NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 2062 of 2026

[Arising out of the Impugned Order dated 16.10.2026 passed by the Adjudicating Authority, National Company Law Tribunal, Mumbai Bench – Court V in I.A./ 166 (MB) / 2026 filed in C.P.(IB) No. 729(MB)/2025]

IN THE MATTER OF:

Devesh Karda
Suspended Director of Dharan Infra-EPC Limited,
R/o Karda House, Anand Nagar, Khole Mala,
Nasik Road, Maharashtra – 422101
Email:kardadevesh.kcl@gmail.com
Mobile: 8554994720 **...Appellant**

Versus
Tata Capital Housing Finance Limited
Through its authorised officer
(CIN No. U67190MH2008PLC187552)
Address: 11th Floor, Tower A,
Peninsula Business Park, Ganpatrao Kadam Marg,
Lower Parel, Mumbai – 400013
Email: ssalawfirm@ssalawfirm.in;
customercare.housing@tatacapital.com **...Respondent No. 1**

Ms. Palak Swapnil Desai
Interim Resolution Professional of Dharan Infra-EPC Limited
Address: 901, 9th Floor, Park Vistas,
Opposite Lallubhai Park, Near MTNL,
Andheri West, Mumbai – 400058
Email: cirp.dharaninfra@gmail.com **...Respondent No. 2**

Dharan Infra-EPC Limited
Through Interim Resolution Professional,
(CIN L45400MH2007PLC174194)
Address: 2nd Floor, Gulmohar Status, above
Business Bank, Samarth Nagar, Nashik,
Maharashtra – 422005
Email: cirp.dharaninfra@gmail.com **...Respondent No. 3**

Mr. Gajanan Damodar Deokar
Address: Flat No. 172, Jolly Maker Apartment No. 2, opposite World Trade Centre, Cuffe Parade, Mumbai – 400005
Email: gajanandeokar2@gmail.com **...Respondent No. 4**

M/s. G.D. Deokar & Sons
Through its partner Mr. Gajanan Damodar Deokar
Address: 204, Nikita Apartment, Jalgaon – 425001
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M/s. Metro Associates
Through its partner Mr. Heman Pokardas Tilokani.
Address: 311, United Industrial Premises, Mogal Lane, Mahim, Mumbai, Maharashtra – 400016
Email: info@metrorealty.co.in; metroassociates2016@gmail.com **...Respondent No. 6**

Metro Polymers Private Limited
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Email: metropolymersnasik@gmail.com **...Respondent No. 7**

M/s. Metro Industries
Through its partner Mr. Heman Pokardas Tilokani.
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Email: info@metrorealty.co.in; metroassociates2016@gmail.com **...Respondent No. 8**

LIC Housing Finance Limited
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Email: lichousing@lichousing.com **...Respondent No. 9**

Capri Global Capital Limited
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Canara Bank
Through its authorised officer
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Karnataka – 560002
Email: hocss1@canarabank.com **...Respondent No. 11**

Present:

For Appellant : Mr. Shikhil Suri, Sr. Adv. with Vipin S. Bansal, Swapnil Balajiwale, Wamika, Sakshi, Azeem A Dosi, Adv.

For Respondents : Mr. Kunal Kanungo, Tanushree Kanungo, Tanushree Sogani, Atishay Jain, Adv.
Adv. Sikha Ginodia, Adv. Narpat Singh, Adv. Vanshika Gupta, for R10
Adv. Shawn Fernandes for R6-8
Adv. Veera Mathai for R11

O R D E R
(HYBRID MODE)

Per: Barun Mitra, Member (Technical)

The present appeal filed under Section 61 of the Insolvency and Bankruptcy Code, 2016 ('**IBC**' in short) by the Appellant-Suspended Director of Dharan Infra-EPC Ltd. arises out of the Order dated 16.10.2026 (hereinafter referred to as the '**Impugned Order**') passed by the Adjudicating Authority (National Company Law Tribunal, Mumbai Bench, Court-V) in C.P.(IB)/729(MB)2025. By the said impugned order, the Adjudicating Authority has dismissed I.A No. 166 of 2026 filed by the Interim Resolution Professional ('**IRP**' in short) under Section 12A of the IBC seeking withdrawal of the Corporate Insolvency Resolution Process ('**CIRP**' in short) initiated against Dharan Infra-EPC Ltd.-Corporate Debtor.

2. The salient facts of the present case which are relevant to be noticed for consideration of the matter at hand is that the Corporate Debtor had been admitted into CIRP on 12.12.2025 following a Section 7 petition filed by Tata

Capital Housing Finance Ltd.-Financial Creditor. The IRP appointed for conduct of CIRP proceedings published Form A on 15.12.2025 inviting claims from the creditors of the Corporate Debtor. The last date to constitute the Committee of Creditors ('**CoC**' in short) was 04.01.2026. However, before the CoC was constituted, the Appellant offered a settlement proposal to the Respondent No.1-Financial Creditor which settlement proposal was accepted by the Respondent No. 1. On full and final settlement amount having been received, Respondent No. 1 furnished Form FA to the IRP on 01.01.2026 requesting the withdrawal of CIRP of the Appellant-Corporate Debtor. Accordingly, I.A No. 166 of 2026 was filed through the IRP on 06.01.2026 before the Adjudicating Authority seeking withdrawal of C.P.(IB)/729(MB)2025. The Adjudicating Authority took notice that six other financial creditors had submitted their respective claims to the IRP and also opposed the withdrawal of the CIRP by way of filing intervention petitions. The Adjudicating Authority declined the Section 12A proposal, and aggrieved by the impugned order, the present appeal has been preferred by the suspended Director.

3. Making submissions on behalf of the Appellant, Shri Shikhil Suri, Ld. Sr. Counsel for the Appellant, submitted that in the present facts of the case, the CIRP admission of the Corporate Debtor occurred on 12.12.2025; Form FA was submitted by the Financial Creditor-Respondent No. 1 on 01.01.2026 and Section 12A withdrawal application vide I.A No. 166 of 2026 was filed on 06.01.2026. The CoC had not yet been constituted at the time when the withdrawal application was filed. Furthermore, all the three events viz. CIRP

admission, submission of Form FA and filing of withdrawal application had preceded the coming into operation of the amended Section 12A. Submission was pressed that since the settlement with the original Financial Creditor-Respondent No. 1 had reached its logical conclusion even before the CoC was constituted, the debt stood extinguished and there was no pending issue of debt or default qua the Respondent No. 1.

4. It was pressed strongly that a Corporate Debtor company can be admitted into CIRP only on a judicial finding returned by the Adjudicating Authority of a default as defined under the IBC. In the present case, when there is no subsisting debt and default, the Adjudicating Authority committed an error in disallowing the Section 12A withdrawal application. Mere receipt, verification or admission of claims of other Financial Creditors by the IRP was not a cogent ground for rejecting the Section 12A application. Once the default amount relied upon by the original Financial Creditor-Respondent No. 1 forming the basis of the Section 7 petition stood fully and finally settled, the withdrawal application should have been allowed. Even if there existed outstanding claims of other Financial Creditors which were yet to be settled, any such purported debt and default relied upon by other objecting Financial Creditors opposing the Section 12A withdrawal could not have been entertained by the Adjudicating Authority for it required independent judicial determination that atleast one of their claims constituted a default as defined under the IBC. In the absence of an adjudicated default at the time of consideration of the withdrawal application, the Corporate Debtor has to be automatically released from the rigours of CIRP. It was emphatically asserted

that there has to be a proper application of judicial mind by the Adjudicating Authority for determination and consideration of the issue of subsistence of any debt and default. It was contended that the Adjudicating Authority erred in failing to carry out the said adjudicatory exercise and to reject the withdrawal application.

5. Heard. We have also perused the records carefully.

6. Coming to the statutory framework, it is Section 12A of the IBC which deals with withdrawal of applications admitted under Sections 7, 9 and 10 of the IBC. Section 12A of the IBC was amended vide Insolvency and Bankruptcy Code (Amendment) Act, 2026 and the amended provision came into operation w.e.f. 26.05.2026. When we look at the impugned order, we find that it has been duly considered by the Adjudicating Authority as to whether Section 12A was applicable in its pre-amended version or as per the amended version in the present matter. To arrive at its finding, the impugned order has taken cognisance of the chronological sequence of three critical events and taken notice that the Corporate Debtor was admitted into CIRP on 12.12.2025; the Financial Creditor had submitted claims in Form FA on 01.01.2026 and I.A. No. 166 of 2026 seeking withdrawal of the CIRP was filed on 06.01.2026. It also concluded that these developments clearly preceded 26.05.2026 being the date from which amended Section 12A came into operation. Hence, in our considered view, the Adjudicating Authority has rightly held that the present application is to be considered in accordance with the pre-amended Section 12A of the IBC.

7. For ease of convenience, we would now like to advert our attention to the pre-amended Section 12A which is as extracted below:

> *"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."*

8. This now brings us to the CIRP Regulation 30A which deals with applications for withdrawal of Section 12A. In the present case, admittedly the CoC had not been constituted at the time when the Section 12A application was filed. The IRP had also admittedly filed Section 12A application under CIRP Regulation 30A(1)(a) of the CIRP Regulations which is as extracted below:

> *"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;"*

When we peruse the above CIRP Regulation 30A(1)(a), it clearly provides that an application for withdrawal under Section 12A can be made before the constitution of the CoC through the IRP.

9. When the pre-amended Section 12A of IBC is read in conjunction with Regulation 30A(1)(a) of the CIRP Regulations, we have no ambiguity in our minds that the statutory framework permits withdrawal of the CIRP through the IRP with the approval of 90% voting share of the CoC.

10. Coming to the impugned order, we find that the Adjudicating Authority rejected the Section 12A application on the grounds as excerpted hereunder:

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.

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.

(Emphasis supplied)

11. Further when we peruse Para 11.11 of the impugned order, it is clear that the Adjudicating Authority has placed reliance on the judgment passed by the Hon'ble Supreme Court in ***GLAS Trust Company LLC Vs. BYJU Raveendran & Ors. in Civil Appeal No. 9986 of 2024*** wherein the Hon'ble Apex Court had considered the issue of withdrawal of CIRP prior to constitution of the CoC and held that that after initiation of CIRP, the proceedings assume the character of proceedings *in rem* and no longer remain

the preserve of the original applicant. It is also pertinent to add here that ***GLAS Trust*** judgement is dated 23.10.2024 and hence falls in the era of pre-amended Section 12A and therefore squarely applicable in the present case.

12. The Adjudicating Authority has thereafter at para 11.13 of the impugned order taken notice that in the present case, six other financial creditors submitted their respective claims to the IRP and opposed the withdrawal of the CIRP by way of filing intervention petitions. It has also noticed that the IRP had earlier informed this Tribunal that claims aggregating to approximately Rs. 600 Cr. had been received by him. The Adjudicating Authority has therefore held that CIRP cannot be permitted to be withdrawn solely on the basis of a settlement with one Financial Creditor or some creditors since the approval of 90% of the CoC members warranted by Section 12A is to safeguard majority of the creditors.

13. At this stage, we must advert our attention to the relevant portions of the ***GLAS Trust judgement supra*** as reproduced below:

> *"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. Before the application under Sections 7, 9 or 10 is admitted by the NCLT: …….

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.*

81. Even if the procedural infirmity is kept aside, once the CIRP was admitted, the proceedings became collective, and all creditors of the Corporate Debtor became stakeholders. As noted in Swiss Ribbons (supra), even while invoking Rule 11 to allow withdrawal, the NCLT must hear all the concerned parties and consider all relevant factors on the facts of each case……"

(Emphasis supplied)

14. When we peruse the ***GLAS Trust judgement supra,*** we find that the Hon'ble Apex Court identified four different stages during which a procedure for the withdrawal of CIRP or settlement of claims is contemplated in the IBC framework under the pre-amended Section 12A provisions. The situation applicable in the present case is the second stage outlined at para 63(ii) of the

GLAS Trust judgement supra where the Section 7 application of a Financial Creditor has been admitted and CIRP initiated, though, the CoC has not yet been formed. The proceedings had clearly turned into *in rem* proceedings involving all creditors as necessary stakeholders.

15. We notice that in the present factual matrix, upon admission of the Corporate Debtor into CIRP, six other Financial Creditors had filed intervention petitions before the Adjudicating Authority. These intervenors had also submitted that withdrawal of CIRP be not permitted solely on the basis of settlement between the Appellant and Respondent No. 1. It is also noticed that the IRP had admitted that claims amounting to approximately Rs. 600 Cr. had been received.

16. In terms of the ***GLAS Trust judgment***, at the post-CIRP admission but pre-CoC stage, the Adjudicating Authority is required to hear the concerned parties, consider all relevant factors and apply its judicial mind. Once CIRP is initiated, the proceedings change character from *in personam* to *in rem* proceedings and are no longer the preserve of the original Section 7 Financial Creditor- Applicant. Merely because the settlement with the original Financial Creditor-Respondent No. 1 had materialised, does not make it incumbent upon the Adjudicating Authority to allow the withdrawal application without hearing the contentions of all other concerned parties including creditors who were not original applicants but were opposed to the withdrawal. The Adjudicating Authority after having taken cognisance of the objections of other creditors to the withdrawal proposal, who are stake-holders in the present proceedings which has since assumed the character of *in rem*

proceedings, no infirmity is found in the impugned order in rejecting the application for withdrawal.

17. In result, we find the Appeal to be devoid of merit. The impugned order does not warrant any interference. The Appeal is dismissed with no costs.

[Justice Yogesh Khanna]
Member (Judicial)

[Barun Mitra]
Member (Technical)

[Ajai Das Mehrotra]
Member (Technical)

Place: New Delhi
Date :26.11.2026
Sheetal/Farhan