

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH, (COURT NO.-II)

KOLKATA

I.A.(IBC)5(KB)2026

In

C.P.(IBC)24(KB)2025

An application under Section 12A of the Insolvency and Bankruptcy Code, 2016 read with Regulation 30A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and also read with Rule 11 of the NCLT Rules, 2016;

And

IN THE MATTER OF

Aditya Birla Capital Limited
(formerly known as Aditya Birla Finance Limited), having its Registered Office at: Indian Rayon Compound, Veraval, Gujarat 362266.

...Financial Creditor

Versus

Priya Food Products Limited,
having its Registered Office at:
BF-45, Salt Lake City Sector-I,
1st Floor, North Parganas, Kolkata
- 700064.

...Corporate Debtor

IN THE MATTER OF

Mahesh Chand Gupta, Resolution Professional of Priya Food Products Private Limited, having

office at FE202, Salt Lake City,
Sector - III, 1st floor, Kolkata -
700106

...Applicant

CORAM:

MR. LABH SINGH, HON'BLE MEMBER (JUDICIAL)

MS. REKHA KANTILAL SHAH, HON'BLE MEMBER (TECHNICAL)

APPEARANCES (Via Hybrid mode):

Mr. Amit Kr. Nag, Adv.] For Financial Creditor
Mr. Ranjabati Ray, Adv.]
Mr. Saptarshi Kar, Adv.]

Mr. R.R. Modi, Adv.] For Resolution Professional
Ms. Shreyosee Mullick, Adv.]

Order Pronounced On:22.6.2026

O R D E R

(Hearing through Hybrid Mode)

LABH SINGH, JUDICIAL MEMBER

1. The present application has been filed by the applicant being Resolution Professional of Corporate Debtor, Priya Food Products Private Limited under Section 12A of the IBC 2016 read with Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 read with Rule 11 of the NCLT Rules, 2016 seeking the following reliefs:

- a. *To allow withdrawal of the CIRP process initiated under the Insolvency and Bankruptcy Code, 2016 in view of the settlement arrived at and resolution for withdrawal having been approved by the CoC with 100% voting in its favour;*
 - b. *To allow Mr. Mahesh Chand Gupta, Resolution Professional of the Corporate Debtor to be discharged of his duties;*
 - c. *To condone the delay in filing the withdrawal application;*
 - d. *To pass any other order/order(s) that this Hon'ble Tribunal may deem fit and proper.*
2. The Financial Creditor filed an application under Section 7 of the IBC, 2016 against the Corporate Debtor, and the same was admitted by this Tribunal vide order dated 18.09.2025, declaring the commencement of the Corporate Insolvency Resolution Process (CIRP). Mr. Mahesh Chand Gupta was appointed as the Interim Resolution Professional (IRP) and thereafter, the Committee of Creditors (CoC) in its 1st meeting assented with 100% voting in favour of the resolution to appoint him as the Resolution Professional.
 3. The applicant made a public announcement in Form-A on 22.09.2025 inviting creditors to submit claims, with the last date for submission being 02.10.2025. Pursuant to the public announcement, a claim from one secured Financial

Creditor, Aditya Birla Capital Limited, was received and the CoC was constituted based on this claim. The list of creditors reflected only one name as the sole secured financial creditor with an admitted claim of Rs. 12,52,64,864.05, holding 100% voting rights.

4. Thereafter, on 17.10.2025, another claim was received from the Employee's State Insurance Corporation as an Operational Creditor for an admitted claim of Rs. 4,12,797/-. During the pendency of the CIRP, a Director and authorized signatory of the Principal Borrower, on behalf of the co-borrower (the Corporate Debtor), submitted a One-Time Settlement (OTS) proposal on 06.10.2025 requesting the Financial Creditor to discharge the loan liabilities. An amount of Rs. 9,00,00,000/- was offered as a full and final settlement of all pending dues to be paid on or before 31.10.2025.
5. It is submitted that the sole Financial Creditor accepted the OTS proposal via a letter dated 10.10.2025 and subsequently informed the Applicant on 07.11.2025 that they had received the full and final payment of the OTS offer. Consequently, the Financial Creditor proposed to withdraw the application admitted under Section 7 of the IBC in terms of Section 12A of the IBC 2016 read with Regulation 30A of CIRP Regulations.
6. It is submitted that in the 2nd CoC Meeting dated 03.12.2025, the resolution for the withdrawal of the CIRP

against the Corporate Debtor was put to vote. The CoC voted in favour of the resolution with 100% voting, noting that the entire outstanding debt had been fully discharged and the default that led to the initiation of the CIRP was extinguished. The relevant extract of the minutes of the CoC is reproduced below:

“RESOLOLVED THAT the Corporate Insolvency Resolution Process against the CD-Priya Food Products Limited, be and is hereby approved to be withdrawn immediately in view of the settlement of debts by the CD reached with the CD and full payment of settlement amount made by the CD, in terms of the provisions of Sec 12A of IBC read with regulation 30A of CIRP regulations”

“RESOLVED FURTHER THAT an application be made with the Hon’ble NCLT, Kolkata Bench for withdrawal of the application admitted under Section 7 of the Insolvency and Bankruptcy Code, 2016, in terms of Section 12A of the IBC read with Regulation 30A of the CIRP regulations as per Form FA received from the FC and the RP be and is hereby authorised to take necessary steps including engagement of Advocates for this purpose and the fee payable be form part of CIRP Cost”

7. It is submitted that, following the approval for withdrawal,

the Financial Creditor submitted Form FA on 03.12.2025. Regarding CIRP expenses. It was stated that out of the total expenses of Rs. 3,52,265.90, an amount of Rs. 3,00,000 has already been paid and the remaining balance of Rs. 52,265.90 will be paid shortly.

8. It is submitted that, in terms of Regulation 30A of the CIRP Regulations, the application for withdrawal must be filed within 3 days of the approval of the CoC. The application for withdrawal was received on 03.12.2025 and was subsequently approved by the CoC on 11.12.2025. Therefore, it is submitted that there is a delay in filing the instant application, which was without any mala-fide intention, and the applicant seeks condonation of the delay in filing the same.
9. Heard Learned Counsel appearing for the parties. We have gone through the case file carefully and perused the pleadings and documents placed on record by the parties and heard the arguments put forth by learned Counsels for the parties.
10. It is pertinent to refer relevant provision of Section 12-A of the IBC Code 2016 which read as follow:

“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

percent. voting share of the committee of creditors, in such manner as may be prescribed.”

11. Thus, as per Section 12-A of the IBC Code 2016, the withdrawal of an admitted application under Section 7 or 9 or 10 is permissible subject to approval of the Committee of Creditor having majority voting share of 90%.

12. It is also relevant to refer provision of Regulation 30A of the IBBI(CIRP) Regulation 2016 which came into effect on 25th July 2019 which read as follow:

“30A. Withdrawal of application:

(1) An application for withdrawal under section 12A may be made to the Adjudicating Authority -

(a) before the constitution of the committee, by the applicant through the interim resolution professional;

(b) after the constitution of the committee, by the applicant through the interim resolution professional or the resolution professional, as the case may be:

Provided that where the application is made under clause (b) after the issue of invitation for expression of interest under regulation 36A, the applicant shall state the reasons justifying withdrawal after issue of such invitation.

(2) The application under sub-regulation (1) shall be made in Form FA of the 3[Schedule-I] accompanied by a

bank guarantee-

(a) towards estimated expenses incurred on or by the interim resolution professional for purposes of regulation 33, till the date of filing of the application under clause (a) of sub-regulation (1);
or

(b) towards estimated expenses incurred for purposes of clauses (aa), (ab), (c) and (d) of regulation 31, till the date of filing of the application under clause (b) of sub-regulation (1).

(3) Where an application for withdrawal is under clause (a) of sub-regulation (1), the interim resolution professional shall submit the application to the Adjudicating Authority on behalf of the applicant, within three days of its receipt.

(4) Where an application for withdrawal is under clause (b) of sub-regulation (1), the committee shall consider the application, within seven days of its receipt.

(5) Where the application referred to in sub-regulation (4) is approved by the committee with ninety percent voting share, the resolution professional shall submit such application along with the approval of the committee, to the Adjudicating Authority on behalf of the applicant, within three

days of such approval.

(6) The Adjudicating Authority may, by order, approve the application submitted under sub-regulation (3) or (5).

(7) Where the application is approved under sub-regulation (6), the applicant shall deposit an amount, towards the actual expenses incurred for the purposes referred to in clause (a) or clause (b) of sub-regulation (2) till the date of approval by the Adjudicating Authority, as determined by the interim resolution professional or resolution professional, as the case may be, within three days of such approval, in the bank account of the corporate debtor, failing which the bank guarantee received under sub-regulation (2) shall be invoked, without prejudice to any other action permissible against the applicant under the Code.”

13. We observe that regarding procedural compliance, the Financial Creditor submitted Form FA on 03.12.2025, and it has been noted that out of the total CIRP expenses of Rs. 3,52,265.90, a sum of Rs. 3,00,000 has already been paid, with the remaining balance to be settled shortly.
14. Upon pursuing the records and submissions, this Tribunal finds that the proposal for the withdrawal of the Corporate Insolvency Resolution Process (CIRP) was formally considered

during the 2nd Meeting of the Committee of Creditors (CoC) held on 03.12.2025. Following a voting window that remained open from 05.12.2025 to 11.12.2025, the resolution to withdraw the application admitted under Section 7 of the IBC was approved unanimously with 100% voting share.

15. This decision was predicated on the successful execution of a One-Time Settlement, through which the Corporate Debtor ensured the full discharge of all outstanding liabilities owed to the sole Financial Creditor, thereby effectively extinguishing the default.
16. Regarding the procedural mandates of Regulation 30A of the CIRP Regulations, it is noted that while the Financial Creditor submitted the requisite Form FA on 03.12.2025, there was a procedural delay in filing the instant application. Under the strict timelines of Regulation 30A, a withdrawal application must typically be filed within three days of the CoC's approval; here, the approval was finalized on 11.12.2025.
17. However, since the underlying debt has been fully satisfied and the withdrawal is supported by the entire CoC, this Tribunal accepts the applicant's submission that the delay was devoid of mala-fide intention.
18. Consequently, despite the minor technical delay, the substantive requirements for withdrawal under Section 12A of the IBC, 2016 have been met.

19. Therefore, in view of the above, the present application being I.A.(IBC)5(KB)2026 stands allowed and the CIRP process is hereby withdrawn. The C.P.(IBC)24(KB)2025 stands dismissed as withdrawn with no order as to costs.
20. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Counsel, the Registrar of Companies, State of West Bengal at earliest possible but not later than 15 days from today for information and for taking necessary steps.
21. File be consigned to records.

Rekha Kantilal Shah
Member (Technical)

Labh Singh
Member (Judicial)

(The Order signed this, on the 22nd day of June 2026)

SRIDHAR.R(LRA)