NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

6. IVN.P/9/2026 C.P. (IB)/729(MB)2025

IN THE MATTER OF

Tata Capital Housing Finance Limited
Vs
Dharan Infra-EPC Limited

U/s 7 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 16.10.2026

CORAM:
SH. VINAY GOEL
MEMBER (J)

SH. CHARANJEET SINGH GULATI
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Applicant: Adv. Shawn Fernandes (VC)

For the Respondent:

ORDER

IVN.P/9/2026: The above IVN.P/9/2026 is listed for pronouncement of the order. The same is pronounced in open court, vide a separate order.

Sd/-
VINAY GOEL
Member (Judicial)

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)

//Rahul//

NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH – COURT - V

IVN. P./8/2026

1. Mr. Gajanan Damodar Deokar
2. M/s. G.D. Deokar & Sons

... Financial Creditors

Versus

1. Palak Swapnil Doshi
   IRP of Dharan Infra-EPC Limited
2. Tata Capital Housing Finance Limited
3. Dharan Infra-EPC Limited

... Respondents

IVN.P./9/2026

1. M/s. Metro Associates
   Through its Partner Mr. Heman Pokardas Tilokani
2. Metro Ploymers Private Limited

... Financial Creditors

Versus

1. Palak Swapnil Doshi
   IRP of Dharan Infra-EPC Limited
2. Tata Capital Housing Finance Limited
3. Dharan Infra-EPC Limited

... Respondents

IVN.P./15/2026

M/s. Metro Industries
Through its Partner Mr. Heman Pokardas Tilokani

... Financial Creditor

Versus

1. Palak Swapnil Doshi
   IRP of Dharan Infra-EPC Limited

2. Tata Capital Housing Finance Limited
3. Dharan Infra-EPC Limited

... Respondents

IVN.P./24/2026

LIC Housing Finance Limited

... Financial Creditor

Versus

Dharan Infra-Epc Limited

... Corporate Debtor

IVN.P./25/2026

Capri Global Capital Limited

... Financial Creditor

Versus

Palak Swapnil Desai
IRP of Dharan Infra-EPC Limited

... Respondent

IVN.P./81/2026

Canara Bank

... Financial Creditor

IVN.P./129/2026

Devesh Karda
Suspended Director of the Corporate Debtor

... Petitioner

Versus

Palak Swapnil Desai
IRP of Dharan Infra-Epc Limited

... Respondent

AND

I.A./ 166 (MB) / 2026

Under Section 12A of the Insolvency and Bankruptcy Code, 2016, read with Regulation 30A(1)(a) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

Palak Swapnil Desai

IRP of Dharan Infra-EPC Limited

901, 9th Floor, Park Vistas, Opposite Lallubhai Park, Near MTNL, Andheri West, Mumbai – 400 058.

... Applicant

IN

C.P. / 729 (MB) / 2025

Under Section 7 of the Insolvency and Bankruptcy Code, 2016.

Tata Capital Housing Finance Limited

... Petitioner

Vs.

Dharan Infra-EPC Limited

... Respondent

Order Pronounced On: 16.10.2026

Coram:

Shri. Vinay Goel
Hon'ble Member (Judicial)

Shri Charanjeet Singh Gulati
Hon'ble Member (Technical)

Appearances:

For the Petitioner LIC Housing Finance in Intervention Petition no. 24/2026 filed in IA 166/26 in CP 729/2025: Adv. Akhil Sarathy I/b Raghavan Sarathy

For the Applicant in IVN.P/9/2026: Adv. Shawn Fernandes (VC)

For the Applicant in IVN.P/15/2026 Adv. Shawn Fernandes (VC)

For the Applicant in IVN.P/8/2026:	Adv. Prachi Wazalwar (VC)
For the Intervenor in IVN.P/25/2026:	Adv. Shadab Jan, Adv. Narpat Singh i/b ANM Global (VC)
For the Int. Petition no 81 of 2026:	Adv rukshin Ghiara and Ishwar Ahuja ib Saga Legal (VC)
For the Applicants in IVN.P/129/2026:	Adv. Swapnil Balajiwale a/w. Sr. Adv. Vikram Nankani (PH)
For the Tata Capital Housing Finance Limited:	Adv. Sanjeev Singh, Adv. Sandipa Bhattacharjee, Adv. Anshita Argal (VC) Adv. Kartik Sharma
For the RP:	Adv. Kunal Kanungo, Adv. Tanushree Sogani & Adv. Atishay Jain (PH)
For the Intervenor in IVN.P/25/2026:	Adv. Shadab Jain, Adv. Narpat Singh i/b AVM Global (PH)
For the Respondent:	

ORDER

1. I.A. No. 166 of 2026 has been filed by the Interim Resolution Professional ("**IRP**") under Section 12A of the Insolvency and Bankruptcy Code, 2016 ("**Code**"), seeking withdrawal of the Corporate Insolvency Resolution Process ("**CIRP**") initiated against Dharan Infra-EPC Limited ("**Corporate Debtor**"). I.A. No. 129 of 2026 has been filed by the Suspended Director of the Corporate Debtor, seeking the same relief. Further, six Financial Creditors have filed Intervention Petitions under Section 60(5) of the Code read with Rule 11 of the NCLT Rules, seeking to intervene in I.A. No. 166 of 2026 and oppose the proposed withdrawal of the CIRP.

2. Since the reliefs sought in I.A. No. 166/2026, I.A. No. 129/2026 and IVN. P. Nos. 8/2026, 9/2026, 15/2026, 24/2026, 25/2026 and

81/2026 are interrelated, all the aforesaid Applications were heard analogously and are being disposed of by this common order.

3. **Brief facts of I.A./166/2026:**

3.1 It is submitted that the Company Petition 729 of 2025 has been filed by Tata Capital Housing Finance Limited ("**Financial Creditor**") under Section 7 of the Code seeking initiation of CIRP against Corporate Debtor for default in repayment of an amount of Rs. 28,04,91,115/-.

3.2 This Tribunal, vide order dated 12.12.2025 ("**Admission Order**"), admitted the Corporate Debtor into the CIRP and appointed the Applicant as the IRP. The IRP published Form A dated 15.12.2025, inviting claims from the creditors of the Corporate Debtor, the last date of submission of proof of claims as per the published Form A was on or before 26.12.2025.

3.3 It is submitted that the last date to constitute the Committee of Creditors ("**CoC**") as per Regulation 13 & Regulation 17 of the (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("**CIRP Regulations**") was 04.01.2026.

3.4 During the pendency of final verification of claims and before the constitution of the CoC, the IRP was informed by the Financial Creditor that they had amicably settled the matter with the suspended director of the Corporate Debtor.

3.5 Further, the Financial Creditor, vide email dated 01.01.2026, informed the IRP that they had received an amount of Rs.10 Crore from the Corporate Debtor as a "Full and Final Settlement". Thereafter, the Financial Creditor issued Form FA dated 01.01.2026 confirming that the CIRP cost has been paid to the Applicant.

3.6 It is submitted that, in an Appeal filed by the Promoter of the Corporate Debtor, challenging the admission order, the Hon'ble NCLAT, vide order dated 06.01.2026, directed the IRP to collate the claims in accordance

with law, however, restrained him from taking any further steps. Further, the IRP was granted liberty to file an Application under Section 12A of the Code.

3.7 Accordingly, the present Application has been filed by the IRP, seeking withdrawal of C.P.729 of 2025.

4. **Brief facts of IVN. P./8/2026:**

4.1 It is submitted that the Applicant Nos. 1 and 2 are Financial Creditors of the Corporate Debtor with an outstanding debt of Rs. 3,94,86,800/- and Rs. 6,84,77,605/-, respectively. On failure of the Corporate Debtor to repay the outstanding debt amount, the Financial Creditors had filed Company Petition 588 of 2025 under Section 7 of the Code, which was argued and reserved for orders on 18.11.2025.

4.2 It is submitted that the Company Petition 729 of 2025 was reserved for orders by this Tribunal vide order dated 08.11.2025, and the same was admitted vide order dated 12.12.2025

4.3 In light of the aforesaid, this Tribunal, vide order dated 15.12.2025, dismissed the Company Petition 588 of 2025 and directed the Applicants to file claim before the IRP. Accordingly, the Applicants have submitted their claim in Form C to the IRP on 02.01.2026.

4.4 It is submitted that the Hon'ble NCLAT, vide order dated 06.01.2026, passed in C.A. (AT) (Ins.) 06 of 2026, granted liberty to the Interveners to file an Intervention Application, while directing the IRP to file a withdrawal application and as well as to collate the claims.

4.5 The Applicants submit that once the CIRP is initiated, the proceedings are no longer restricted to the individual creditor and the corporate debtor but rather become collective proceedings in rem, where all creditors are necessary stakeholders. In support of their submissions, the Applicants have relied on the judgment of the Hon'ble Supreme

Court in ***GLAS Trust Company LLC Vs. BYJUS Raveendran & Ors (Civil Appeal No. 9986 of 2024)***.

4.6 In view of the aforesaid, the Applicants seek to participate and intervene in the present proceedings.

Reply on behalf of Respondent No.1:

4.7 It is submitted that while the final verification of claims was underway and prior to constitution of the CoC, it was informed by the Financial Creditor / Original Petitioner that an amicable settlement had been reached with the suspended director of the Corporate Debtor.

4.8 Thereafter, vide email dated 01.12.2025, the Financial Creditor confirmed receipt of Rs. 10 Crore from the Corporate Debtor towards full and final settlement and requested details of the expenses incurred by the IRP. Subsequently, the Original Financial Creditor issued Form FA dated 01.01.2026 for withdrawal of the proceedings.

4.9 It is submitted that pursuant to the order dated 06.01.2026, the Respondent No.1 (IRP) filed I.A. No. 166 of 2026 seeking withdrawal of the Company Petition under Section 12A of the Code in accordance with law. It is stated that the role of the IRP is neutral and is bound by the commercial wisdom of the CoC as well as the directions of this Tribunal. Accordingly, the Respondent No. 1 seeks appropriate directions from this Tribunal.

Reply on behalf of the Respondent No. 2:

4.10 It is submitted that, as the dues of Respondent No.2 have been settled through one-time settlement dated 30.12.2025, and the payment has been duly received from the suspended director of the Corporate Debtor, Respondent No. 2 has no surviving claim against the Corporate Debtor. Respondent No. 2 has no objection to the closure of the CIRP of the Corporate Debtor.

4.11 It is submitted that the Hon'ble NCLAT did not grant any liberty to the Intervenors to file an intervention application before this Tribunal. The liberty was limited solely to the appeal filed by the Suspended Director of the Corporate Debtor, as is evident from the order dated 06.01.2026 passed by the Hon'ble NCLAT.

4.12 It is further submitted that the Intervenors had already stated before the Hon'ble NCLAT that they have filed independent applications under Section 7 of the Code against the Corporate Debtor, thereby availing their separate and independent remedies. Therefore, even upon closure of the present CIRP, the Intervenors may pursue their independent remedies in accordance with law. In view of the same, the present intervention application is not maintainable and is liable to be dismissed.

Rejoinder on behalf of the Applicants:

4.13 It is submitted that this Tribunal, vide order dated 15.12.2025, passed in C.P. (IB) 588 of 2025, expressly directed the Applicants to file their claim before the IRP and granted liberty to “reagitate this petition” in the event C.P. (IB) No. 729/MB/2025 is withdrawn under Section 12A or the admission order is set aside.

4.14 The Applicants submitted their Form C claim on 02.01.2026 pursuant to the order dated 15.12.2025. On 06.01.2026, the Hon'ble NCLAT expressly permitted the IRP to “collate the claims” while directing that no further step be taken. The Applicants have not been communicated any determination of their claims and their names are not reflected in the list of creditors.

4.15 Further, the Hon’ble NCLAT vide order dated 09.07.2026 passed in CA(AT) 06 of 2026, recorded the submission on behalf of the IRP that a claim of approximately Rs. 600 Crores had been received. Despite this, the IBBI portal extract for Dharan Infra-EPC Limited as on 08.08.2026 reflects “Total Records: 0” under the List of Claims.

4.16 It is submitted that IA No. 166 of 2026 and Form FA were filed in January 2026, before 26.05.2026, when Section 8 of the Insolvency and Bankruptcy Code (Amendment) Act, 2026 (Act 6 of 2026) was brought into force. The Applicants submit that, even if the Withdrawal Application is adjudicated entirely under the pre-amendment regime prevailing on the date of its institution, the judicial scrutiny mandated in ***GLAS Trust*** and applied in ***Suyog Suryakant Talekar*** requires consideration of the concerned creditors and the relevant factors, including the creditor list and the status of defaults to other creditors.

5. **Brief facts of IVN. P./9/2026:**

5.1 It is noted that the factual submissions of the Applicant substantially overlap with those made in I.V.N. P. No. 8/2026. Accordingly, the same are not reproduced herein for the sake of brevity and to avoid repetition. The additional submissions are briefed hereinbelow.

5.2 It is submitted that the Applicants herein have made the disbursements towards the principal amount to the tune of Rs. 2,45,00,000/ (Rupees Two Crore Forty-Five Lakhs only) to the Corporate Debtor as financial assistance towards the purchase of plots of land by the Corporate Debtor. The Applicants issued a Demand Notice dated 02.07.2025 to the Corporate Debtor for the outstanding dues amounting to Rs. 5,20,50,000/-.

5.3 It is submitted that the Corporate Debtor failed to repay the outstanding debt amount on receipt of the demand notice, and thereafter the Financial Creditors filed CP (IB) 899 of 2025 under Section 7 of the Code.

5.4 However, in light of the Admission Order passed in CP 729 of 2025 , this Tribunal, vide order dated 08.05.2026, dismissed the Company Petition 899 of 2025 and directed the Applicants to file a claim before the IRP. Accordingly, the Applicants have submitted their claim in Form C to the IRP on 02.01.2026. However, no steps have been taken by the

IRP in view of the settlement reached between the original Financial Creditor and the Corporate Debtor.

5.5 Accordingly, the Applicants seek to participate and intervene in the present proceedings. Further, they have sought dismissal of the I.A. 166 of 2026 and continuation of the CIRP of the Corporate Debtor.

Reply of the Respondent No. 1:

5.6 The reply filed by Respondent No. 1 is identical to the reply filed by her in I.V.N. P. No. 8/2026. Therefore, the submissions contained therein are not reproduced for the sake of brevity and to avoid repetition.

Reply of the Respondent No. 2:

5.7 The reply filed by Respondent No. 2 is identical to the reply filed by them in I.V.N. P. No. 8/2026. Therefore, the submissions contained therein are not reproduced for the sake of brevity and to avoid repetition.

5.8 Additionally, it is submitted that, as per the Form-C, M/s. Metro Associates made its last alleged disbursement on 08.06.2016, while M/s. Metro Polymers Pvt. Ltd. made its last alleged disbursement on 26.09.2013. It is contended that the dates of these alleged transactions establish that the claims of the Intervenors are barred by limitation, and therefore, the present Application is liable to be dismissed. In this regard, reliance has been placed on the judgment of the Hon'ble Supreme Court in ***B.K Educational Services (P) Ltd v. Parag Gupta & Associates, (2019) 11 SCC 633***.

Rejoinder of the Applicants:

5.9 It is submitted that the date of disbursement cannot be relied upon as the date of default, and the Applicants have stated that the relevant entries/acknowledgements have been relied upon in the claim forms and C.P. (8) No. 899(MB)/2025. Further, the Form C submitted by the Applicants specifies the dates and amounts of the disbursements and refers to the Corporate Debtor's books/ledger position as on

31.03.2025. It is stated that C.P. (IB) No. 899(MB)/2025 was never rejected on limitation or on merits and was instead disposed of on 08.05.2026 solely because another CIRP had already commenced, with Liberty to file afresh if Section 12A withdrawal is allowed.

6. **Brief facts of IVN. P./15/2026:**

6.1 It is noted that the factual submissions of the Applicant substantially overlap with those made in I.V.N. P. No. 8/2026. Accordingly, the same are not reproduced herein for the sake of brevity and to avoid repetition. The additional submissions are briefed hereinbelow.

6.2 It is submitted that the Applicant has made the disbursements of Rs. 1,40,00,000/- to the Corporate Debtor as financial assistance towards the purchase of plots of land by the Corporate Debtor. The Applicants issued a Demand Notice dated 14.10.2024 to the Corporate Debtor for the outstanding amount. However, the Corporate Debtor failed to repay the outstanding debt amount on receipt of the demand notice.

6.3 In the meantime, this Tribunal passed an Admission Order in CP 729 of 2025 and the Corporate Debtor was admitted into the CIRP. Thereafter, the Applicant submitted his claim in Form C to the IRP on 04.01.2026. However, no steps have been taken by the IRP in view of the settlement reached between the original Financial Creditor and the Corporate Debtor.

6.4 Accordingly, the Applicants seek to participate and intervene in the present proceedings. Further, they have sought dismissal of the I.A. 166 of 2026 and continuation of the CIRP of the Corporate Debtor.

Reply of the Respondent No. 1:

6.5 The reply filed by Respondent No. 1 is identical to the reply filed by her in I.V.N. P. No. 8/2026. Therefore, the submissions contained therein are not reproduced for the sake of brevity and to avoid repetition.

Reply of the Respondent No. 2:

6.6 The reply filed by Respondent No. 2 is identical to the reply filed by them in I.V.N. P. No. 9/2026. Therefore, the submissions contained therein are not reproduced for the sake of brevity and to avoid repetition.

Rejoinder of the Applicant:

6.7 With regards to Respondent No. 2's contention regarding Petition being barred by limitation, it is submitted that, Form C and the Intervention Petition disclose a clear transaction sequence: (i) Rs. 1,00,00,000/- was disbursed to the Corporate Debtor on 10.08.2012; (ii) on 13.03.2015, the Corporate Debtor repaid an aggregate amount of Rs. 40,00,000/-, comprising receipts of Rs. 25,00,000/- and Rs. 15,00,000/-, thereby reducing the principal balance to Rs. 60,00,000/-; and (iii) on 04.04.2015, the Applicant made a fresh disbursement of Rs. 40,00,000/-, thereby restoring the principal outstanding to Rs. 1,00,00,000/-. The claim record further relies upon ledger extracts stated to be from the books of the Corporate Debtor reflecting the continuing balance claimed by Metro Industries and the Recall of Financial Assistance/ Demand Notice dated 14. I 0.2024. Thus, the March 2015 repayment preceded, and was followed by, the fresh April 2015 disbursement; it is not being pleaded as repayment of the April 2015 tranche. Respondent No. 2's own heading under the limitation objection also incorrectly refers to 'M/s Metro Associates / M/s Metro Polymers' although the present Applicant is Mis Metro Industries, further demonstrating that the objection has not been tested against the documents of this Applicant.

6.8 It is submitted that the Hon'ble NCLAT's permission to collate cannot be converted into an indefinite state in which substantial claims are received, but their status and the overall creditor position are kept outside the adjudicatory consideration of I.A. No. 166 of 2026.

7. **Brief facts of IVN. P./24/2026:**

7.1 It is noted that the factual submissions of the Applicant substantially overlap with those made in I.V.N. P. No. 8/2026. Accordingly, the same are not reproduced herein for the sake of brevity and to avoid repetition. The additional submissions are briefed hereinbelow.

7.2 It is submitted that the Applicant has disbursed multiple loan facilities to the Corporate Debtor for real estate development projects. The outstanding financial debt arises primarily from two loan facilities: a. Loan Account No. 600000000092 for the project “Hari Nakshatra & Destination One”, sanctioned on 16.05.2018, which went into default on 01.08.2021, with an outstanding amount of Rs. 183,87,62,832.53/- as per the proof of claim. b. Loan Account No. 600000000107 for the project "Hari Sanskruti - II", sanctioned on 23.08.2019, which went into default on 01.03.2022, with an outstanding amount of Rs. 25,06,65,106.00/- as per the proof of claim.

7.3 The Applicant filed its claim in Form C on 26.12.2025. Further, the IRP, vide communication dated 02.01.2026, partially admitted the Applicant's claim to the tune of Rs. 128,44,27,938/- (Rs. 25,06,65,106/- as Secured Financial Creditor and Rs. 103,37,62,832/- as Unsecured Financial Creditor).

7.4 It is submitted that in terms of Regulation 13(1) of the CIRP Regulations, the IRP was statutorily obligated to verify claims by 02.01.2026 and constitute the CoC by 04.01.2026. However, the IRP has failed to constitute the CoC within the prescribed mandatory timeline.

7.5 Accordingly, the Applicant seek to participate and intervene in the present proceedings. Further, it has sought dismissal of the I.A. 166 of 2026 and direction to the IRP to constitute the CoC.

Reply of the Respondent

7.6 The reply filed by Respondent IRP is identical to the reply filed by her in I.V.N. P. No. 8/2026. Therefore, the submissions contained therein are not reproduced for the sake of brevity and to avoid repetition.

8. **Brief facts of IVN. P./25/2026:**

8.1 It is noted that the factual submissions of the Applicant substantially overlap with those made in I.V.N. P. No. 8/2026. Accordingly, the same are not reproduced herein for the sake of brevity and to avoid repetition. The additional submissions are briefed hereinbelow.

8.2 It is submitted that the Applicant has granted a Term Loan - Construction Finance Facility towards three real estate projects of the Corporate Debtor viz. (i) Hari Vasant, (ii) Hari Akruti Phase II and (iii) Hari Niketan Phase II, for an amount of Rs. 23 Crores out of which the Applicant had disbursed an amount of Rs. 15 Crores, and the same was secured by creating a charge in favour of the Applicant vide Indenture of Mortgage deed dated 27.05.2021 and Supplementary cum Amendatory Indenture of Mortgage dated 01.06.2022. Further, on default of the Corporate Debtor to repay the dues, the Applicant issued loan recall notice dated 24.07.2023 and reminder to loan recall notice dated 20.10.2023, recalling the entire debt amount from the Corporate Debtor, and the Mortgagors.

8.3 Further, the Applicant filed a Special Civil Suit No. 617 of 2023 before the Ld. Civil Judge (Senior Division), Nashik seeking recovery and declaration of its' rights over the mortgaged properties in terms of the Indenture of Mortgage and Supplementary cum Amendatory Indenture of Mortgage. That the Ld. Civil Judge (Senior Division), Nashik was pleased to pass an interim order dated 30.10.2023 granting ad-interim order in favour of the Applicant and on mortgaged properties. Pursuant to the same, a Lis Pendens notice was registered with the sub-registrar in Nashik to protect the Mortgaged property.

8.4 It is submitted that the Loan Account of the Corporate Debtor was declared as Non-Performing Asset (NPA) on 30.04.2024, pursuant to which the Applicant issued demand notice under section 13(2) of the SARFAESI Act, 2002 dated 10.05.2024. However, the Corporate Debtor has failed to repay the same.

8.5 It is submitted that the Applicant filed an application before the L.d. District Magistrate (DM), Nashik under section 14 of the SARFAESI Act, 2022 seeking possession of the mortgaged property, and the Ld. District Magistrate vide order dated 25.03.2025 passed an order in favour of the Applicant. Pursuant to the same a redemption notice dated 16.09.2025 under section 13(8) of the SARFAESI Act, 2002 was issued by the Applicant to the Corporate Debtor & Mortgagors. However, the Corporate Debtor failed to pay outstanding amount and/or invoke redemption of mortgage even after service of the notice.

8.6 It is submitted that the Applicant further issued an E-Auction Notice dated 24.10.2025 for the sale of units of the Project Hari Akruti Phase II (owned by Corporate Debtor) & Project Hari Niketan Phase IT (own by sister concern of Corporate Debtor), and two land parcels (not owned by Corporate Debtor), which was held on 08.12.2025. Out of two land parcel one of the land parcels has been sold under the said public auction.

8.7 Further, as the Corporate Debtor was admitted into the CIRP vide dated 12.12.2025, the Applicant has submitted their claim of Rs. 18,92,06,671/- to the Interim Resolution Professional on 26.12.2025, and the same is pending admission by the Respondent IRP.

8.8 It is submitted that, once the CIRP is initiated against the Corporate Debtor, the proceeding become in rem and where the CoC is not constituted, the withdrawal cannot be permitted without hearing all the concerned parties. In this regard reliance has been placed on the judgment of the Hon'ble Supreme Court in ***Swiss Ribbons Pvt. Ltd.***

and Anr. v. Union of India and Ors. and ***GLAS Trust Company LLC v. BYJU Raveendran and Ors.***

8.9 In view of the aforesaid, the Applicant seek to participate and intervene in the present proceedings. Further, it has sought dismissal of the I.A. 166 of 2026 and direction to the IRP to admit the claim of the Applicant and to constitute the CoC.

Reply of the Respondent:

8.10 The reply filed by Respondent IRP is identical to the reply filed by her in I.V.N. P. No. 8/2026. Therefore, the submissions contained therein are not reproduced for the sake of brevity and to avoid repetition.

Additional Affidavit by the Applicant:

8.11 It is submitted that, pursuant to the submission of the Applicant's claim in Form C on 26.12.2025, the Respondent, vide email dated 02.01.2026, forwarded the consent terms filed before the Ld. Maharashtra Real Estate Regulatory Authority ("Ld. MahaRERA") in respect of the Hari Vasant Project at Nashik and stated that, since the Ashoka Group was to make payments directly to the Applicant thereunder, the Applicant's claim had not crystallised and could not be admitted. In response, the Applicant, vide email dated 04.01.2026, clarified that it was neither a party to nor had consented to the said consent terms, which had been entered into between the Corporate Debtor and the Association of Allottees without the Applicant's knowledge or involvement, and requested the Respondent to admit its claim. The Applicant further informed the Respondent that it was taking appropriate steps to raise its objections before the Ld. MahaRERA. However, no further decision was communicated by the Respondent

8.12 It is further submitted that, pursuant to a meeting held on 10.06.2026 at the Applicant's office, the Applicant provided and explained the relevant loan documents, correspondence, financial records and other documents in support of its claim. No objection regarding the

maintainability or admissibility of the claim was raised by the Respondent during the said meeting, nor was any further document sought from the Applicant. The Applicant thereafter remained in communication with the Respondent regarding the status of its claim and was not informed that the claim had been rejected. The Applicant states that it was only upon receipt of the Respondent's Affidavit in Reply that it came to know that the Respondent was treating the email dated 02.01.2026 as rejection of its claim.

8.13 It is submitted that, thereafter, the Applicant, vide email dated 13.07.2026, requested the Respondent to review and admit its claim. In response, vide email dated 19.07.2026, the Respondent, referring to the directions of the Hon'ble NCLAT that the IRP was to collate the claims and not take further steps in the CIRP, called upon the Applicant to resubmit its claim with supporting documents, interest computation and other particulars necessary for verification. The Applicant, vide email dated 25.07.2026, reiterated its position regarding the consent terms and informed the Respondent of the subsequent settlement in relation to the Hari Vasant Project, pursuant to which the Applicant had agreed to release its mortgage charge, and stated that it was revising its claim accordingly.

8.14 It is further submitted that, pursuant to the Respondent's email dated 03.08.2026, the Applicant, vide email dated 04.08.2026, submitted its revised Form C along with the requisite supporting documents. The Respondent, vide email dated 10.08.2026, acknowledged receipt of the revised claim.

9. **Brief facts of IVN. P./81/2026:**

9.1 It is noted that the factual submissions of the Applicant substantially overlap with those made in I.V.N. P. No. 8/2026. Accordingly, the same are not reproduced herein for the sake of brevity and to avoid repetition. The additional submissions are briefed hereinbelow.

9.2 It is submitted that the Applicant vide Sanction Letter dated 05.12.2019 had sanctioned credit facilities aggregating to Rs. 15 Crores to M/s Karda Construction (group entity of the Corporate Debtor) for a period of one year up to 02.12.2020. Thereafter, by Sanction Letter dated 23.03.2023, the Bank sanctioned an amount of Rs. 10 Crores towards renewal of Working Capital OCC / ODBD limit for a period of one year from the date of sanction with monthly reduction of limit by Rs. 0.25 crores.

9.3 Upon default in the payment of the instalments, the said account was categorized as a Non- Performing Asset (NP A) on 17.12.2023 and as on the date of Public announcement made by the IRP on 15.12.2025, the total outstanding amount due to the Applicant from the said facilities was Rs. 9,76,01,778.61/-.

9.4 It is submitted that the IRP, vide email dated 15.01.2026, informed the Applicant about the proceedings before the Hon'ble NCLAT and that she had initiated the process of filing an application under Section 12A of the Code seeking withdrawal of the Section 7 application.

9.5 Further, the Applicant vide email dated 18.03.2026, submitted its claim in Form C for an amount of Rs. 9,76,01,778.61/- to the IRP. However, no order/communication admitting or rejecting or collating the Applicant's claim has been furnished till date.

9.6 In view of the aforesaid, the Applicant seeks permission to intervene and participate in the present proceedings. It has further sought dismissal of I.A. No. 166 of 2026, consideration and admission of its claim by the IRP, inclusion of its name in the List of Creditors and constitution of the CoC in accordance with the provisions of the Code. The Applicant has also sought copies of the proceedings and the application filed under Section 12A of the Code and, pending hearing of I.A. No. 166 of 2026, restraint against pursuing withdrawal of the present Company Petition solely on the basis of the settlement with another creditor. In the alternative, it has sought an opportunity of

hearing before any application for withdrawal under Section 12A or otherwise is considered.

Reply of the Respondent:

9.7 The reply filed by Respondent IRP is identical to the reply filed by her in I.V.N. P. No. 8/2026. Therefore, the submissions contained therein are not reproduced for the sake of brevity and to avoid repetition.

Rejoinder of the Applicant:

9.8 It is submitted that the IRP's reliance on the expression "no further action" in the NCLAT Order is wholly misconceived. The immediate relief sought is limited to transparency and disclosure of the claims that the IRP was specifically permitted or directed to collate. The IRP cannot simultaneously contend that the Applicant's claim has been duly collated and refuse to disclose the List of Creditors or the outcome of the collation exercise.

9.9 The Applicant further submits that the IRP's assertion that the Applicant is "not left remediless" is wholly misconceived. The Applicant is not merely seeking to preserve an independent recovery remedy but seeks to protect its statutory rights as a Financial Creditor arising from the CIRP already admitted by this Tribunal.

10. **Brief facts of IVN. P./129/2026:**

10.1 This Petition has been filed by the Applicant, in his capacity as a Suspended Director of the Corporate Debtor, seeking to intervene and be impleaded as parties in the pending proceedings arising out of an application under Section 12A of the Code.

10.2 In addition to the facts recorded hereinabove, it is submitted that the Financial Creditor which had instituted the proceedings under Section 7 of the Code has itself acknowledged receipt of the settlement amount and has confirmed that the payment of Rs. 10 Crores constitutes full and final settlement against its claim. In furtherance of the said

settlement, Tata Capital, furnished Form FA to the IRP for the purpose of seeking withdrawal of the CIRP under Section 12A of the Code read with Regulation 30A of the CIRP Regulations. Accordingly, the IRP has filed IA 166 of 2026 seeking withdrawal of the CIRP.

10.3 It is submitted that continuation of the CIRP serves no insolvency resolution purpose in respect of the claim which triggered the proceedings.

10.4 In view of the aforesaid, the Applicant seek to intervene and be impleaded as party Respondent in the Section 12A Application filed by the IRP.

11. **Analysis and Findings**

11.1 Heard the Ld. Counsels for the parties and perused the record. We have given our thoughtful consideration to the pleadings and submissions.

11.2 The **I.A. 166 of 2026** has been filed by the IRP seeking withdrawal of the CIRP under Section 12A of the Code. It is submitted that, prior to the constitution of the CoC, the Financial Creditor informed the IRP that it had arrived at a settlement with the Suspended Director and had received a sum of Rs. 10 Crore towards full and final settlement. Subsequently, the Financial Creditor submitted Form FA dated 01.01.2026 and confirmed that the CIRP costs had been paid. Further, vide order dated 06.01.2026, the Hon'ble NCLAT directed the IRP to collate the claims, however, restrained him from taking any further steps, while granting liberty to the IRP to file an application under Section 12A of the Code.

11.3 The six other Financial Creditors have filed their respective **Intervention Petitions**. The primary submission of the Intervenors is that, upon admission of the Corporate Debtor into CIRP, the proceedings become a collective in rem proceeding involving all creditors as necessary stakeholders, and therefore, withdrawal of the CIRP ought not to be permitted by this Tribunal solely on the basis of a settlement between the original Financial Creditor and the Corporate

Debtor. Further, two of the Intervenors submitted that their respective applications under Section 7 of the Code were either dismissed or kept pending on account of the CIRP initiated vide order dated 12.12.2025. In certain cases, this Tribunal directed the concerned creditors to submit their claims before the IRP, while granting liberty to revive their respective Section 7 petitions in the event of withdrawal of the CIRP. All the Intervenors have submitted their respective claims in Form C to the IRP, however, no communication has been received from the IRP in respect thereof. It is further submitted that the IBBI portal does not reflect any claims, whereas the IRP, before the Hon'ble NCLAT on 09.07.2026, stated that claims amounting to approximately Rs. 600 Crore had been received. It is also submitted that the CoC had not been constituted as on 04.01.2026. In view of the aforesaid submissions, the Intervenors seek dismissal of I.A. No. 166/2026, verification of their claims, and constitution of the CoC.

11.4 On the other hand, the **original Financial Creditor** submits that, its dues were settled by the one-time settlement dated 30.12.2025, and that it has no surviving claim against the Corporate Debtor and has no objection to closure of the CIRP. It is submitted that the Hon'ble NCLAT did not grant any liberty to the Intervenors to file an intervention application before this Tribunal, and the liberty was confined to the appeal filed by the Suspended Director of the Corporate Debtor. Further, it is submitted that the Intervenors may file their own Section 7 petitions and can pursue their independent remedies. With regards to the IVN. P. 9 of 2026 and IVN. P. 15 of 2026, it is stated that the claims of the Applicants therein are barred by limitation and therefore the same deserves to be dismissed.

11.5 The **IRP** has also filed her reply to the aforesaid Intervention Petitions, all these replies are identical. It is stated that the role of the IRP is neutral and is bound by the commercial wisdom of the CoC as well as the directions of this Tribunal. Accordingly, the Respondent No. 1 seeks appropriate directions from this Tribunal.

11.6 The **I.A. No. 129/2026** has been filed by the Suspended Director of the Corporate Debtor. He submits that the Financial Creditor has acknowledged receipt of Rs. 10 Crore towards full and final settlement and has furnished Form FA. Accordingly, it is submitted that continuation of the CIRP would serve no insolvency resolution purpose in respect of the claim on the basis of which the CIRP was initiated. He, therefore, seeks withdrawal of the CIRP.

11.7 Before proceeding to consider the issue arising in the present case, it is relevant to note that Section 12A of the Code was amended with effect from 26.05.2026 by the Insolvency and Bankruptcy Code (Amendment) Act, 2026 (Act 6 of 2026). In the present case, the Corporate Debtor was admitted into CIRP vide order dated 12.12.2025, the Financial Creditor submitted Form FA dated 01.01.2026, and I.A. No. 166/2026 seeking withdrawal of the CIRP was filed on 06.01.2026. Thus, all the aforesaid events occurred prior to 26.05.2026. Under these circumstances, the present application is being considered in accordance with the provision as it stood prior to the amendment.

11.8 It is relevant to take note of the Section 12A, as it stood before the amendment. The same is reproduced hereinbelow:

> *"12A. The Adjudicating Authority may allow the withdrawal of application admitted under section 7 or section 9 or section 10, on an application made by the applicant with the approval of ninety per cent. voting share of the committee of creditors, in such manner as may be prescribed."*

11.9 Further, Regulation 30A(1)(a) of the CIRP Regulations reads as under:

> *"30A. (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;*
>
> *…"*

11.10 A conjoint reading of the aforesaid provisions makes it evident that Section 12A of the Code permits withdrawal of the CIRP with the approval of 90% voting share of the CoC, while Regulation 30A(6) of the CIRP Regulations confers discretion upon this Tribunal to permit withdrawal where the CoC has not been constituted. In the present case, admittedly, the CoC has not been constituted, and the IRP has filed the application seeking withdrawal under Regulation 30A(1)(a) of the CIRP Regulations.

11.11 In these circumstances, it is apposite to take note of the judgment passed by the Hon'ble Supreme Court in ***GLAS Trust Company LLC v. BYJU'S Raveendran & Ors. (Civil Appeal No. 9986 of 2024)***, wherein the Hon'ble Supreme Court, while considering the issue of withdrawal of CIRP prior to the constitution of the CoC, observed as follows:

> *"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****.*
>
> *…*

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 12A of the IBC read with Rule 30A of the CIRP Regulations lays down an exhaustive procedure for the withdrawal of an application filed by creditors under Sections 7, 9, or 10 of the IBC. Withdrawal may be sought at four stages, all of which have a procedure prescribed under the existing framework. These may be summarized as follows:

i. …

ii. After an application under Sections 7, 9, or 10 is admitted, but before the CoC has been constituted: Although Section 12A continues to be silent on this aspect, after the decision in Swiss Ribbons (supra), Regulation 30A was amended to provide for this eventuality. An application for withdrawal in such cases may be made by the applicant through the IRP. The IRP will then place the application before the 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,* ***the NCLT must hear the concerned parties and consider all relevant factors before approving or rejecting the application for withdrawal****. The 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.*

,,,"

11.12 From the aforesaid extract, it is clear that the Hon'ble Supreme Court has held that once the Corporate Debtor is admitted into CIRP, the proceedings assume the character of proceedings *in rem*. Accordingly, where withdrawal of CIRP is sought after its initiation but before the constitution of the CoC, this Tribunal is required to consider the

application after hearing all parties concerned and taking into account the relevant factors, having regard to the facts and circumstances of each case.

11.13 In the present case, six other Financial Creditors have not only submitted their respective claims to the IRP but have also filed Intervention Petitions opposing withdrawal of the CIRP and seeking its continuation. The settlement in question is confined to one Financial Creditor for Rs. 10 Crore against the claimed default of Rs. 28,04,91,115/-. The claims of the Intervenors are substantial, one of them being approximately Rs. 183 Crore. Further, the IRP had informed the Hon'ble NCLAT that claims aggregating to approximately Rs. 600 Crore had been received. The other Financial Creditors are not parties to the settlement, and no material has been placed on record to establish that their claims have also been settled or that any such settlement is proposed. The ability of the Corporate Debtor to resolve its financial liabilities vis-a-vis its creditors is a relevant consideration while determining an application for withdrawal of CIRP. A settlement with one Financial Creditor, in the wake of significant larger amount pertaining to the other creditors remaining outstanding, does not, by itself, establish the Corporate Debtor's ability to resolve its financial distress. Furthermore, it is also relevant to note that the higher threshold of approval by 90% of the voting share of the CoC under Section 12A of the Code is intended to safeguard the interests of the significant majority of creditors and ensure that withdrawal of CIRP is not permitted solely on the basis of a settlement with an individual creditor or some creditors.

11.14 With regard to the contention of the original Financial Creditor that the Intervenors may pursue their respective petitions under Section 7 of the Code, it is relevant to note that, pursuant to the admission order dated 12.12.2025 passed in C.P. No. 729 of 2025, the other Section 7 petitions were dismissed, with directions to the concerned creditors to submit their respective claims before the IRP. Permitting withdrawal of the CIRP at this stage may necessitate the revival or fresh filing of multiple

proceedings, thereby leading to multiplicity of litigation and further delay, which would not serve the interests of either the creditors or the Corporate Debtor. The collective framework of the Code is intended to facilitate resolution in the interests of all creditors, rather than permit individual enforcement or settlement to the exclusion of other creditors. As regards the question of limitation of enforcement of claims, if any, the same shall be considered by the IRP and the CoC, as applicable, at the stage of verification and consideration of claims.

11.15 In addition, and without prejudice to the aforesaid, even if the amended provisions of Section 12A are applied, the present application would not merit acceptance. Sub-section (1) of the amended Section 12A requires the approval of ninety per cent of the voting share of the Committee of Creditors for withdrawal of the CIRP, while sub-section (2)(a) expressly bars withdrawal before the constitution of the Committee of Creditors. In the present case, the Committee of Creditors has not been constituted, and the settlement relied upon is confined to the claim of the original Financial Creditor. In the absence of the requisite approval of the CoC under Section 12A(1), the statutory requirements for withdrawal are not satisfied. Accordingly, the present application is liable to be dismissed even under the amended provision.

12. Having considered the facts and circumstances of the present case, the implications of withdrawal, and the objectives of the Code, we are of the considered opinion that the CIRP initiated by admitting Petition No. 729 of 2025, cannot be permitted to be withdrawn solely on the basis of a settlement with one Financial Creditor. Accordingly, **I.A. No. 166/2026** is **dismissed**.

13. Since I.A. No. 129/2026 seeks the same relief and the findings recorded herein apply equally to the said Application, **I.A. No. 129/2026** is also **dismissed**.

14. In view of the order of dismissal of I.A. No. 166/2026, decision in regard to other independent issue raised and/or impleadment in Intervention Petitions **IVN. P. Nos. 8/2026**, **9/2026**, **15/2026**, **24/2026**, **25/2026**

and **81/2026** become academic in nature. Accordingly, these Intervention Petitions are **disposed of** without returning findings as to the other independent issues raised therein or allowing their impleadment.

Sd/-	**Sd/-**
Vinay Goel	**Charanjeet Singh Gulati**
Member (Judicial)	Member (Technical)

Omkar, LRA.