IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT– I) CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **29.07.2026** THROUGH VIDEO CONFERENCING

PRESENT: **HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)**
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

IN THE MATTER OF **:** Ambal Agencies
Vs
Sargam Metals Pvt Ltd

MAIN PETITION NUMBER **:** CP(IB)/211(CHE)/2022

(IA/MA) APPLICATION NUMBERS

IA(IBC)/954(CHE)2026; IA(IBC)/938(CHE)2026; IA(IBC)/962(CHE)2026; IA(IBC)/1032/(CHE)2026; IA(IBC)/1004(CHE)/2026; IA(IBC)/990(CHE)/2026

ORDER

Present: Ld. Counsel Shri. Varun Srinivasan for the RP.

Ld. Counsel Ms. Archana for the Applicant in IA/990/2023.

None for the Applicant / Operational Creditor in IA/954/2026.

None for the Applicant / Promoter Director in IA/1032/2026.

Vide common order pronounced in Open Court, **IA/954/2026 is dismissed. IA/1032/2026 is dismissed. IA/938/2026, IA/962/2026 and IA/1004/2026 are disposed of.**

List IA/990/2026 for reply / hearing on 14.08.2026.

Sd/-
(VENKATARAMAN SUBRAMANIAM)
MEMBER (TECHNICAL)

Sd/-
(SANJIV JAIN)
MEMBER (JUDICIAL)

MG

Date: 29.07.2026

IN THE NATIONAL COMPANY LAW TRIBUNAL, DIVISION BENCH – I, CHENNAI

In the matter of ***Sargam Metals Pvt. Ltd***

IA(IBC)/954(Che)/2026

In

CP(IB)/211(Che)/2022

(filed under Section 12A of the Insolvency and Bankruptcy Code, r/w 30A of the CIRP Regulations, 2016 and Rule 11 of the National Company Law Tribunal Rules, 2016)

Mr. Neeraj Agarwal,
Proprietor- Ambal Agencies,
having office at #63,
Thattankullam Road,
Madhavaram, Chennai - 600 060. ... Operational Creditor/Applicant

Vs

1. Mr. S.Arun,
Suspended Director of M/s. Sargam Metals Pvt. Ltd
Having Office at Plot No. 7A, SIPCOT, Industrial Park,
Chellaperambulimedu Village,
Cheyyar, Thiruvanmallai-631701. ... Corporate Debtor/Respondent 1

2. Mr. KJ Vinod,
Interim Resolution Professional of M/s. Sargam Metals Pvt. Ltd.,
Having Office at Flat No. B 602, Santha Tower-I,
Paruthipattu, Avadi, Chennai-600071. ...Interim Resolution Professional/ Respondent 2

And

IA(IBC)/938(Che)/2026

In

CP(IB)/211(Che)/2022

(filed under Regulation 17(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 r/w Rule 11 of the NCLT Rules, 2016)

Mr. K J Vinod,
Interim Resolution Professional
Registration No. IBBI/IPA-003/ICAIN-00291/2020-2021/13451
Flat No. B-602, Santha Towers,
Paruthipattu, Avadi, Chennai - 600 071
Email ID: kjvinod05@rediffmail.com ...Applicant/Interim Resolution Professional

And

IA(IBC)/962 (Che)/2026

In

CP(IB)/211(Che)/2022

(filed under SECTION 60(5) of the Insolvency and Bankruptcy Code, 2016, r/w Rule 11 Of The National Company Law Tribunal (Rules), 2016*)*

Mr. K J Vinod,
Interim Resolution Professional
Registration No. IBBI/IPA-003/ICAIN-00291/2020-2021/13451
Flat No. B-602, Santha Towers,
Paruthipattu, Avadi, Chennai - 600 071 ...Applicant/Interim Resolution Professional

And

IA(IBC)/1032(Che)/2026

In

CP(IB)/211(Che)/2022

(filed under Rule 11 of the National Company Law Tribunal Rules, 2016*)*

Mr. S. Arun,
Suspended Director of M/s. Sargam Metals Pvt. Ltd.,
having office at Plot No. 7A, SIPCOT Industrial Park,
Chellaperambulimedu Village, Cheyyar,
Thiruvannamalai 631 701. ... Applicant

Vs

1. Mr. K.J. Vinod,
Interim Resolution Professional of M/s. Sargam Metals Pvt. Ltd.,
having office at Flat No. B 602,
Santha Tower-I,
Paruthipattu, Avadi,
Chennai - 600 071. ... Respondent No. 1/Interim Resolution Professional

2. The Manager, Indian Bank,
PB No. 3171, SIDCO Building,
GST Road, Guindy, Chennai - 600 032 ... Respondent No. 2/Third Party

3. Mr. Neeraj Agarwal,
Proprietor - Ambal Agencies,
having office at #63, Thattankullam Road,
Madhavaram,
Chennai-600 060. ... Respondent No. 3/ Operational Creditor

And

IA(IBC)/1004(Che)/2026

In

CP(IB)/211(Che)/2022

(filed under Regulation 15 of the IBBI (Liquidation Process) Regulations, 2016)

Mr. K J Vinod,
Interim Resolution Professional
Registration No. IBBI/IPA-003/ICAIN-00291/2020-2021/13451
Flat No. B-602, Santha Towers,
Paruthipattu, Avadi, Chennai - 600 071
Email ID: kjvinod05@rediffmail.com ...Applicant/Interim Resolution Professional

Order pronounced on ***29th July, 2026***

CORAM :

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Operational Creditor	*: Ld. Sr Counsel R. Shanakaranarayanan with Ld. Counsel C.Thyagarajan*
For IRP	*: Ld.Counsel Varun Srinivasan*
For Arun Erstwhile Director	*: Ld. Sr Counsel S. R. Rajagopal with Ld Counsel A. Anirudh Sriram*
For Administrator NLOFL	*: Ld. Counsel Siji Abraham*

ORDER

1. **IA(IBC)/954(Che)/2026** has been filed by Mr. Neeraj Agarwal , Operational Creditor/ Petitioner seeking the following reliefs:-

> *"a) To permit withdrawal of the Petition bearing CP(IB)No.211/2022 filed by the Applicant, under **Section 12A of the Code** read with Rule 11 of the NCLT Rules, 2016, in view of the Settlement Agreement dated 15.05.2026 executed by and between the parties, and consequently recall/close the CIRP initiated against the Corporate Debtor vide Order dated 28.11.2024, in the interest of justice;*
>
> *b) To pass any other order as it may deem fit in the facts and circumstances of the case."*

2. IA(IBC)/938(Che)/2026 has been filed by the IRP K. J. Vinod seeking the following reliefs: -

> *"1. Take on record the list of Creditors;*
>
> *2. Take on record the Constitution of the 1st CoC meeting; and*
>
> *3. Pass such other Orders as this Tribunal may deem fit and thus render justice."*

3. IA(IBC)/962(Che)/2026 has been filed by IRP K.J.Vinod seeking the following reliefs: -

> *"a) To grant exclusion of time from the CIRP period of the Corporate Debtor from 11.12.2024 (date of interim stay granted by the Hon'ble NCLAT) till 21.04.2026 (till the date of dismissal of the Appeal by the Hon'ble NCLAT) totalling upto 496 days;*
>
> *b) Pass such other directions as this Tribunal may deem fit and necessary in the interest of justice."*

4. IA(IBC)/1032(Che)/2026 has been filed by S. Arun Ex-Promoter Director seeking the following reliefs: -

"a) To direct Respondent No. 1/ Interim Resolution Professional to forthwith withdraw and recall his instruction dated 03.06.2026 (Ref. CIRP/SMPL/2026-2027-01) issued to Respondent No. 2, and direct Respondent No. 2/ Banker to forthwith lift and de-freeze the freeze on debit transactions in Current Account No. 0000000041941783 of the Corporate Debtor maintained with the Indian Bank, Guindy Branch, and to permit operation of the said account in the ordinary course of business, so as to enable the Corporate Debtor to function as a going concern and to give effect to the Settlement Agreement dated 15.05.2026, in the interest of justice;

b) pass any other order as this Adjudicating Authority may deem fit and proper in the facts and circumstances of the case."

5. IA(IBC)/1004(Che)/2026 has been filed IRP K. J. Vinod Kumar seeking the following reliefs: -

"a) To pass an appropriate order in accepting the 2nd Status Report of the Applicant/IRP for the period from 28.11.2024 to 04.06.2026 pertaining to the status of the Corporate Insolvency Resolution Process;

b) Pass such other directions as this Tribunal may deem fit and necessary in the interest of justice."

6. Brief History

6.1. Mr. Neeraj Agarwal , Proprietor of *Ambal Agencies* (Operational Creditor) filed a Petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("Code") against the Corporate Debtor, *Sargam Metals Pvt Ltd* ("Corporate Debtor") on 05.09.2022, which was numbered as **C.P. (IB)/211/CHE/2022.**

6.2. Corporate Debtor was admitted into CIRP by the Tribunal vide Order dated **28.11.2024** and by the said Order Mr. K.J. Vinod was appointed as the IRP of the Corporate Debtor.

6.3. The public announcement was published on 04.12.2024 in Financial Express and Makkal Kural in Chennai (English and vernacular language respectively) and The New Indian Express and Dinamani in Villupuram (English and vernacular language respectively).

6.4. Mr. S. Arun, the suspended director of the Corporate Debtor filed an appeal against the order dated 28.11.2024 admitting the

Corporate Debtor into CIRP before the Hon'ble National Company Law Appellate Tribunal ("NCLAT") on 06.12.2024 in **Company Appeal (AT) (CH) (Ins) No.447/2024**. The subject Appeal was listed before The Hon'ble National Company Law Appellate Tribunal ("NCLAT") on **11.12.2024** and the Hon'ble NCLAT after hearing the Appellant granted an **interim stay** on the CIRP. The interim stay granted by the Hon'ble NCLAT continued till the day of **dismissal of the Appeal** i.e. **21.04.2026**. The said order of Hon'ble NCLAT was uploaded only on **19.05.2026** (as confirmed by registry of Hon'ble NCLAT).

6.5. In the order dated 28.11.2024 passed by this Tribunal Operational Creditor was directed to pay a sum of Rs.2,00,000/- to the IRP. However, Operational Creditor failed to pay the above said amount. A **Contempt Application** was filed by IRP in view of the disobedience of the order of this Tribunal, which was numbered as **IA/101/2025**. Owing to the non-appearance of the Applicant/Operational Creditor, this Tribunal issued warrant of attachment vide Order dated **31.10.2025**. Subsequently the said

Application was withdrawn as the Operational Creditor paid the CIRP Cost and fees on 29.05.2026.

6.6. Events after dismissal of appeal by Hon'ble NCLAT

Date	Event
21.04.2026	Hon'ble NCLAT dismissed Appeal No 447 of 2024
15.05.2026	Corporate Debtor and the Operational Creditor executed the Settlement Agreement / Memorandum of Understanding settling the entire admitted liability.
19.05.2026	The order dated 21.04.2026 was uploaded on Hon'ble NCLAT website
26.05.2026	IBC Amendment Act 2026 was notified as effective from this date. Provisions of New Section 12A came into effect.
28.05.2026	Operational Creditor handed over Form FA along with the Settlement Agreement to the IRP and informed him of the settlement. As per IRP, Form FA was undated and same was intimated by e-mail.

29.05.2026	The CIRP costs / IRP fee, including the fee for filing the Section 12A application, were paid to the IRP.
30.05.2026	As per Operational Creditor, the IRP confirmed receipt and stated that, on confirmation, he could submit / process the withdrawal application under Section 12A.
31.05.2026	IRP addressed an email to the Applicant that the Form FA is **undated** and acknowledged that the CIRP Cost and fees were paid in full on 29.05.2026
01.06.2026	The amendment to **Regulation 30A** came into force. On the same day the IRP purported to constitute the CoC. **Form FA dated 29.05.2026** was received along with application for withdrawal of CIRP process. Signature mismatch issue was raised and clarified on the same day. IRP proceeded with verification of the claims received in terms of Regulations 12 and 13 of the CIRP Regulations and thereafter prepared the list of creditors comprising of 1 (One) Financial Creditor, 1 (One) Operational Creditor and 1 (One) Government Dues. Subsequently, the **Committee of Creditors** was constituted **on 01.06.2026**. The constitution of the CoC was communicated

	to the suspended director vide email dated 02.06.2026.
03.06.2026	The IRP issued a letter (Ref. CIRP/SMPL/2026-2027-01) to the Indian Bank instructing it to stop ALL debit transactions in the Corporate Debtor's account. IRP addressed an email to the suspended director informing that *filing of FORM FA would take time because as per the new Amendment, the same is subject to the purview of CoC*.
05.06.2026	Tribunal, in **IA 954/2026**, directed the IRP not to convene the CoC (including on 08.06.2026) till disposal of the withdrawal application.
10.06.2026	The suspended director filed **IA(IBC)/1032(CHE)/2026** under Rule 11 seeking lifting of the illegal account freeze.

7. IA 954 of 2026 - Withdrawal Application under Section 12A

7.1. Submissions by Operational Creditor

7.1.1. It is stated that **IA 954 of 2026** was filed by the Operational Creditor, for withdrawal of CIRP process initiated under Section 9 based on the petition filed by it. It is stated that the IRP erroneously did not consider the Form FA submitted by the Operational creditor and refused to file application under Section 12A, despite the fact that the Operational creditor and the Corporate Debtor both settled the matter and confirmed the settlement prior to constitution of CoC and the settlement agreement was also prior to the amendment to Section 12A. It is stated that the inaction of the IRP is not warranted and hence the Operational creditor is entitled to file and proceed with the present application.

7.1.2. It is stated that the amendment to Section 12A with effect from 26.05.2026 will not be attracted in the present case for the following reasons:

i) In the present case, both CIRP admission and settlement were prior to 26.05.2026 and hence the amendment is not at all applicable. It is stated that the language of the notification dated 22.05.2026 and the language of the substitution to Section 12A itself in the Insolvency and Bankruptcy (Amendment) Act, 2026 is quite clear that it is *prospective*. The amendment has neither been expressly or impliedly been made retrospective. The amendment will therefore have no bearing at all to the present case.

ii The amendment to Section 12A would only become operative, when the corresponding amendments to Regulation 30A of the CIRP regulations were made on 01.06.2026 (subsequent to the handing over of Form FA). Furthermore, this interpretation is corroborated by the fact that though the Act was amended with effect from 26.05.2026, the corresponding amendment to Regulation 30A which prescribes FORM FA and permits pre-constitution of CoC settlement was amended only on 01.06.2026. In the present case, the Operational creditor submitted Form FA prior to the amendment in 01.06.2026 in line and in conformity with Regulation 30A and Form FA as it existed at that time. The two inescapable conclusions are that the amendment to Section 12A could only take effect from 01.06.2026 which is when the corresponding amendment to Regulation 30A had taken effect and secondly that as on date of submission of the FORM FA by the Operational creditor, only the pre-amended Regulation 30A was in force and the Operational creditor was well within his rights to settle prior to the constitution of CoC.

iii) Lastly, assuming without admitting that the amendment is effective, the right to settlement under the erstwhile Section 12A is protected by virtue of **Section 6 of the General Clauses Act**. Section 6 of the General Clauses Act applies in the case of a repeal of any Central Act or Regulation. In the present case, Section 12A of IBC (a Central Act) was substituted. Hon'ble Supreme Court in *Ramkanali Colliery of BCCL v. Workemen* (2001) 4 SCC 236 at paragraph 8 held that substitution is in effect the same as a repeal, as it is nothing but a repeal and enactment in the same action. Therefore, there can be no doubt on the applicability of Section 6 of the General Clauses Act, 1897. **The effect of Section 6 and more particularly Section 6(c)**

is that the repeal of any Central Act shall not affect any right, privilege, obligation or liability accrued acquired or incurred under any enactment so repealed. Therefore, if the Operational creditor had obtained any right under the previous law, then the same is preserved on repeal by operation of Section 6 of the General Clauses Act. In the present case, the date of settlement was 15.05.2026, which was prior to the date of the amendment to Section 12A. On the date of such settlement, the Operational creditor acquired a valuable right to apply and seek for settlement even prior to the constitution of CoC. Moreover, the right to settlement, is recognized under a statute is considered and held to be a vested right by the Hon'ble Madras High Court in **Jain Metal Rolling Mills v. Union of India [2023] 156 taxmann.com 513 (Mad) at paragraph 37 and 38**. Therefore, by virtue of operation of Section 6, the Operational creditor is entitled to apply under the erstwhile Section 12A and seek settlement even prior to the constitution of CoC. This position was upheld in ***Jindal Oil Mills & Ors v. Somalal Nathji & Ors (1969) 1 SCC 781 at paragraph 10*** where it was held that the law declared by the amending act does not affect any right acquired under the repealed enactment. It merely prescribes what could or should be done in the future. It cannot affect any vested right. Similarly, Hon'ble Madras High Court in ***Tirumalaisami Naidu v. Subramanian Chettiar ILR 40 MAD 1009*** held that a right to sue accrued under the repealed enactment would survive even post amendment.

7.1.3. In the present case, even the admitted position of the IRP is that he "constituted" the CoC on 02.06.2026. This was subsequent to the submission of FORM FA and therefore, the FORM FA and Section 12A had to be considered on the date of its submission *i.e* prior to the constitution of CoC and thus would be of no relevance. Even otherwise, the CoC has not been constituted in the present case as:

◦ There was no public advertisement made after dismissal of the Appeal on 21.04.2026. The constitution seems to be on the basis of claims received pursuant to an advertisement dated 04.12.2024.

◦ The list of creditors is submitted in the form of an IA to this Tribunal and till such time it is taken on record it cannot be said that the CoC has been constituted.

7.1.4. Thus, it is clear that the amendment will not be applicable to the present case and there was no reasonable basis for the IRP to not submit the FORM FA and file an application under Section 12A. That being the case, and notice having been issued to all creditors and no creditor having come forward with any credible opposition., this application is to be allowed pursuant to the ratio laid down in *Glas Trust Company LLC v. Byju Raveendran & Ors (2025) 3 SCC 625* and *Surinder Babbar IRP Of Svarayu Energy Limited IA/IBC/141/2025*.

7.1.5. This Tribunal has, in its order dated 05.06.2026, already recorded a prima facie view in favour of the Operational creditor**.**

While directing the Interim Resolution Professional ("IRP") not to convene the Committee of Creditors ("CoC"), this Tribunal observed that any amendment or Act has to be given effect through the corresponding Regulation, which in the present case came into effect only on 01.06.2026, whereas the Form-FA along with the settlement was received by the IRP on 28.05.2026. The amended Section 12A could not, and cannot, operate against an application set in motion before the enabling Regulation 30A came into force.

7.1.6. It is stated that t**he relevant date for testing the application is 28.05.2026 — the date of submission of the Form-FA — which precedes both the constitution of the CoC and the amendment of Regulation 30A (each on 01.06.2026).** It stands recorded in the order dated 05.06.2026 that the IRP received the Form-FA and the settlement on 28.05.2026, that the CIRP fee was paid on 29.05.2026, and that the IRP himself, by mail dated 30.05.2026, confirmed that upon confirmation he could submit / process the withdrawal application under Section 12A. It is stated that the

Operational creditor could not be made to suffer for the IRP's failure to discharge his purely administerial duty within the statutory three-day period. Under Regulation 30A(3), the IRP was bound to place the Form-FA before this Tribunal within three days of its receipt on 28.05.2026 — that is, by 31.05.2026, before the CoC was constituted and before Regulation 30A was amended (both of which happened on 01.06.2026).

7.1.7. It is stated that the constitution of the CoC on 01.06.2026 was a belated, invalid and attempt to overreach a concluded settlement. The purported constitution on 01.06.2026 — the very day Regulation 30A was amended, after the IRP had received the Form-FA (28.05.2026), the fee (29.05.2026) and confirmed his readiness to process the withdrawal (30.05.2026) was only to bring a settled matter within the mischief of the amended Section 12A(2)(a). **The CIRP having remained frozen throughout its currency, there is no "progress" that the amended Section 12A seeks to protect.** The process stood frozen from 11.12.2024 until

21.04.2026 by reason of the restraint by Hon'ble NCLAT and no resolution steps were taken and no CoC functioned.

7.1.8. It is stated that the appearance of *New Link Overseas Finance Ltd* , the financial creditor posed no impediment to withdrawal. As held in *Abhishek Singh v. Huhtamaki PPL Ltd. & Anr.*, (2025) 5 SCC 465, a settlement arrived at before constitution of the CoC cannot be stifled in anticipation of third party claims; the rights of other creditors are neither whittled down nor adversely affected by the withdrawal, and they remain free to pursue their own remedies in law, including a fresh proceeding under the Code. The said creditor's claim, if any, stands fully preserved.

7.1.9. Under the regime applicable to the present case — the unamended Section 12A read with the pre-amended Regulation 30A — a settlement reached before constitution of the CoC is liable to be allowed forthwith under the inherent power under Rule 11 of the NCLT Rules.

7.2. Submissions by the Suspended director

7.2.1. It is stated that the suspended director fully supports the withdrawal sought in *IA 954/2026*. The Suspended director on behalf of Corporate debtor admitted its liability and settled in full, the dues of the sole Operational Creditor on whose petition the CIRP was admitted. The settlement was arrived at on 15.05.2026 — before the Committee of Creditors (CoC) was constituted and before the amendment to Section 12A came into force. It is stated that there is no reason in law to keep the Corporate Debtor in CIRP.

7.2.2. It is stated that the amended Section 12A is prospective and applies only to applications admitted under Sections 7, 9 and 10 after 26.05.2026. It has no application to a CIRP admitted in 2024 and settled before the amendment. It is stated that by its order dated **05.06.2026** in IA 954/2026, this Tribunal noted that any amendment or Act has to be given effect through the corresponding Regulation, which came into force only on

01.06.2026, whereas Form FA along with the settlement was received by the IRP on 28.05.2026, and accordingly directed the IRP not to convene the CoC till disposal of the application. The Suspended director adopts and supports this reasoning and prays that it be carried to its logical conclusion.

7.2.3. It is stated that the CoC was never validly constituted, and its constitution stands stayed. The CIRP remained frozen throughout, and there is no "progress" that the amendment seeks to protect.

7.2.4. In ***KK Kartheeswaran v. Ranchpride Agrocomm Pvt. Ltd.***, *Company Appeal (AT)(CH)(Ins.) No. 625/2025*, order dated 17.04.2026 (paragraph 7), Hon'ble NCLAT held that where a CIRP was initiated and a settlement was arrived at prior to the Amendment Act, 2026, the settlement has to be considered in the light of the pre-amended Section 12A. The facts of the present case are identical.

7.3. Submissions by IRP

7.3.1. It is stated that on the late evening of 28.05.2026 IRP received an ***undated Form FA*** which was delivered in person, stating that the suspended Director (the Respondent No.1) and the Operational Creditor (the Applicant) entered into a Settlement Agreement dated 15.05.2026.

7.3.2. On **29.05.2026** the CIRP cost and IRP fees were paid in to the credit of IRP Bank Account.

7.3.3. On **31.05.2026** IRP addressed an email to the Operational Creditor that the *Form FA is undated* and acknowledged that the CIRP Cost and fees were paid in full on 29.05.2026 and in view of the same, the FORM FA could not be back dated.

7.3.4. On **01.06.2026** IRP received the **Form FA dated 29.05.2026** i.e. application for withdrawal of CIRP process. However, when the same was compared with the MoU dated 15.05.2026, it was noted that there was a mis-match of signature on the Form FA received on 01.06.2026, which the IRP informed on the very same day. Operational Creditor confirmed the signature by way of email dated 01.06.2026 sent at 11.35PM.

7.3.5. It is to be stated that on **26.05.2026**, Section 12A (being the substantive provision) came into force and by the said time, IRP had not received a proper and correct FORM FA. Before the proper FORM FA was confirmed by the Operational Creditor at around 11.35 PM on 01.06.2026, the Regulation 30A had also come into force and hence the IRP duly informed that in view of the amendment to the Code coming into force, Form FA has to be placed before the CoC. He neither denied nor rejected to file an Application for withdrawal and only made clear that the Amendment that has come into force has to be followed.

7.3.6. On **03.06.2026** the IRP addressed an email to the suspended director informing that ***filing of FORM FA would take time because as per the new Amendment, the same is subject to the purview of CoC***. IRP did not refuse to file the Withdrawal Application, but only informed that the same is subject to the purview of CoC.

7.3.7. On **04.06.2026** ,the suspended director responded to the above communication and stated that the CoC had not been constituted. The IRP submitted that, as per the records available with him, the constitution of the CoC had already been communicated to the suspended director vide email dated 02.06.2026.

7.3.8. It is submitted that in the case of ***Riju Ravindran Suspended Director and Promoter of Think and Learn Pvt. Ltd. and Ors. vs. Pankaj Srivastava, IRP of Think and Learn Pvt. Ltd. and Ors. (17.04.2025 - NCLAT) : MANU/NL/0311/2025,*** Hon'ble NCLAT observed that the date of filing of FORM FA and not the date of settlement agreement which is relevant for the purpose of compliance of Section 12A. The above case also came to be affirmed by the Hon'ble Supreme Court of India in ***Board Of Control For Cricket In India vs. Pankaj Srivastava and Ors. (21.07.2025 - SC Order) : MANU/SCOR/52863/2025.***

7.3.9. It is stated that in this case admittedly the correct FORM FA was confirmed only on 01.06.2026 and the Application for withdrawal was filed only on 04.06.2026. Consequently, the Settlement Agreement dated 15.05.2026 which was not shared until after the Amendment cannot be relevant for the purpose of satisfying the requirements of Section 12A as per the above decisions.

7.3.10. It is stated that reference to **Section 6 of the General Clauses Act, 1897** will be of no avail as in the present case, admittedly as the FORM FA was submitted to IRP only after the Amendment Act, 2026 came into force on 26.05.2026. The corrected version of FORM FA was confirmed only on 01.06.2026 and was filed before the NCLT on 04.06.2026 and by the time the amendment to Regulation 30A had come into force. Therefore, reliance placed on Section 6 for the purpose of invoking the pre amended 12A will not be applicable. The judgments quoted by the Applicant in this regard are also distinguishable as they pertain to legislations not dealing with IBC, 2016, which is a special legislation.

7.3.11. It is also submitted that reference to the Judgment of the NCLAT in the case of ***(KK Kartheeswaran Suspended Director of 63Ideas Infolabs Pvt. Ltd. V Ranchpride Agrocomm Pvt. Ltd. & Anr - Company Appeal (AT) (CH) (Ins) No. 625/2025)*** will also not apply as the settlement and withdrawal of CIRP had been communicated prior to the enforcement of Section12A which are completely different from the facts and circumstances of the present case where the withdrawal was submitted after enforcement of Amendment.

7.4. Submissions by New Link Overseas Finance Limited (Financial Creditor)

7.4.1. It is stated that without prejudice to its rights and contentions, and without entering into the merits or validity of the Settlement Agreement , it is submitted that the said settlement is a private arrangement entered into exclusively between the Operational Creditor and the Corporate Debtor. New Link Overseas Finance Limited is neither a party nor a consenting stakeholder to the said arrangement and does not admit or accept the settlement or any consequences sought to be derived therefrom. A private settlement between two parties cannot be permitted to defeat or prejudice the rights of a Financial Creditor whose claim arises from transactions already under investigation before this Tribunal and whose recovery is directly linked to the protection of public depositor funds. New Link Overseas Finance Limited, therefore, has a direct, substantial and legally protectable interest in opposing the present withdrawal application, which ought not to be entertained until its pending challenge to the rejection of its financial claim is finally adjudicated.

7.4.2. It is stated that in these circumstances, permitting withdrawal of the CIRP would cause grave prejudice not only to New Link Overseas Finance Limited but also to the interests of the depositors whose monies, mobilised by New Link Overseas Finance Limited as NBFC, were utilised for advancing the loans to the Corporate Debtor.

8. IA 1032 of 2026 (defreezing of bank account)

8.1. IA(IBC)/1032(Che)/2026 has been filed by Arun Ex-Promoter Director seeking the following reliefs: -

> *"a) To direct Respondent No. 1/ Interim Resolution Professional to forthwith withdraw and recall his instruction dated 03.06.2026 (Ref. CIRP/SMPL/2026-2027-01) issued to Respondent No. 2, and direct Respondent No. 2/ Banker to forthwith* ***lift and de-freeze*** *the freeze on debit transactions in Current Account No. 0000000041941783 of the Corporate Debtor maintained with the Indian Bank, Guindy Branch, and to permit operation of the said account in the ordinary course of business, so as to enable the Corporate Debtor to function as a going concern and to give effect to the Settlement Agreement dated 15.05.2026, in the interest of justice;*
>
> *b) pass any other order as this Adjudicating Authority may deem fit and proper in the facts and circumstances of the case."*

8.2. Submissions by Applicant Arun , Ex Promoter Director

8.2.1. It is stated that Hon'ble NCLAT dismissed the appeal on 21.04.2026 and the order was uploaded on 26.05.2026. It is stated that in the interregnum, the applicant / ex promoter director and the 3rd Respondent / Operational Creditor amicably settled all disputes between them and executed an Integrated Revised Settlement Agreement / Memorandum of Understanding dated 15.05.2026 ("the Settlement Agreement"), whereunder, the suspended director admitted its liability and agreed to discharge the settled dues in instalments, duly secured by post-dated cheques, pledge of shares and personal guarantees of its suspended directors.

8.2.2. It is stated that pursuant to the settlement, the 3rd Respondent / Operational Creditor filed **IA(IBC)/954(Che)/2026** under **Section 12A** of the Code read with Rule 11 of the NCLT Rules, 2016, seeking withdrawal of **CP (IB) No. 211/2022** and consequential recall/closure of the CIRP initiated against the Corporate Debtor.

8.2.3. It is stated that by order dated **05.06.2026** in *IA(IBC)/954(Che)/2026*, this **Tribunal** taking note that Form FA along with the Settlement Agreement was received by the 1st Respondent / Interim Resolution Professional on 28.05.2026, prior to the amended CIRP Regulation 30A coming into effect on 01.06.2026 - ***directed the IRP not to convene the Committee of Creditors***, including the meeting scheduled on 08.06.2026, ***till the disposal of the withdrawal application***, and listed the matter for reply / hearing on 25.06.2026. It is stated that the constitution and functioning of the Committee of Creditors thus stood arrested and held in abeyance.

8.2.4. It is stated that the Interim Resolution Professional, by his communication dated 03.06.2026 bearing Ref. CIRP/SMPL/2026-2027-01 addressed to Indian Bank (forwarded by email on 04.06.2026), unilaterally instructed the Indian Bank to stop all debit transactions in the Corporate Debtor's *Current Account No. 0000000041941783* maintained with the Indian Bank, Guindy Branch. Acting upon the said instruction, Indian Bank , the 2nd Respondent has frozen all debit transactions in the said account.

8.2.5. It is stated that as a direct consequence of the said blanket debit freeze, the day-to-day operations the Corporate Debtor have come to a standstill. The Corporate Debtor is rendered unable to disburse salaries and wages, remit statutory dues, make payments to suppliers, and meet its other obligations in the ordinary course of business, thereby steadily eroding the going-concern value of the company.

8.2.6. It is stated that when the very constitution and functioning of the Committee of Creditors has been stayed and held in abeyance by the Tribunal by Order dated 05.06.2026, the continued freeze of the Corporate Debtor's bank account serves no purpose whatsoever. The mandate of the Interim Resolution Professional under Sections 17, 18, 20 and 25 of the Code is to take control and custody of the assets of the Corporate Debtor and to manage its operations as a going concern. Section 20 of the Code, in particular, obliges the Interim Resolution Professional to make every endeavour to protect and preserve the value of the property of the Corporate Debtor and to manage its operations as a going concern. No provision of the Code or the Regulations empowers the Interim Resolution Professional to impose a blanket debit freeze that paralyses the Corporate Debtor's operations; such an act is contrary to, and destructive of, the very going-concern mandate that he is bound to uphold.

8.2.7. It is stated that the continued freeze is, in any event, self-defeating and prejudicial to the interest of all stakeholders, including the 3rd Respondent / Operational Creditor. The repayment obligations under the Settlement Agreement dated 15.05.2026 were secured, inter alia, by post-dated cheques drawn on the very same account, viz., Current Account No. 0000000041941783 of the Indian Bank, Guindy Branch. With the said account under a debit freeze, the post-dated cheques cannot be honoured, defaults stand to be triggered under the Settlement Agreement, thereby wholly defeating the bona fide settlement of which this Tribunal is presently seized. The Corporate Debtor has to run and be kept alive as a going concern. The balance of convenience is entirely in favour of de-freezing the account and permitting its operation, and no prejudice whatsoever will be caused to any party thereby.

8.2.8. To summarise, the suspended director states as under:

i) The IRP has no power, under the Code or the Regulations, to freeze the Corporate Debtor's bank account or to direct the banker to stop all debit transactions.

ii) The duty of the IRP is to run the Corporate Debtor as a going concern, not to paralyse it.

iii) The moratorium under Section 14 is a shield to protect the Corporate Debtor from its creditors; it is not a sword to freeze the Corporate Debtor's own ability to transact.

iv) The freeze directly destroys the very settlement the Tribunal is considering.

v) Once the constitution and functioning of the CoC has been stayed, the freeze serves no purpose whatsoever.

vi) The freeze is steadily destroying the going-concern value of the company.

vii) The balance of convenience is entirely in favour of lifting the freeze, and no prejudice will be caused to anyone.

8.3. Reply by IRP

8.3.1. On dismissal of the appeal and vacation of stay, IRP took steps to take custody and control of the Corporate Debtor as per the provisions of the Code, 2016. On **03.06.2026** , IRP sent an email to suspended director that he would be taking control of the corporate debtor and asked suspended director to extend cooperation. On **04.06.2026** the suspended director sent an email objecting the takeover in view of the Integrated Revised Settlement Agreement/Memorandum of Understanding, The suspended director failed to co-operate and in view of the same, IRP filed an Application seeking custody and control of the Corporate Debtor, which is numbered as **IA (I.B.C)/1021/CHE/2026**.

8.3.2. On **11.06.2026,** IRP informed the Suspended director that as there is no stay on the process of CIRP and as a process of taking over of the Corporate Debtor by the IRP as communicated earlier, the bank account of the Corporate Debtor maintained with Indian Bank, Guindy Branch Account Number 0000000041941783 was instructed to be stopped for the debit transactions. It is stated that IRP had on **09.12.2024** sent a request to the Bank seeking change of banking operations and it is not that for the first time, IRP had taken control of custody of the Corporate Debtor.

8.3.3. **Section 17 of the Code**, 2016 titled ": *Management of affairs of corporate debtor by interim resolution professional*" specifically provides that the management of the affairs of the corporate debtor shall vest in the interim resolution professional and **Clause d of Sub-section 1 of Section 17** states as follows:

> *"(d) the financial institutions maintaining accounts of the corporate debtor shall act on the instructions of the interim resolution professional in relation to such accounts and furnish all information relating to the corporate debtor available with them to the interim resolution professional."*

8.3.4. It is further submitted that as per **Section 18 of the Code**, 2016, the IRP is to take custody of the assets of the Corporate Debtor.

9. IA 1004 of 2026 (Second status report)

9.1. This application has been filed by IRP seeking the following reliefs:

"a) To pass an appropriate order in accepting the 2nd Status Report of the Applicant/IRP for the period from 28.11.2024 to 04.06.2026 pertaining to the status of the Corporate Insolvency Resolution Process;

b) Pass such other directions as this Tribunal may deem fit and necessary in the interest of justice."

9.2. It is stated that the Corporate Debtor was admitted into CIRP on 28.11.2024 and the applicant was appointed as Interim Resolution Professional. It is stated that following acts were carried out by IRP in terms of the order of tribunal dated 28.11.2024 :

a) Visiting the Operational Creditor at the address given in the petition.
b) Non-Cooperation and non-compliance of the CIRP admission order dated 28-11-2024.
c) The Order of Admission of CIRP received
d) Quotes collected for the Public Announcement.
e) The Public Announcement issued in FORM-A
f) Intimation of admission of CIRP on the CD
g) Meeting with the suspended Director of the CD.
h) Intimation of CIRP on the CD
i) IRP took the CD under Custody.

j) Change of Banking operations request to the Bank

k) Appeal filed by the Suspended Director S. Arun in Hon'ble NCLAT.

9.3. It is stated that the present Status Report, which is annexed as Annexure A is being filed to take on record the work done by IRP including the subsequent acts that have taken place after the dismissal of the Appeal.

10. IA 962 of 2026 seeking exclusion in CIRP period

10.1. This application is filed by K J Vinod , applicant / Interim Resolution Professional of Sargam Resources Private Limited under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("the Code") seeking *exclusion of 496 days* from the Corporate Insolvency Resolution Process ("CIRP") of the Corporate Debtor.

10.2. It is stated that the Applicant was appointed as the Interim Resolution Professional of Sargam Metals Pvt. Ltd by this Tribunal vide Order dated 28.11.2024 in **CP(IB)/211(CHE)/2022.** It is stated that the suspended director of the Corporate Debtor filed an Appeal against the Order dated 28.11.2024 passed by this Tribunal admitting the Corporate Debtor into CIRP, which came to be numbered as **Company Appeal (AT) (CH) (Ins) No. 447 of 2024**. The subject Appeal was listed before The Hon'ble National Company Law Appellate Tribunal ("NCLAT") on 11.12.2024 and the Hon'ble NCLAT after hearing the Appellant granted **an interim stay** on the CIRP. The relevant paragraph of the said Order is extracted hereunder for ease of reference:

> *"For a period of one month only, the Resolution Professional is refrained from proceeding in the matter, as a consequence of the impugned Judgment."*

10.3. It is stated that the interim stay continued till the day of dismissal of the Appeal dated 21.04.2026 and in view of the interim stay granted by the Hon'ble NCLAT, no further steps could be taken by the Applicant.

10.4. It is stated that **the Hon'ble NCLAT in Quinn Logistics India Pvt. Ltd. vs. Mack Soft Tech Pvt. Ltd. and Ors. (08.05.2018 - NCLAT): MANU/NL/0089/2018** held that the stay of CIRP by an

Appellate Tribunal is good ground/unforeseen circumstance to seek exclusion for counting the total period of 270 days.

10.5. It is stated that in view of the above stay granted by the Hon'ble NCLAT on 11.12.2024 and subsequent extensions of the interim stay till the date of disposal on 21.04.2026 of the **Company Appeal (AT) (CH) (Ins) No. 447/2024**, the Applicant in compliance with the interim stay had not proceeded with further steps in the CIRP of the Corporate Debtor and hence the above period from - 11.12.2024 (date of interim stay granted by the Hon'ble NCLAT) till the date of dismissal of the Appeal by the Hon'ble NCLAT, which is on 21.04.2026 totalling upto 496 days be excluded from the CIRP period.

11. IA 938 OF 2026 (To take on record list of creditors and constitution of CoC)

11.1. This IA has been filed by IRP K.J. Vinod to take on record the list of creditors and to take on record the report of constitution of Committee of Creditors.

11.2. It is stated that Corporate Debtor was admitted into CIRP on 28.11.2024 and the applicant was appointed as Interim Resolution Professional. It is stated that pursuant to the Order and in compliance with Sections 13 and 15 of the IBC read with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("CIRP Regulations"), the Applicant caused issuance of a Public Announcement in Form-A inviting claims from creditors of the Corporate Debtor. The public announcement was published on 04.12.2024 in Financial Express and Makkal Kural in Chennai (English and vernacular language respectively) and The New Indian Express and Dinamani in Villupuram (English and vernacular language respectively) in accordance with the statutory requirements.

11.3. It is stated that after verifying the claims of the creditors as per Regulation 12 and 13, the Applicant prepared the list of creditors, constituted by one Financial Creditor and one Operational Creditor. It is stated that based on the verified claims, the Applicant constituted the Committee of Creditors (CoC) in accordance with Section 21 of the Code and Regulation 17 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The First Meeting of the Committee of Creditors was to be convened on 28-12-2024, after giving due notice to all members in compliance with Regulation 19 of the said Regulations.

11.4. It is stated that the suspended director of the Corporate Debtor filed an Appeal against the Order dated 28.11.2024 passed by this Tribunal admitting the Corporate Debtor into CIRP, which came to be numbered as **Company Appeal (AT) (CH) (Ins) No. 447 of 2024**. The subject Appeal was listed before The Hon'ble National Company Law Appellate Tribunal ("NCLAT") on 11.12.2024 and the Hon'ble NCLAT after hearing the Appellant granted an interim stay on the CIRP. The relevant paragraph of the said Order is extracted hereunder for ease of reference:

"For a period of one month only, the Resolution Professional is refrained from proceeding in the matter, as a consequence of the impugned Judgment."

11.5. It is stated that the interim stay continued till the day of dismissal of the Appeal dated 21.04.2026 and in view of the interim stay granted by the Hon'ble NCLAT, no further steps could be taken by the Applicant. It is stated that with the dismissal of the Appeal, the present Application is being filed to take on record the constitution of the Committee of Creditors attached in Annexure-A, the list of Creditors in Annexure-B and the convening of the first CoC meeting as mandated under the Code and the applicable Regulations.

11.6. List of Creditors is as under:

BEFORE THE HON'BLE NATIONAL COMPANY LAW TRIBUNAL

CHENNAI BENCH,

CP(IB)/211(CHE)/2022

In the Matter of

M/s Sargam Metals Private Limited (Corporate Debtor)

List of Creditors under Regulation 13(2)(d) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations by Mr. K.J Vinod, Interim Resolution Professional under the Insolvency and Bankruptcy Code 2016

Annexure-B

S. No.	Name of Committee of Creditors	Creditor	Amount Claimed	Amount Admitted
1	Administrator of M/s Newlink Overseas Finance Limited	Financial Creditor	28,86,36,171/-	50,00,001/-
2	P.K.Vaduvammal	Operational Creditor	23,96,756/-	0
3	Assistant Commissioner Income Tax	Government dues	1,62,80,452/-	1,62,80,452/-
	Total			

K.J.Vinod
Interim Resolution Professional
M/s Sargam Metals Private Limited
Reg No IBBI/IPA-003/ICAI/N/00291/2020-2021/13451
AFA AA3/13451/02/300627/301482 Valid up to 30-06-2027

11.7.The Report certifying constitution of CoC is appended below:

REPORT CONSTITUTING COMMITTEE OF CREDITORS

BEFORE THE HON'BLE NATIONAL COMPANY LAW TRIBUNAL

CHENNAI BENCH,

CP(IB)/211(CHE)/2022

In the Matter of

M/s Sargam Metals Private Limited (Corporate Debtor)

Report Certifying Constitution of Committee of Creditors under Regulation 17(1) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations by Mr. K.J Vinod, Interim Resolution Professional under the Insolvency and Bankruptcy Code, 2016.

Annexure A

S.No	Name of the Creditor	Amount claimed by the Creditor	Amount of Claim Admitted	Voting Share	Nature of Security
	Administrator of M/s Newlink Overseas Finance Limited	**28,86,36,171/-**	**50,00,001**	100%	Nil
	Total	**28,86,36,171/-**	**50,00,001**		

Sargam Metals Pvt Ltd IRP

K.J.Vinod
Interim Resolution Professional
M/s Sargam Metals Private Limited.
Reg No IBBI/IPA-003/ICAI/N/00291/2020-2021/13451
AFA AA3/13451/02/300627/301482 Valid up to 30-06-2027.

11.8. The same is reflected in IBBI website as under:


Subsequently, the Committee of Creditors was constituted on 01.06.2026. The same is also reflected on the IBBI website. For ease of reference the same is extracted below:

Corporate Debtor	Name of IRP / RP / Liquidator	Version	Latest Claim As On Date	View Details
SARGAM Metals Pvt Ltd	K.I.VINOD	Version 1	01-06-2026	

12. Analysis and findings

12.1. Heard the Ld. Counsels of the parties and perused the pleadings.

12.2. IA 954 of 2026 Withdrawal Application under Section 12A

12.2.1. The present case is unique in a sense,

[Petitioner and Suspended director entered into a settlement agreement (15.05.2026), payment of CIRP expenses to IRP

(28.05.2026), submission of Form FA with IRP and filing of Section12A application.]

and

[Ministry of Corporate Affairs notification that **Insolvency and Bankruptcy Code (Amendment) Act 2026** shall come into force (***26th May 2026***) and Notification of **IBBI (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2026** shall come into force (***01st June 2026*).]**

got intertwined with each other.

12.2.2.This assumes significance because of the changes brought in Section 12A in IBC Amendment Act 2026 and Regulation 30A in IBBI Insolvency Resolution Process for Corporate Persons Third Amendment Regulations 2026.

12.2.3. As per the **amended Section 12A** (with effect from **26.05.2026**) , 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 specified. It is observed that b*efore the amendment* i.e. prior to 26.05.2026, *if CoC was not formed*, on the application filed by the petitioner, IRP can file Section 12A application without CoC recommendation and NCLT using its inherent power in Rule 11 of NCLT Rules can allow the withdrawal.

12.2.4. One of the contentions raised by Operational Creditor and suspended director is that even though IBC Amendment Act 2016 was notified on 26.05.2026, but the corresponding IBBI CIRP Regulations (wherein Regulation 30A and revised Form FA notified) was amended only on 01st June 2026, the effective date for amended section should be 01st June 2026. It is stated that even before 01st June 2026, on **28.05.2026** the completed Form FA was handed over to IRP. So the provision of new Section 12A of IBC of referring the Form FA to Committee of Creditors will not be applicable. IRP should have filed the withdrawal application within three days before the tribunal i.e. on 31.05.2026, as Committee of Creditors was not formed on that date.

12.2.5. Before proceeding further, let us *review the sequence of events* which happened based on averments and evidences produced:

i) Corporate Debtor was admitted into CIRP by the Tribunal vide Order dated **28.11.2024** and Mr. K.J. Vinod was appointed as the IRP of the Corporate Debtor. S. Arun, the suspended director of the Corporate Debtor filed an Appeal against the order dated 28.11.2024 admitting the Corporate Debtor into CIRP before the Hon'ble National Company Law Appellate Tribunal ("NCLAT"). Hon'ble NCLAT after hearing the Appellant granted an **interim stay** on the CIRP on **11.12.2024** which continued till the appeal was disposed of. Hon'ble NCLAT dismissed the **Company Appeal (AT) (CH) (Ins) No.447/2024** on 21.04.2026. The said order was uploaded on 19.05.2026.

ii) Corporate Debtor and the Operational Creditor entered into the Settlement Agreement / Memorandum of Understanding, settling the entire admitted liability on **15.05.2026**.

iii) IBC Amendment Act 2026 came into force with effect from **26.05.2026**.

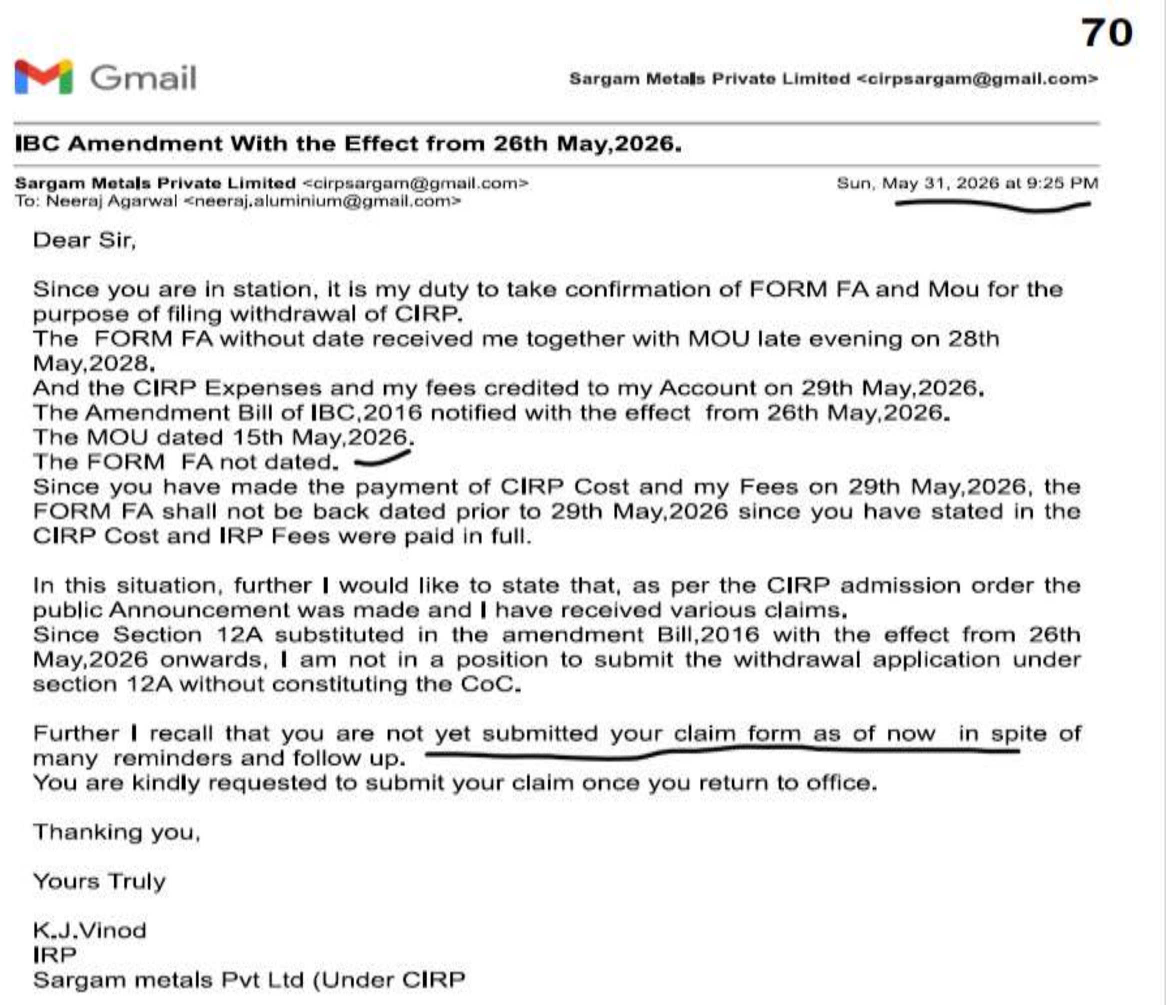
iv) Operational Creditor handed over Form FA along with the Settlement Agreement to the IRP and informed him of the settlement on **28.05.2026.**

v) As per IRP, Form FA handed over to him on 28.05.2026 *was undated* and he intimated the same by e-mail to operational creditor.

vi) The CIRP costs / IRP fee, including the fee for filing the Section 12A application, were paid to the IRP on **29.05.2026**.

vii) As per Operational Creditor, on **30.05.2026** the IRP confirmed receipt and stated that, on confirmation, he would submit / process the withdrawal application under Section 12A.

viii) IRP sent an email to Operational creditor on **31.05.2026** at 9.25 p.m. In the mail IRP stated that undated Form FA was received on 28th May 2026 late evening. He acknowledged receipt of CIRP cost and his fees on 29.05.2026 and pointed out non receipt of forms , despite reminders. Copy of e-mail is appendd below:



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Gmail

Sargam Metals Private Limited <cirpsargam@gmail.com>

IBC Amendment With the Effect from 26th May,2026.

Sargam Metals Private Limited <cirpsargam@gmail.com> Sun, May 31, 2026 at 9:25 PM
To: Neeraj Agarwal <neeraj.aluminium@gmail.com>

Dear Sir,

Since you are in station, it is my duty to take confirmation of FORM FA and Mou for the purpose of filing withdrawal of CIRP.
The FORM FA without date received me together with MOU late evening on 28th May,2028.
And the CIRP Expenses and my fees credited to my Account on 29th May,2026.
The Amendment Bill of IBC,2016 notified with the effect from 26th May,2026.
The MOU dated 15th May,2026.
The FORM FA not dated.
Since you have made the payment of CIRP Cost and my Fees on 29th May,2026, the FORM FA shall not be back dated prior to 29th May,2026 since you have stated in the CIRP Cost and IRP Fees were paid in full.

In this situation, further I would like to state that, as per the CIRP admission order the public Announcement was made and I have received various claims.
Since Section 12A substituted in the amendment Bill,2016 with the effect from 26th May,2026 onwards, I am not in a position to submit the withdrawal application under section 12A without constituting the CoC.

Further I recall that you are not yet submitted your claim form as of now in spite of many reminders and follow up.
You are kindly requested to submit your claim once you return to office.

Thanking you,

Yours Truly

K.J.Vinod
IRP
Sargam metals Pvt Ltd (Under CIRP

ix) On **01st June 2026** at 8.18 p.m. IRP sends a mail to Operational Creditor stating that Form FA dated 29.05.2026 was received by him only on 01.06.2026 and that there is mismatch between Form FA signature and MOU Signature. Copy of email is appended below:

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Gmail

Sargam Metals Private Limited <cirpsargam@gmail.com>

IBC Amendment With the Effect from 26th May,2026.

Sargam Metals Private Limited <cirpsargam@gmail.com> Mon, Jun 1, 2026 at 8:18 PM
To: Neeraj Agarwal <neeraj.aluminium@gmail.com>

Dear Sir,

Please find attached the MOU and FORM FA dated 29-05-2026 received my me
The form FA dated 29-05-2026 is received by me today only
But the Form FA signature and the MOU signatures are not at all matching.
You are kindly requested to verify and revert to process the same.

Thanking you,

Yousr Truly

K.J.Vinod
IRP
Sargam Metals Pvt Ltd (Under CIRP)

[Quoted text hidden]

2 attachments

FORM FA Dated 29-05-2026.pdf
455K

MOU.pdf
3100K

x) On **01.06.2026 IBBI (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations , 2026** including amended Regulation 30A was brought into effect by Gazette notification.

xi) On **01.06.2026** at 11.35 p.m. , *Operational Creditor sent a mail* confirming that the signatures in both the documents were genuine and it was a normal variation in the signature. He requested IRP to proceed with filing the withdrawal application under Section 12A before NCLT Chennai, as Form FA and MOU had been submitted and CIRP fees had been paid. Copy of email is appended below:

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Gmail

Sargam Metals Private Limited <cirpsargam@gmail.com>

IBC Amendment With the Effect from 26th May,2026.

Neeraj Agarwal <neeraj.aluminium@gmail.com>
To: Sargam Metals Private Limited <cirpsargam@gmail.com>

Mon, Jun 1, 2026 at 11:35 PM

Dear Sir,

I would like to confirm that the signatures on both documents are genuine and mine. The slight difference you have noticed is only a natural variation in handwriting between two documents signed on different days, and does not affect their validity. Both documents are properly signed and in order.

I hope this clarification puts your concern to rest. You already have the signed Form FA, the MOU dated 15.05.2026, and your CIRP fees, so everything needed from our side is now with you.

I would be grateful if you could kindly proceed to file the withdrawal application under Section 12A before the Hon'ble NCLT, Chennai in CP(IB)211/CHE/2022 at the earliest, and confirm the filing to us. If any doubt still remains, i would respectfully suggest that the same may be placed before the Tribunal for its consideration, as it is best left for the NCLT to decide.

I trust there will be no further objection. Any further delay will rest solely with you, failing which we will be constrained to approach the Hon'ble NCLT and file a complaint before the IBBI, with costs.

Without prejudice to all our rights and remedies under law.

Thanks and Regards,
Neeraj Agarwal
9444043378
[Quoted text hidden]

xii) IRP stated that he formed the Committee of Creditors on **01.06.2026**. As evidence, IRP submitted the report of formation of COC and the reflection of same in IBBI website as appended below:

REPORT CONSTITUTING COMMITTEE OF CREDITORS

BEFORE THE HON'BLE NATIONAL COMPANY LAW TRIBUNAL

CHENNAI BENCH,

CP(IB)/211(CHE)/2022

In the Matter of

M/s Sargam Metals Private Limited (Corporate Debtor)

Report Certifying Constitution of Committee of Creditors under Regulation 17(1) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations by Mr. K.J Vinod, Interim Resolution Professional under the Insolvency and Bankruptcy Code, 2016.

Annexure A

S.No	Name of the Creditor	Amount claimed by the Creditor	Amount of Claim Admitted	Voting Share	Nature of Security
	Administrator of M/s Newlink Overseas Finance Limited	**28,86,36,171/-**	**50,00,001**	100%	Nil
	Total	**28,86,36,171/-**	**50,00,001**		

Sargam Metals Pvt Ltd IRP

K.J.Vinod
Interim Resolution Professional
M/s Sargam Metals Private Limited.
Reg No IBBI/IPA-003/ICAI/N/00291/2020-2021/13451
AFA AA3/13451/02/300627/301482 Valid up to 30-06-2027.

Subsequently, the Committee of Creditors was constituted on 01.06.2026. The same is also reflected on the IBBI website. For ease of reference the same is extracted below:

xiii) IRP on **02.06.2026** sent a notice calling for the 1st CoC meeting of Corporate Debtor to be conducted on 08.06.2026 at 3 p.m. The notice was sent to Administrator New Link Overseas Finance Limited, the sole CoC member and to Mr. Arun the suspended director.

xiv) IRP on **03.06.2026** sent a mail to suspended director stating that due to the amendment in IBC, withdrawal application could not be directly filed with NCLT and the Corporate Debtor had to be taken to his control.

xv) Legal counsel for Operational Creditor informed IRP on **04.06.2026** through mail that the tribunal has allowed the operational creditor to move the withdrawal application under Section 12A. The application **IA 954 of 2026** was filed on **04.06.2026**.

xvi) **IA 954 of 2026** was listed for hearing on **05.06.2026**. After hearing the parties, **IRP was directed by the tribunal not to convene the CoC including on 08.06.2026** (for which notice was already issued**) till disposal of the application.** IRP was directed to send notice to the creditors who filed the claims for their appearance on 25.06.2026. (next date of hearing).

xvii) On **25.06.2026**, Ld.counsel for *New Link Overseas Finance Limited* (Sole CoC member) was also present and made her submissions. Arguments from all the parties were heard and order was reserved directing all the parties to submit their written submissions in a week's time.

12.2.6. Issues to be decided are:

i) What is the effective date on which Form FA was submitted by the Operational Creditor to IRP?

ii) Whether the present case will be covered by new Section 12A based on IBC Amendment Act 2026 or not? If yes, what will be the effect?

iii) Will Section 6 of the General Clauses Act, 1897 be applicable in the present case?

iv) Whether CoC formed on 01.06.2026 or 02.06.2026 makes any difference?

v) Whether Appearance of financial creditor is no hindrance for withdrawal

vi) Other issues including decision of Hon'ble NCLAT in ***KK Kartheeswaran v. Ranchpride Agrocomm Pvt. Ltd.***, *Company Appeal (AT)(CH)(Ins.) No. 625/2025*, in order dated 17.04.2026

12.2.6.1. Effective date of submission of Form FA

i) Operational Creditor stated that this Tribunal had in its order dated 05.06.2026, already recorded a prima facie view in favour of the Operational creditor. The relevant portion of the order dated 05.06.2026 is reproduced as under : '*Considering the fact that any amendment or Act has to be given effect through Regulation, which in the present came into effect from 01.06.2026 and <u>Form-FA along with settlement was received by the IRP on 28.05.2026</u>, we direct the IRP not to convene the CoC including on 08.06.2026, till the disposal of the* *application'*. The above recording was made based on the submissions by the parties during the hearing on 05.06.2026.

ii) However, from the chronology of events enumerated above , it is observed that Form FA which was handed over to IRP by Operational Creditor on **28.05.2026 was undated** and IRP intimated the same by e-mail to operational creditor and the **Form FA dated 29. 05.2026** was submitted to IRP on 01.06.2026. The mail correspondences between IRP and Operational Creditor at various occasions like 9.25 p.m. on 31.05.2026, at 8.18 p.m. on 01st June 2026 and at 11.35 p.m. on 01.06.2026 prove beyond doubt that the **Form FA, complete in all respect, was submitted only on 01.06.2026.**

iii) So the **effective date of submission of Form FA with IRP was on 01.06.2026.**

12.2.6.2. Whether the present case has to considered under new Section 12A based on IBC Amendment Act 2026 or not? If yes, what will be the effect?

i) Having decided that effective date of submission of Form FA was on 01.06.2026, we have to decide whether new Section12 A will be applicable in the present case or not.

ii) By Notification dated 22.06.2026 , Ministry of Corporate Affairs notified that **Insolvency and Bankruptcy Code (Amendment) Act 2026** would come into effect from ***26th May 2026*** and by Gazette Notification dated 01.06.2026 **IBBI (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations , 2026** would be brought into effect from the date of notification i.e. 01.06.2026

iii) It is observed that *01st June 2026, both IBC Amendment Act and IBBI Insolvency Resolution Process for Corporate Persons Third Amendment Regulations 2026 were in force*.

iv) It is contended by the Operational Creditor and suspended director that the amendment is prospective only and will be applicable only for the future cases where Section 7, 9 and 10 cases which are admitted after 01.06.2026. However, this is a bald statement and no documentary evidences have been produced to prove this. Even though, we agree with the Operational Creditor that the amendment is prospective, the argument that it would be applicable only for the new cases admitted after notification is not correct. The meaning of prospective is that it is applicable from the date it was notified. For example, the impact of the amended Section 12A and Regulation 30A will be like this:

a) For a Corporate Debtor where invitation for resolution plan has been issued, the Section 12A application cannot be filed as per amended Section12A.

b) For a Corporate Debtor where CoC has not been formed, Sec 12 A application cannot be submitted at that stage. It can be submitted only with 90% approval of CoC.

v) In the present case, the Form FA complete in all respects was received by IRP only on **01.06.2026**. This is corroborated by the mails exchanged between the IRP and Operational Creditor . **As** both IBC Amendment Act (26.05.2026) and IBBI Insolvency Resolution Process for Corporate Persons Third Amendment Regulations 2026 were in force on 01.06.2026, **the new Section 12A and Regulation 30A will be applicable to the present case**.

vi) Before proceeding further, let us see the revised provisions of Section12A and Regulation 30A.

> ***12A. Withdrawal of application admitted under section 7, 9 or 10.****—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 specified.*

> ***30A.*** *(1) An application for withdrawal under section 12A shall be made to the Adjudicating Authority by the resolution professional, within three days of approval by the committee of creditors, in such form as notified by the Board through circular and shall be accompanied by a bank guarantee or a demand draft towards the estimated expenses incurred for the purposes of clauses (aa), (ab), (ac), (ba), (c), (d) and (e) of regulation 31, till the date of filing of the application, as determined by the resolution professional:*
>
> *Provided that such application* ***shall not be made*** *–*

(a) ***before the constitution of the committee*** *under sub-section (1) of section 21; and*
(b) after the issue of invitation for expression of interest under regulation 36A.

vii) As per the revised Section 12A read with Regulation 30A, withdrawal application can be filed by the resolution professional only with the approval of 90% voting share of CoC. In the present case, CoC approval with 90% voting share is not there while filing withdrawal application in IA 954 of 2026.

12.2.6.3. Section 6 of the General Clauses Act, 1897

i) As per Operational Creditor, the date of settlement was 15.05.2026, which was prior to the date of the amendment to Section 12A. It is stated that on the date of such settlement, the Operational creditor acquired a valuable right to apply and seek for settlement even prior to the constitution of CoC. The operational creditor stated that the right to settlement under the erstwhile Section 12A is protected by virtue of **Section 6 of the**

General Clauses Act. Section 6 of the General Clauses Act applies in the case of a repeal of any Central Act or Regulation. In the present case, Section 12A of IBC, a Central Act was substituted. Therefore, if the Operational creditor obtained any right under the previous law, then the same is preserved on repeal, by operation of Section 6 of the general clauses act**.**

ii) Before proceeding further , Section 6 of General Clauses Act 1897 is reproduced below:

6. Effect of repeal.—Where this Act, or any [4][Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not--

(*a*) revive anything not in force or existing at the time at which the repeal takes effect; or

(*b*) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

(*c*) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(*d*) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(*e*) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.

iii) The moot question to be answered is when the right to file Section 12A application accrue. Whether it was on *15.05.2026* when the settlement agreement was entered into, or on *28.05.2026* when the undated Form FA was given to IRP or on *29.05.2026* when the fees and CIRP expenses were paid or on *01.06.2026* when the Form FA complete in all respect was handed over to IRP.

iv) In the scheme of things in IBC (in both pre-amended and amended situations) a withdrawal application can be moved by IRP/RP only :

a) on submission of Form FA by the petitioner and

b) on receipt of payment or guarantee of the CIRP cost and fees.

v) In the present case, Form FA complete in all respect was handed over to IRP on 01.06.2026 only. On 01.06.2026, both revised Section 12A and revised Regulation 30A were in force.

vi) In view of the above, <u>there is no right accrued to Operational Creditor under the pre-amended Section 12A</u>. Hence the relief claimed under Section 6 of General Clauses Act 1897 will not be applicable to the Operational Creditor.

12.2.6.4. Whether CoC formed on 01.06.2026 or 02.06.2026 makes any difference?

i) IRP submitted that CoC was formed on 01.06.2026. He produced the report certifying constitution of CoC and a screen shot of IBBI website to support the claim. Per contra the suspended director and operational creditor contend that CoC was formed only on 02.06.2026.

ii) We have examined the matter. It has been decided that the revised Section 12A read with revised Regulation 30A are the applicable provisions. As per the amended 12A section, the application for withdrawal can be submitted only on approval of CoC with 90% voting share.

iii) So in the present case, it does not matter whether CoC was formed on 01.06.2026 or 02.06.2026 or not formed at all.

Withdrawal application can be filed only after CoC is formed and CoC approves the withdrawal with more than 90% voting share.

12.2.6.5. Whether Appearance of financial creditor is no hindrance for withdrawal

i) Operational Creditor cited Hon'ble Supreme Court's judgement in ***Abhishek Singh v. Huhtamaki PPL Ltd. & Anr.*, (2023) ibclaw.in 37 SC"**, where it was held that a settlement arrived at before constitution of the CoC cannot be stifled in anticipation of third party claims; the rights of other creditors are neither whittled down nor adversely affected by the withdrawal, and they remain free to pursue their own remedies in law, including a fresh proceeding under the Code. The said creditor's claim, if any, stands fully preserved.

ii) Hon'ble Supreme Court in ***GLAS Trust Company LLC v. BYJU Raveendran and Ors.* (2024) *ibclaw.in 275 SC h, in para 85,*** discusses the above case as under:

***85.** The decision of this Court in **Abhishek Kumar** (supra) rendered by a two-judge bench of this Court speaking through Justice Vikram Nath, correctly identifies the legal framework. However, it is distinguishable from the present factual situation and the findings of this Court do not support the case of the respondents. The facts are comparable vis-à-vis the stage of the proceedings – the petition had been admitted, but the CoC had not been constituted. However, in that case, the IRP had moved an application under Regulation 30A of the CIRP Regulations. Instead of adjudicating upon the application under Regulation 30A, the NCLT took the view that Regulation 30A is a mere directory provision and dismissed the application. The NCLT vacated the stay on the constitution of the CoC and directed that the application under 12A be decided directly (i.e. including for compliance with the requirement of a ninety-percent voting share of the CoC). This Court set aside the order of the NCLT on the ground that Regulation 30A provides a complete mechanism for dealing with the applications filed under such a provision, and it* *is not necessary to get the approval of a ninety percent voting share of the CoC if the application for withdrawal is moved before the constitution of the CoC. On the other hand, in the present case, there was no application filed through the IRP before the NCLT under Regulation 30A at all. Therefore, this decision is not applicable to the present case.*

iii) In the present case, as per the amended Section 12A read with amended Regulation 30A , withdrawal application can be filed only with approval of CoC with at least 90% voting share and hence the judgement of Hon'ble Supreme Court in ***Abhishek Singh v. Huhtamaki PPL Ltd. & Anr.,*** is not applicable to the present case.

iv) Ld. Counsel for Administrator of New Link Overseas Finance Limited (financial creditor) appeared during the hearing on 25.06.2026 and objected to the Sec 12A application stating that Corporate Debtor owes more than Rs.28 crore (approx.) to New Link Oversea Finance Limited. Written submission was also received where it is stated that permitting the withdrawal of the

CIRP would cause grave prejudice not only to New Link Overseas Finance Limited but also to the interests of the depositors whose monies were mobilised by New Link Overseas Finance Limited as an NBFC. It is observed that even though New Link Overseas Finance Limited filed the claim for Rs. 28.36 crore, IRP accepted the claim to the extent of Rs. 50 lakhs and the remaining claim amount is subject to verification by IRP. In the present case, CoC has been constituted with New Link Overseas Finance Limited as sole CoC member. As per the revised Sec 12 A, CoC with at least 90% voting should approve for withdrawal of CIRP. In view of the above, the contention of Operational Creditor that appearance of financial creditor is no hindrance for withdrawal is not correct.

12.2.6.6. Other issues including the decision *KK Kartheeswaran v. Ranchpride Agrocomm Pvt. Ltd., Company Appeal (AT)(CH)(Ins.) No. 625/2025*, order dated 17.04.2026

i) The Suspended director cited the above judgement of Hon'ble NCLAT to contend that where a CIRP was initiated and a settlement was arrived at prior to the Amendment Act, 2026, the settlement was to be considered in the light of the pre-amended Section 12A. ii) It is observed that the above judgement was pronounced on 17.04.2026, much before the IBC Amendment Act 2026 got notified and hence the facts of that case are not comparable with the present case, where when the Form FA was submitted , the revised Section12A and revised Regulation 30A were in place.

12.3. In IA 1032 of 2026 (defreezing of bank account)

12.3.1. The Suspended director filed the application for directing IRP to defreeze the bank account of Corporate Debtor so that the Corporate Debtor can be run as going concern. It is stated that the Interim Resolution Professional, by his communication dated 03.06.2026 bearing Ref. CIRP/SMPL/2026-2027-01 addressed to Indian Bank (forwarded by email on 04.06.2026), unilaterally instructed the Indian Bank to stop all debit transactions in the Corporate Debtor's Current Account No. 0000000041941783 maintained with the Indian Bank, Guindy Branch. Acting upon the said instruction, Indian Bank , the 2nd Respondent froze all debit transactions in the said account.

12.3.2. It is stated that by order dated **05.06.2026** in IA(IBC)/954(Che)/2026, this **Tribunal** ***directed the IRP not to convene the meeting of Committee of Creditors***, including the meeting scheduled on 08.06.2026, ***till the disposal of the said withdrawal application***, and listed the matter for reply / hearing on 25.06.2026. It is stated that when the constitution and functioning of the Committee of Creditors was stayed and held in abeyance by the Tribunal by Order dated 05.06.2026, the continued freeze of the Corporate Debtor's bank account served no purpose whatsoever.

12.3.3. IRP replied stating that as per Sections 17 and 18 of IBC Code, he had to take control of the assets of the Corporate Debtor including the bank accounts of the Corporate Debtor.

12.3.4. We have gone through the submissions of the parties. It is observed that vide order dated 05.06.2026, the tribunal directed the IRP not to convene the CoC till the application IA 954 of 2026 is decided. *However, the CIRP process was not stayed.* IRP had gone ahead and taken steps to take over the assets of the Corporate Debtor. There is no justification for defreezing of Corporate Debtor's bank account and allowing the suspended director to operate the bank account of the Corporate Debtor before deciding the withdrawal application.

12.3.5. In view of the above , the present application is dismissed as not maintainable.

13. Conclusion

13.1. Based on the above analysis and findings, we are of the considered view that the present case has to be decided on the basis of amended Section 12A read with amended Regulation 30A which were in force on 01.06.2026, the material date on which

Form FA complete in all respect was handed over to the IRP by the Operational Creditor.

13.2. The amended Section 12A states that *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 <u>with the approval of ninety per cent voting share of the committee of creditors.</u>*

13.3. The amended Regulation 30A states that *an application for withdrawal under section 12A shall be made to the Adjudicating Authority <u>by the resolution professional, within three days of approval by the committee of creditors</u>*

13.4. **IA(IBC)/954(Che)/2026** , the withdrawal application under Section 12A in question has been filed by the Operational Creditor . There is no approval from Committee of Creditors. So it does not comply with the provisions of amended Section 12A read with Regulation 30A. In view of the above, **IA(IBC)/954(Che)/2026** is dismissed as non-complaint with extant provisions of IBC.

13.5. As the withdrawal application is dismisssed, ***the stay imposed vide order dated 05.06.2026 for formation of CoC ceases to exist***. IRP shall take control of Corporate Debtor and CIRP process shall continue.

13.6. **IA(IBC)/1032(Che)/2026** filed by the suspended director for defreezing of the bank account **is dismissed** in view of the dismissal of Section 12A application. IRP is directed to take charge of the assets of the Corporate Debtor and continue with the CIRP process.

13.7. **IA(IBC)/938(Che)/2026** filed by IRP to take on record list of creditors and report of constitution of CoC is taken on record subject to just exceptions and **IA(IBC)/938(Che)/2026** is disposed of.

13.8. **IA (IBC)/ 962 (Che) /2026** filed by IRP **seeking exclusion of** period from - 11.12.2024 (date of interim stay granted by the Hon'ble NCLAT) till the date of dismissal of the Appeal by the Hon'ble NCLAT, which is on 21.04.2026, totalling upto 496 days from **CIRP period is allowed** as IRP could not effectively perform his functions during CIRP period. **IA (IBC)/ 962 (Che) /2026** is disposed of.

13.9. **IA (IBC)/ 1004 (Che) /2026** filed by IRP is to taken on record **Second Status Report** for the period from 28.11.2024 to 04.06.2026 pertaining to the status of the Corporate Insolvency Resolution Process. The report is taken on record subject to just exceptions. **IA is disposed of**.

13.10. It is observed that the claims were received and list of creditors have been finalised pursuant to the advertisement dated 04.12.2024. There was no public advertisement made after dismissal of the Appeal on 21.04.2026. During the stay period, i.e. between 11.12.2024 and 21.04.2026, Corporate Debtor was in control of the directors. **It is directed that** :

i) IRP is directed to take charge of the assets of the Corporate Debtor and continue with the CIRP process.

ii) Suspended director in addition to handing over the affairs of the Corporate Debtor shall also finalise the books of accounts during the interregnum when CIRP was suspended by Hon'ble NCLAT.

iii) As Corporate Debtor was not in the control of IRP during the stay period of 496 days between 11.12.2024 and 21.04.2026, he is directed to update the claims

13.11. With the above observations, **IA(IBC)/ 954(Che)/ 2026, IA(IBC)/1032 (Che)/2026, IA(IBC)/938(Che)/2026, IA (IBC)/ 962 (Che) /2026 and IA (IBC)/ 1004 (Che) /2026** are disposed of**.**

-Sd-	-Sd-
VENKATARAMAN SUBRAMANIAM	**SANJIV JAIN**
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)