Appellant to place his undertaking on affidavit.

26. Pursuant to the aforesaid direction, the Appellant filed the Affidavit in Compliance dated 29.07.2026. This affidavit is important because it converts the statement made before the Tribunal into a formal undertaking. The Appellant placed on record that the claim of the sole Financial Creditor, Axis Bank, of approximately Rs. 1.04 Crore, had been settled by payment of Rs. 1.28 Crore. In relation to the Operational Creditor, the Appellant undertook to pay Rs. 17 lakhs against the claim of approximately Rs. 11.90/11.95 lakhs towards full and final settlement. Most importantly, the Appellant also undertook to pay the CIRP costs as may ultimately be determined by the Adjudicating Authority in accordance with law. The affidavit was thus not a mere expression of willingness to negotiate; it contained a specific undertaking regarding payment of the creditors' claims as well as the CIRP costs. The Affidavit dated 29.07.2026 is extracted below:

IN THE HON'BLE NATIONAL COMPANY LAW APPELLATE TRIBUNAL

AT NEW DELHI – NEW DELHI, APPELLATE JURISDICTION

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IN COMPANY APPEAL (AT) (INSOLVENCY) 222 OF 2025

Deepak Modi

Versus

Shalfeyo Industries Private Limited & Others

NOTARY VIJAY KUMAR SINDHI SANGANER, DISTT-JAIPUR REGD.No.-846 GOVT. OF RAJ. (INDIA)

AFFIDAVIT IN COMPLIANCE OF THE ORDER DATED 01.07.2026

I Deepak Modi son of Late Mr. Ram Sharan Modi aged about [36] years presently residing at C-1301, AIS Residency, Haldi Ghati Marg, Jaipur-302033 (Rajasthan) do hereby take oath and state as under:-

1. That I am one of the Suspended Director/Shareholder of the Corporate Debtor, namely, Shalfeyo Industries Private Limited ('**R.No.1/CD**') and I had filed the above captioned Company Appeal. As such, am fully competent to file and swear the present Affidavit.

2. That, the above captioned Company Appeal was preferred by the deponent against the order dated 18.12.2024 ('**Impugned Order**') passed by the Hon'ble NCLT, Jaipur Bench, whereby the IA (IBC) No. 549/JPR/2024 preferred by the deponent under Section 12A of the Code of 2016 read with Regulation 30A of the IBBI (IRPCD) Regulations, 2016 seeking the withdrawal of the CP (IB) No. 79/9/JPR/2020 came to be dismissed.

3. That the brief facts of the subject matter are that, vide order dated 16.08.2022, the CP (IB) No. 79/9/JPR/2020 preferred by the R.No.3 under Section 9 of the Code of 2016 for a sum of Rs. 11.90 Lakhs came to be admitted and the CIRP was triggered against the CD/R.No.1.

4. That in furtherance of the above, the R.No.2, only FC had filed the claim of Rs.1.04 Crore and the R.No.3 at whose behest the CIRP was triggered had filed the claim of Rs.11.90 Lakhs only.

Deepak Modi

ATTESTED

29 JUL 2026

NOTARY PUBLIC
SANGANER, DISTT.-JAIPUR

5. That for the reasons stated in the Company Appeal, since 15.[illegible].2022 to 03.03.2025, until when this Hon'ble Tribunal stayed the process both the IRP/RP and the R.No.3 (at whose behest CIRP was triggered) were continuing the process illegal for over more than 2.5 Years without seeking any extension or exclusion.

6. That being aggrieved by such malicious prosecution, without prejudice to his rights and contentions, and solely with a view to bring an end to the unnecessary proceedings, the deponent had amicably settled the sole FC and the sole CoC member and as against the claimed amount of Rs.1.04 Crore had paid the sum of Rs.1.28 Crore and thereby fully settled the liability of the sole FC, which fact is also recorded in the order dated 03.03.2025 passed by this Hon'ble Appellate Tribunal in the present Company Appeal.

7. That in so far as the R.No.3 (Prime Impex) is concerned, the deponent respectfully submits that, as against the total principal claim of Rs.11.90 Lakhs, the deponent agreed to pay the entire principal amount together with an additional sum of Rs.5.10 Lakhs towards the interest, costs and all other expenses incurred by him, aggregating to a total sum of Rs.17.00 Lakhs and upon payment of the aforesaid amount, the entire liability towards the R.No.3 (Prime Impex) shall stand fully and finally satisfied, and no amount whatsoever shall thereafter remain due or payable by the deponent.

8. That apart from the above, so far as the CIRP costs is concerned, the deponent most respectfully submits that, in the present case, CIRP was commenced on 16.08.2022 and within the period of 82-days only, the resolution for liquidation also came to be passed on 05.11.2022. Hence, as per the schedule prescribed under the law, the total fee payable to the IRP/RP works out to be Rs.3.00 Lakh only, out of which, a sum of Rs.2.00 Lakh had already been paid by the R.No.3, and an additional sum of Rs.90,000.00 had been withdrawn and appropriated by him from the bank account of the CD. Thus, only a sum of Rs.10,000.00 remain payable towards the CIRP costs. However, yet the same and without prejudice to the aforesaid, the deponent undertakes that whatever

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NOTARY PUBLIC 29 JUL 2026
DISTT.-JAIPUR

amount towards the CIRP costs is ultimately determined by this Hon'ble Appellate Adjudicating Authority or by the Ld. Adjudicating Authority in accordance with law shall be paid by the deponent, solely in the interest of justice and for bringing a quietus to the present proceedings.

9. That in view of the above facts and circumstances, it is respectfully submitted that the CIRP in the present matter so far is concerned doesn't survives any longer, the claim of the sole FC already stands fully and finally satisfied, the claim of the R.No.3 is also being settled in terms of the undertaking furnished before this Hon'ble Appellate Authority and even with regard to the CIRP costs, the Deponent undertakes to abide by and deposit such amount as may be determined by this Hon'ble Appellate Tribunal or the Learned Adjudicating Authority in accordance with law. Consequently, no purpose would be served by permitting the CIRP to continue any further. It is, therefore, most humbly respectfully prayed that this Hon'ble Appellate Tribunal may graciously be pleased to bring the CIRP to an end and direct closure/termination of the CIRP against the CD together with all consequential proceedings, in the interest of justice, equity and fair play.

DEPONENT
DEEPAK MODI

VERIFICATION

I the above named deponent do hereby declare and verify on oath that the contents of Para No 1 to 9 of my above affidavit are true and correct to my personal knowledge. Nothing material therein has been concealed nor any part of it, is false or incorrect.

SO HELP ME GOD.

Place : Jaipur

Dated: 29.07.2026

DEPONENT
DEEPAK MODI

Verified by:

ATTESTED 29 JUL 2026
NOTARY PUBLIC
SANGANER, DISTT.-JAIPUR

27. Thereafter in the hearing on 05.08.2026, the position was further clarified before this Tribunal. Learned counsel for the Appellant, on instructions, stated that the Appellant was ready to pay Rs. 18 lakhs to Prime Impex as full and final settlement to which the Ld. Counsel for Operational Creditor agreed. Thus, even the amount offered to the Operational Creditor was subsequently enhanced from Rs. 17 lakhs to Rs. 18 lakhs. The dispute regarding CIRP costs, which had earlier prevented the settlement from being completed, is not being left unresolved by the Appellant; rather, the Appellant has expressly agreed to abide by whatever amount is determined by the Adjudicating Authority in IA No. 160/2023.

28. When the entire factual position is considered together, certain peculiarities of this CIRP Proceeding become clear, which are given below:

i. The CIRP was initiated essentially on a relatively small operational debt of about Rs. 11.90 lakhs.

ii. The sole Financial Creditor, Axis Bank, has already been paid in full.

iii. The sole Operational Creditor is being offered Rs. 18 lakhs against its original claim of Rs. 11.90 Lakhs as full and final settlement. There is no other creditor in the instant proceedings.

iv. There is no resolution plan presently available, which can take the Corporate Debtor towards resolution.

v. The Appellant has agreed to pay the CIRP Costs, which is pending adjudication in IA No. 160/2023 before the Ld. Adjudicating Authority.

This clearly shows that no useful purpose is being served by keeping this CIRP alive, except for wastage of precious time of this Appellate Tribunal and wasteful increase in CIRP Cost.

29. When we consider the submission of the RP, his concern regarding CIRP costs cannot be said to be without basis. CIRP costs are legitimate statutory expenses and cannot simply be waived or assumed. Similarly, the objection regarding compliance with Section 12A and Regulation 30A was legally relevant when the original withdrawal application was considered. However, that does not answer the present question. The Appellant is now expressly undertaking to pay the CIRP costs as determined by the Adjudicating Authority, and the determination of those costs is already pending before the NCLT. Therefore, the legitimate interest of the RP in recovery of properly determined CIRP costs is protected without requiring the CIRP itself to continue indefinitely.

30. During the hearing, it was brought to our notice that application for withdrawal of Corporate Insolvency Resolution Process has to be made by the Applicant initiating the CIRP Process in Form -FA, which in this case is Prime Impex/ Respondent No.3. The Applicant also has to attach bank guarantee equivalent to CIRP Cost till the date of filing of application, as provided in Regulation 30A(2) of CIRP Regulations, 2016. The Operational Creditor refused to provide bank guarantees as the CIRP Cost claimed by the RP was much higher than its claim. Therefore, in-spite of paying the Financial Creditor in full; submitting a bank draft of entire claim of Operational Creditor upto that time; the Appellant could not get the Operational Creditor and Resolution Professional

to agree to sign and file the application under Section 12A. In such a situation, Appellant himself submitted the Form-FA with an undertaking that he would pay the dues of the RP as decided by the Ld. Adjudicating Authority, for which an application has already been filed by the RP with the Ld. Adjudicating Authority. However, the Ld. Adjudicating Authority did not accept the submission of Appellant and rejected the application on the grounds of non-compliance with the procedure laid down in Section 12A of the Code r/w Regulation 30A of CIRP Regulations, 2016.

31. As we have noted earlier the Appellant in its affidavit dated 29.07.2026 has stated that he has made full payment to the Financial Creditor/ Axis Bank and the bank is on record stating that they have no further claims. Further, he is willing to make a payment of Rs. 17 lakhs to the Operational Creditor as full and final settlement. Subsequently, during the hearing on 05.08.2026 the Ld. Counsel for Applicant under instructions of his client stated that he is ready to pay Rs. 18 lakhs to the Operational Creditor/ Respondent No.3 which was agreed to by Ld. Counsel for Respondent No. 3 as full and final settlement of his claim. Ld. Counsel for Appellant further stated that he is also willing to pay the CIRP Cost which would be determined by the Adjudicating Authority.

32. In these proceedings, we note that the claims of all the creditors have now been settled. The CIRP Cost is to be determined by the Adjudicating Authority and the Appellant has agreed to pay the amount, which would be determined by the Adjudicating Authority. However, the CIRP Process has effectively reached a procedural stalemate, as the Form FA cannot be filed in the present situation

due to peculiar situation prevailing, wherein the CIRP Cost is not crystallised and there is a dispute regarding the same between the Appellant and RP, which is pending with Adjudicating Authority. The amount for Bank Guarantee to be attached with Form FA cannot be determined in such a situation. Futher, Operational Creditor is also not willing to provide the bank guarantee. In such a situation, the procedure as laid down by Section 12A of the Code and Regulation 30A is not feasible option in this proceeding. Keeping the CIRP alive is not serving any purpose nor it would be in accordance with the objectives of the Code which seeks to resolve the insolvency and keep it as a going concern. We are of the view that, the company is a viable entity and keeping the CIRP alive merely because the earlier statutory withdrawal mechanism could not be completed, would be huge wastage of precious resources in terms of time of Tribunals which could be productively used to dispose other important proceedings.

33. In view of the aforesaid discussion, we are of the view that in the peculiar circumstances of the present case, continuation of the CIRP would serve no meaningful purpose and would only result in further wastage of precious resources. We therefore dispose of this appeal with the following directions: -

(i) The CIRP Proceedings against the Corporate Debtor/ Shalfeyo Industries Pvt. Ltd. are closed subject to the condition that as per the undertaking, the Appellant would pay Rs.18 lakhs to Respondent No.3/ Prime Impex within two weeks of this order as full and final settlement;

(ii) Ld. Adjudicating Authority to determine the CIRP costs in IA No. 160/2023 within four weeks from the receipt of this order, after considering the claim of the Resolution Professional and the submission of the Appellant; and

(iii) The Appellant would pay the CIRP costs as determined by the Ld. Adjudicating Authority within two weeks from the order.

34. Pending IA's if any are closed. No order as to costs.

[Justice Mohammad Faiz Alam Khan]
Member (Judicial)

[Arun Baroka]
Member (Technical)

[Indevar Pandey]
Member (Technical)

Place: New Delhi

Harleen/
Pragya (LRA)