NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
IVN. Pet. No. 6/CB/2026
IN
CP (IB) No. 32/CB/2025

(An Application filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, r/w Rule 11 of NCLT Rules, 2016)

IN THE MATTER OF:

TATA CAPITAL LIMITED
(Transferee of Tata Capital Financial Services Limited)
Having its registered office at-,
11th fioor, Tower A, Peninsula Business Park,
Ganpatrao Kadam Marg, Lower Parel,
Mumbai 400013 and at DN 52,
Salt Lake, Sector-V, Kolkata 700091

..... **FINANCIAL CREDITOR**

-VERSUS-

SUSTAINABLE OUTREACH AND UNIVERSAL LEADERSHIP (SOUL) LIMITED
Having its registered office at-
Plot No. E/42/D, Chandaka
Industrial Estate, KIIT, Khorda,
Bhubaneswar, Orissa, India, 751024

..... **CORPORATE DEBTOR/RESPONDENT**

-AND-

IN THE MATTER OF:

KALINGA INSTITUTE OF INDUSTRIAL TECHNOLOGY (KIIT)
AT- Plot No. 383 & 384, Koel Campus,
KIIT, Bhubaneswar, Odisha.

..... **APPLICANT/INTERVENER**

ORDER PRONOUNCED ON: 21.08.2026

CORAM: **CHEEKATI RADHA KRISHNA, MEMBER (JUDICIAL)**
BANWARI LAL MEENA, MEMBER (TECHNICAL)

APPEARANCE:
FOR THE APPLICANT: **MR. KSHIROD KUMAR SAHOO, ADVOCATE.**
MR. DILLIP KUMAR SAMAL, ADV.

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ORDER

PER: BANWARI LAL MEENA, MEMBER (TECHNICAL)

1. The present application has been filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, r/w Rule 11 of NCLT Rules, 2016, by **KALINGA INSTITUTE OF INDUSTRIAL TECHNOLOGY (KIIT)** ("Applicant/Intervener") seeking impleadment as a Respondent in **CP(IB) No. 32/CB/2025**, i.e., Tata Capital Limited ("Financial Creditor") Vs. Sustainable Outreach and Universal Limited ("Corporate Debtor").

2. The Applicant in the present intervention application has made the following Prayers:

> *"1. Allow the present Intervener Application and permit the applicant to intervene in the proceedings arising out of CP(IB) No.32/CB/2025; and*
>
> *2. To direct the Resolution Professional to process the claim submitted by the Applicant- as per the provisions of the Code.*
>
> *3. Issue a direction to hear the applicant before any order is passed on the application filed u/s 12A of the Insolvency & Bankruptcy Code 2016 for withdrawal of CIRP.*
>
> *4. Such further or other order or orders be made and/or direction or directions be given as this Hon'ble Tribunal may deem fit and proper"*

3. The averments made by the Applicant in its application are summarised hereunder:

3.1. CP (IB) No. 32/CB/2025 was instituted by the Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 seeking initiation of Corporate Insolvency Resolution Process against the Corporate Debtor. The application was admitted by this Adjudicating Authority vide order dated 16.01.2026, whereby CIRP was commenced against the Corporate Debtor and an Interim Resolution Professional (IRP) was appointed.

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3.2. Pursuant to the public announcement issued by the IRP inviting claims from creditors of the Corporate Debtor, the Applicant, claiming to be an Operational Creditor, submitted its claim in Form-B for an amount of Rs. 45,07,46,956/- before the IRP along with supporting documents. The claim is stated to have been submitted within the prescribed period in response to the public announcement made under the provisions of the Code.

3.3. A notice dated 06.02.2026 was thereafter issued by the IRP seeking verification and additional supporting documents in relation to the claim submitted by the Applicant. The issuance of the said notice has been relied upon to contend that the claim of the Applicant was received and taken up for verification by the IRP. The requisite documents and particulars sought by the IRP were subsequently furnished by the Applicant.

3.4. The admission order dated 16.01.2026 was challenged before the Hon'ble National Company Law Appellate Tribunal by the Corporate Debtor. The appeal came to be disposed of by the Hon'ble NCLAT vide order dated 05.02.2026, wherein it was recorded that the Appellant was willing to settle the dues of the Financial Creditor and liberty was granted to move an application under Section 12A of the Insolvency and Bankruptcy Code, 2016 seeking withdrawal of the CIRP. The Applicant has further relied upon the observations contained in the said order to contend that the Hon'ble NCLAT had also taken note of the fact that claims from other creditors had already been received by the IRP during the CIRP process.

3.5. The Applicant has asserted that it is one of the creditors whose claim was duly submitted before and received by the IRP during the CIRP. According to the Applicant, the subsequent filing of an application under Section 12A of the Code for withdrawal of the CIRP directly affects its rights and interests as a creditor of the Corporate Debtor.

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3.6. The CIRP proceedings have been described as proceedings in rem affecting all stakeholders and creditors of the Corporate Debtor. The Applicant has contended that despite submission and receipt of claims from other creditors, including the Applicant, no notice of the proposed withdrawal proceedings has been served upon it, thereby depriving it of an opportunity to place its objections before the Adjudicating Authority.

3.7. The operational debt claimed by the Applicant is stated to exceed Rs. 45 crores, and it has been contended that any order permitting withdrawal of the CIRP would materially and directly affect the Applicant's rights. The proposed withdrawal has been alleged to be lacking in bona fides and to have been initiated solely for the purpose of avoiding scrutiny of the claims lodged by other creditors of the Corporate Debtor.

3.8. The Applicant has further alleged that, upon withdrawal of the CIRP, the Corporate Debtor may proceed with alienation of assets, restructuring of its affairs or transfer of control to third parties, thereby adversely affecting the interests of the creditors whose claims have not yet been adjudicated. It has been contended that withdrawal of the CIRP without consideration of the claims of other creditors, including the Applicant, would cause grave prejudice to the Applicant and result in its substantial operational debt remaining unpaid.

3.9. The Applicant has accordingly asserted that, having already submitted its claim before the IRP and being directly affected by the outcome of the proceedings under Section 12A of the Code, it is a necessary and proper party to the present proceedings. Permission has therefore been sought to intervene in the matter and to be heard before any order is passed on the application seeking withdrawal of the CIRP.

3.10. Jurisdiction of this Adjudicating Authority has been invoked under Section 60(5) of the Insolvency and Bankruptcy

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Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016. The application has been stated to have been filed bona fide and in the interest of justice for protection of the Applicant's rights as a creditor of the Corporate Debtor.

3.11. Accordingly, the Applicant has prayed for permission to intervene in the proceedings arising out of CP (IB) No. 32/CB/2025, for a direction upon the Resolution Professional to process its claim in accordance with the provisions of the Code, and for an opportunity of hearing before any order is passed on the application filed under Section 12A of the Insolvency and Bankruptcy Code, 2016 seeking withdrawal of the CIRP

4. We have heard the learned counsel appearing for the Applicant/Intervener and have perused the materials available on record.

5. The main Petition CP(IB) No. 32/CB/2025, wherein the intervener has sought to be impleaded as a party, was filed under section 7 of the Code seeking CIRP of the Corporate Debtor i.e., SOUL Limited. The main CP was admitted into CIRP by the NCLT vide its order dtd.16.01.2026, and IRP was thereby appointed.

6. The Applicant had submitted its claim on 28.01.2026 to the IRP along with several documents to support its claim. The IRP had sought further clarification along with supporting documents from the Applicant vide its e-mail dated 09.02.2026. However, the IRP had also observed that, *"the claim has been **admitted provisionally** based on the information available and is subject to reconstitution upon verification of further documents or new information that may come to light"*. The reply/e-mail of the IRP dated 09.02.2026 has been annexed with the application and is marked as "**Annexure-3**" at Page Nos.239-240.

7. Subsequently, the Corporate Debtor moved an appeal before the NCLAT with a prayer that it wants to pay the amount to the Financial Creditor and withdraw the CIRP proceeding. The Hon'ble NCLAT vide its order dated 05.02.2026 permitted the FC to file an application under section 12A after receipt of the amount from the CD, and the said application u/s. 12A to be decided in accordance with law. Moreover, the Hon'ble NCLAT directed the IRP not to take any further steps till the application filed u/s.12A is decided.

8. The Applicant herein has relied on the judgment passed by the Supreme Court in the matter of ***GLAS Trust Company LLC v. Byju Raveendran & Ors [(2025) 3 SCC 625],*** to submit that the position with respect to the manner in which the intervention applications or claims from other creditors are to be treated has been settled by the observations of the Apex Court in the aforementioned matter. In this regard, it is pertinent to quote the findings of the Hon'ble Supreme Court, for reference:

> *"**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."*

9. Moreover, The Hon'ble Supreme Court, in the matter of ***Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors.[AIR 2019 SC 739]***, had made the following observations.

> *"**52.** It is clear that once the Code gets triggered by admission of a creditor's petition under Sections 7 to 9, the proceeding that is*

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before the Adjudicating Authority, being a collective proceeding, is a proceeding in rem. Being a proceeding in rem, it is necessary that the body which is to oversee the resolution process must be consulted before any individual corporate debtor is allowed to settle its claim. A question arises as to what is to happen before a committee of creditors is constituted (as per the timelines that are specified, a committee of creditors can be appointed at any time within 30 days from the date of appointment of the interim resolution professional). We make it clear that at any stage where the committee of creditors is not yet constituted, a party can approach the NCLT directly, which Tribunal may, in exercise of its inherent powers under Rule 11 of the NCLT Rules, 2016, allow or disallow an application for withdrawal or settlement. This will be decided after hearing all the concerned parties and considering all relevant factors on the facts of each case."

10. It is pertinent to mention that, in the cases where the Corporate Debtor has been admitted into CIRP but the Committee of Creditors has not been formed, the settled position of law is that, though the Applicant may apply for withdrawal of an application filed under section 7 of the IBC, 2016, but when the CD gets admitted into CIRP the proceeding becomes a proceeding *in rem*. Therefore, the Adjudicating Authority needs to hear all the concerned parties and/or necessary stakeholders before adjudicating on the matter.

11. Hence, we are of the considered view that the Applicant in the present intervention application, being an operational creditor whose claim was received and provisionally admitted by the IRP, has become a stakeholder in the CIRP process and its contentions, if any, must be heard before adjudicating the withdrawal application filed under section 12A of the IBC, 2016.

12. Therefore, the applicant herein, i.e., Kalinga Institute of Industrial Technology is hereby allowed to intervene in the proceedings arising out of **CP(IB) No. 32/CB/2025** and is allowed to file its reply to

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the Application filed under section 12A for withdrawal of the main petition.

13. The Intervener is hereby directed to file its ***Reply***, if any, to the withdrawal application within ***three weeks***, and the Corporate Debtor is directed to filed its ***Rejoinder***, if any, within ***one week thereafter***.

14. The Applicant has also sought for a direction to the RP to process the claim submitted by the Applicant. However, such a direction cannot be issued at this instance as it pertains to an issue completely different from the present application for intervention. The applicant may file a separate application, if any, in this regard.

15. Accordingly, **Ivn. Pet. No. 6/CB/2026** is hereby **PARTLY ALLOWED** and **DISPOSED OF.**

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BANWARI LAL MEENA
MEMBER (TECHNICAL)

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CHEEKATI RADHA KRISHNA
MEMBER (JUDICIAL)