NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-II), CHANDIGARH

IA (IBC) 966 (CH)/2026
IN
CP IB No.320/CHD/PB/2024

IA (IBC) 966 (CH)/2026

(Application under Section 12A read with Section 60(5)(c) of the Insolvency and Bankruptcy Code, 2016, Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and Rule 11 of the National Company Law Tribunal Rules, 2016.)

SANDEEP KUMAR CHITKARA
Interim Resolution Professional of Kay Bee Cotgin Pvt. Ltd.
Regn. No. IBBI/1PA-001/1P-P-01976/2020-2021/13084
Regd. Address: Flat No. 6, First Floor, Prem Vihar,
SBS Nagar, Ludhiana -141013
Email : sandchit9@gmail.com

...APPLICANT/ RESOLUTION PROFESSIONAL

Versus

PUNJAB & SIND BANK
Through its Authorised Officer/Chief Manager,
Address: Circular Road, Lakkar Mandi, Abohar,
Firozpur, Punjab -152116
Email : ashwani.agarwal@psb.bank.in

...RESPONDENT

IN THE MAIN MATTER OF
Punjab & Sindh Bank

...Applicant/Financial Creditor

Vs

Kay Bee Cotgin Pvt. Ltd.

...Respondent/Corporate Debtor

Order delivered on: 20.08.2026

CORAM: HON'BLE KAUSHALENDRA KUMAR SINGH, MEMBER (TECHNICAL)
HON'BLE KHETRABASI BISWAL, MEMBER (JUDICIAL)

Present:

For the Applicant in IA(I.B.C)/966(CH)2026	:	Mr. Arora Vishwas Kumar, Mr. Sarabjeet Singh, Advocates
For the Respondent IA(I.B.C)/966(CH)2026	:	Mr. Ashwani Sharma, Advocate

Order

1. This Application is filed on 09.07.2026 by the Resolution Professional Mr. Sandeep Kumar Chitkara under Section 12A read with Section 60 (5) (c) of the IBC 2016 and Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulation 2016 as well as Rule 11 of National Company Law Tribunal Rules 2016 for seeking withdrawal of the Corporate Insolvency Resolution Process (CIRP) of Kay Bee Cotgin Pvt. Ltd. which was initiated by this Adjudicating Authority vide order dated 10.03.2026 in the matter of Section 7 Application filed by Punjab & Sindh Bank.

2. The averments made in the Application and also as narrated by the Ld. Counsel appearing for the Applicant-RP are summarized hereunder :-

(i) The Applicant was appointed as IRP vide order dated 10.03.2026.

(ii) The Applicant IRP caused, thereafter, the public announcement on 10.03.2026 itself in accordance with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulation 2016 read with Section 13(1) (b) and 15 of the Code, in prescribed Form A in the newspapers “The Tribune” and “Punjab Tribune”.

(iii) Following that, the IRP verified the claims received from the Financial Creditors and constituted the Committee of Creditors (CoC) on 30.03.2026. The CoC comprised of sole Financial Creditor "Punjab & Sindh Bank" with 100% voting share.

(iv) The first CoC meeting was convened on 07.04.2026. The IRP placed before the CoC the report regarding constitution of the CoC, details of claims received and admitted and the actions undertaken since initiation of the CIRP. The IRP also informed the CoC that after issuance of the notice calling for CoC meeting, the Punjab & Sindh Bank had intimated that it had entered into one time settlement with Suspended Management and intended to withdraw the CIRP. Consequently, the proposal for withdrawal of CIRP was discussed before the Committee. However, the Financial Creditor sought time for completion of internal formalities.

(v) The second CoC meeting was convened on 27.04.2026. The proposal regarding withdrawal of CIRP was again deliberated upon along with other items of agenda including publication of Form G, etc. However, all those items were differed at the request of the sole Financial Creditor pending completion of its internal approval process.

(vi) Subsequently, pursuant to the settlement arrived at between the Financial Creditor and the Suspended Management, the Punjab & Sindh Bank being the original Applicant in Section 7 petition, submitted Form FA dated 29.04.2026 under Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016 requesting for withdrawal of the CIRP.

(vii) Thereafter, 3rd CoC meeting was convened on 07.05.2026. The IRP placed the duly executed Form FA before the CoC for consideration under Section 12A of the Code read with Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016. The proposal relating to withdrawal along with ratification of CIRP was placed for e-voting. However, at the request of Punjab & Sindh Bank, the e-voting period was extended from time to time to enable the Bank to complete its internal approval formalities.

(viii) The IRP convened 4th CoC meeting on 06.06.2026. The CoC, the sole member consisting of Financial Creditor Punjab & Sindh Bank, approved the proposal and resolved to withdraw the CIRP in terms of Section 12A of the Code. The CoC also approved the CIRP expenses.

(ix) Following that the IRP filed the present Application on 09.07.2026. The Form FA dated 29.04.2026 which was submitted by the original Applicant namely Punjab & Sindh Bank (through IRP) and considered by the CoC, is also enclosed in the Application.

(x) It has been submitted that in between the process, the Section 12A has been amended w.e.f. 26.05.2026; and following thereof the IBBI vide its circular dated 02.06.2026 has amended/changed Form FA also. Therefore, the Applicant-IRP while filing the application has also submitted the amended Form FA dated 18.06.2026.

3. During the course of the hearing, the Ld. Counsel appearing for the Applicant-IRP has drawn our attention to the provision of Section 12A as

existed prior to the amendment as well as the new provision. For ready reference the same are given hereunder :-

Section 12A [Prior to Amendment dated 26.05.2026, as inserted by IBC (second amendment) Act 2018 w.e.f. 06.06.2018]

The Adjudicating Authority may allow the withdrawal of applications admitted under section 7 or section 9 or section 10, on an application made by the applicant with the approval of 90% voting share of the committee of creditors in such manner as may be specified.

Section 12A [on substitution vide IBC (Amendment) Act 2026 w.e.f. 26.05.2026]

---

(1) Subject to sub-section (2), the Adjudicating Authority may allow withdrawal of an application admitted under section 7, 9 or 10, on an application made by the resolution professional, with the approval of ninety percent voting share of the committee of creditors in such manner as may be specified.

(2) Notwithstanding anything contained in any law for the time being in force, an application admitted under section 7, 9, or 10 shall not be withdrawn –

(a) Before the constitution of committee of creditors under sub-section (1) of section 21; and

(b) After the first invitation for submission of a resolution plan has been issued by the resolution professional.

(3) The adjudicating authority shall pass an order under sub-section

(1) within a period of thirty days from the date of receipt of the application:

Provided that if the adjudicating authority has not passed an order within such period, it shall record the reasons for such delay in writing.

4. Thus, we note that there is a substantial change in the statutory position before and after 26.05.2026 as regards the withdrawal of CIRP following settlement between the parties. The Insolvency and Bankruptcy Code (Amendment) Act, 2026 ("**Amendment Act**") received Presidential assent on 06.04.2026. However, the provisions were to come in force on dates to be notified. Sections 4, 5 and 6 of the said Insolvency and Bankruptcy Code (Amendment) Act, 2026 introduced amendments to Sections 7, 9 and 10 respectively, of the Insolvency and Bankruptcy Code. Further, Section 8 of the 2026 Amendment Act substituted a new Section 12A in the Insolvency and Bankruptcy Code, 2016 in place of the erstwhile Section 12A (which was inserted by the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018, w.e.f. 06.06.2018).

5. Under the erstwhile Section 12A, the Adjudicating Authority could allow withdrawal of an admitted application under Section 7, 9 or 10 on an Application made by the Applicant with the approval of 90% voting share of the CoC, in such manner as specified. The Regulation 30A of the CIRP Regulations supplied the mechanism for withdrawal before the constitution of the CoC through the interim Resolution Professional (Regulation 30A (1) (a)), and after constitution of the CoC through the Resolution Professional with CoCs approval (Regulation 30A (1) (b)). The proviso to said Regulation

required the Applicant to state the reasons justifying withdrawal after issue of invitation for expression of interest i.e. Form G. The newly substituted Section 12A however puts an embargo by providing that the Application for withdrawal of CIRP shall not be entertained-(a) before the constitution of the CoC under Section 21(1); and (b) after the first invitation for submission of a Resolution Plan has been issued by the Resolution Professional. Vide Notification S.O. 2625(E) dated 22.05.2026, the Central Government appointed **26.05.2026** as the date of commencement of, inter alia, Sections 4, 5, 6 and 8 of the Amendment Act.

6. We note that the amendment as made in section 12A of the code is substantial and therefore the substituted provision shall be applicable prospectively. As such in the cases where admission under section 7, 9 or 10 of the Code is made to initiate CIRP after 26.05.2026, the withdrawal could be permitted only under new provision/ substituted section 12A. **But the question arises as to whether the embargo under the substituted Section 12A applies to CIRPs which were initiated prior to the date of amendment i.e. 26.05.2026 also.** In other words, in all those continuing CIRPs, where Application under Section 7, 9 and 10 were admitted prior to 26.05.2026, whether the withdrawal of the CIRPs under Section 12A would be in accordance with the old provision or the new provision. The question has relevance as there could be a situation where the settlement was made between the original Applicant and the Corporate Debtor prior to 26.05.2026, the Form FA, as per the Regulation 30A was also filed before that date and the matter was placed for the consideration of the CoC, but by the time

decision could be taken by the CoC, the provision for allowing withdrawal i.e. section 12A got amended. This could be a case where even Form G was also issued. In such situation, if new provision of section 12A is made applicable, then the withdrawal of CIRP cannot be permitted. The settlement that was made in accordance with the erstwhile provision of section 12A would then get frustrated. This would mean that the remedy as well as right which was available to the applicant to settle with the suspended management in accordance with the provisions in force on initiation of CIRP gets denied to it on applicability of new Provision.

7. In the context, we note that Regulation 30A (1) as originally framed and inserted by the IBBI (Insolvency Resolution Process for Corporate Persons) (third amendment) Regulation 2018 w.e.f. 03.07.2018 also contemplated withdrawal "before issue of invitation for expression of interest". However, the Hon'ble Supreme Court in ***Brilliant Alloys (P) Ltd. v. S. Rajagopal*, (2022) 2 SCC 544,** held that stipulation to be **directory and not mandatory**, such that withdrawal could be permitted even after issuance of the invitation for expression of interest, if the facts justified it. In ***Swiss Ribbons (P) Ltd. v. Union of India,* (2019) 4 SCC 17**, the Hon'ble Supreme Court upheld Section 12A and further held that even *before* constitution of the CoC, a party could approach the Adjudicating Authority directly for withdrawal, the Adjudicating Authority exercising inherent power under **Rule 11** of the NCLT Rules, 2016. In ***Vallal RCK v. Siva Industries and Holdings Ltd.*, (2022) 9 SCC 803,** the Supreme Court emphasized that settlements between the corporate debtor and its creditors are to be encouraged, and that the object of the Code is resolution, not

liquidation and not the destruction of consensual exits. The regulation 30A was thereafter substituted by IBBI (Insolvency resolution process for corporate persons) (second amendment) regulation 2019 w.e.f. 25.07.2019. The sub-regulation (1) thereof, after substitution, reads as under:

> **Regulation 30A (1):** An application under section 12A may be made to the adjudicating authority –
>
> (a) before the constitution of the committee, by the applicant through the interim resolution professional;
>
> (b) after the constitution of the committee, by the applicant through the interim resolution professional or the resolution professional, as the case may be:
>
> **Provided** that where the application is made under clause (b) after the issue of invitation for expression of interest under Regulation 36A, the applicant shall state the reasons justifying withdrawal after the issue of such invitation.

However, in the post-amendment regime now, the substituted Section 12A inverts and hardens this position. Withdrawal is now confined to a single statutory window — after constitution of the CoC and before the first invitation for submission of a resolution plan — and is prohibited outside it. What ***Brilliant Alloys (supra)*** held to be directory has been rendered mandatory, and what ***Swiss Ribbons (supra)*** permitted at the pre-CoC stage, has been prohibited altogether. As such, the embargo results in permanently extinguishing the withdrawal remedy outside the limited window provided in the substituted

Section 12A. But this can be considered consistent with the amendment brought out in section 7, 9 and 10 of the code. It is to be noted that sections 4, 5 and 6 of the Amendment Act simultaneously recast the admission architecture of Sections 7, 9 and 10 of the code, imposing a mandatory 14-day admission timeline, excluding extraneous grounds once debt and default are established, and recognising information utility records as sufficient proof of default. Sections 4 to 8 of Amendment Act were notified together, on the same date, as an integrated package. Thus, read contextually, the words "an application admitted under section 7, 9 or 10" in the substituted Section 12A are most naturally referable to applications admitted under Sections 7, 9 and 10 as substituted/amended by the very same Amendment Act i.e. admissions occurring under the new streamlined regime on or after 26.05.2026. The new embargo is the counterweight to the new mandatory-admission discipline. Parliament tightened admission and, in the same breath, tightened exit, as elements of one integrated prospective scheme. As such, it would be incongruous to sever the exit-restriction from that scheme and project it backwards onto admissions which occurred under a materially different admission regime.

8. Further, for a CIRP admitted, and a fortiori one past the Form G stage, before 26.05.2026, the embargo if applied, it would not regulate *how* the withdrawal remedy is pursued. Rather, it decrees that the remedy shall never be pursued at all.

We also note that the right to seek withdrawal under the erstwhile Section 12A is not a matter of mere machinery. Upon admission of the application under

Section 7, 9 or 10, there arose, as an incident of the proceeding as then constituted, a statutory remedy of consensual exit. The applicant could, at *any* stage of the CIRP (subject to 90% CoC approval post-constitution), and even after issuance of the invitation for expression of interest, seek withdrawal on the strength of a settlement. This is analogous to the vested right of appeal recognised in ***Garikapati Veeraya v. N. Subbiah Choudhry*, AIR 1957 SC 540**, wherein the Constitution Bench held that the right of appeal is a substantive right which vests on the date of institution of the original proceeding, is governed by the law prevailing on that date, and can be taken away only by express enactment or necessary intendment. The parity of reasoning is direct, just as the right of appeal inheres in the lis from its institution, the remedy of a settlement-based exit inhered in the CIRP from the date of its admission, and the law in force on the date of admission continues to govern that remedy.

With the already admitted CIRPs the Parties, the original applicant, the corporate debtor, its promoters and guarantors, creditors ordered their affairs on the footing of the law then declared, in which a settlement-based exit remained available throughout the CIRP. One-time settlement negotiations, guarantee arrangements and funding commitments were structured on that basis. To apply clause (b) of sub-section (2) of Substituted section 12A [i.e. limb (b) of the embargo created as per substituted provisions of section 12A] to such pending CIRPs in which Form G had already been issued before 26.05.2026 is not to regulate a future step; it is rather to **destroy, without express words, a remedy that existed on the date the disability is said to attach**.

It is settled law that a beneficial, right-conferring amendment may be extended to pending matters without offending the presumption against retrospectivity, whereas a right-*divesting* amendment may not.

9. It is further to be noted that Section 8 of the Amendment Act effects a "substitution" of Section 12A. It is settled that substitution comprises two steps- repeal of the existing provision and re-enactment of the new one. **Section 6 of the General Clauses Act, 1897** therefore applies whereupon the repeal shall not "affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed. For ready reference, the section 6 of General Clauses Act is reproduced hereunder:

> ***"6. Effect of repeal: Where this Act, or any 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."***

As such, by **Section 6(c)**, the repeal shall not "affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed", and by **Section 6(e)**, it shall not affect any "remedy" or "legal proceeding" in respect of any such right, and any such remedy may be enforced "as if the repealing Act... had not been passed."

A CIRP admitted before 26.05.2026 is a legal proceeding instituted and pending under the unamended Code, the withdrawal remedy under the erstwhile Section 12A is a remedy in respect of rights accrued in that proceeding. The Amendment Act evinces an intention *confirming* prospectivity. The Section 6 on General Clauses Act preserves both the proceeding and the remedy under the erstwhile Section 12A.

10 It is also to be noted that **the scheme of the Amendment Act and the Notification demonstrates that Parliament legislated expressly whenever it intended to reach pending CIRPs; the omission qua Section 12A is deliberate.**

Section 20 of 2026 Amendment Act, inserts in Section 33 of the principal Act (Code) a new sub-section (1A). However, the same is inserted with an **Explanation**, to expressly make it applicable even to pending proceedings, which reads as under-

> ***"20.*** *In section 33 of the principal Act, -*
>
> *…*
>
> *(b) after sub-section (1), the following sub-sections shall be inserted, namely: —"(1A)….*
>
> ***"Explanation.—****For the purposes of this section, it is hereby declared that on and from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2026,* ***the provisions of sub-sections (1A) and (1B) shall also apply to the corporate insolvency resolution process of a corporate debtor initiated under Chapter II before such date of commencement,*** *where*

the Adjudicating Authority has not passed a liquidation order under sub-section (1) of this section, and shall not apply where the liquidation order is passed."

The 2026 Amendment Act and the commencement framework thus contain **express transitional provisions** for those amendments intended to apply to processes already pending on the notified date. Parliament, therefore, plainly adverted to the question of pending processes and, where it intended the new regime to reach them, said so in terms. No such words accompany the substituted Section 12A. The omission of any transitional extension for **Section 12A** also leads to the inference that the embargo was intended to operate only prospectively qua CIRPs admitted on or after 26.05.2026. Any other reading renders the express transitional clauses elsewhere in the Amendment Act otiose.

Furthermore, the object of the Code, as authoritatively expounded in ***Vallal RCK (supra)*** is to encourage settlement and resolution. The erstwhile Section 12A was a beneficial provision facilitating that object. A construction which retrospectively curtails a beneficial, settlement-facilitating provision and consigns a settlement-ready corporate debtor to a process no stakeholder wishes to continue, is to be avoided unless the statute expressly compels it.

11. **In the light of the foregoing, we are of the considered view that:**

(a) The embargo introduced by the substituted Section 12A operates **prospectively** solely to withdrawal of applications under Sections 7, 9 or 10 of the Code **admitted on or after 26.05.2026**;

(b) CIRPs admitted **before 26.05.2026** continue to be governed by the erstwhile Section 12A read with Regulation 30A of the CIRP Regulations and as such

(i) withdrawal at the pre-CoC stage remains maintainable, and

(ii) withdrawal after issuance of the first invitation for resolution plans/expression of interest remains maintainable with the approval of ninety per cent voting share of the CoC, the timing stipulation being directory;

(c) A fortiori, withdrawal applications already pending before the Adjudicating Authority as on 26.05.2026, and withdrawals founded on settlements concluded and/or CoC approvals obtained before that date, are wholly unaffected by the embargo and are to be dealt with in accordance with erstwhile section 12A.

12. In the present case before us, the admission under Section 7 of the IBC was made prior to 26.05.2026, the settlement between the applicant financial creditor and corporate debtor was arrived at prior to 26.05.2026, the Form FA was filed and placed before the CoC prior to 26.05.2026. The CoC passed the resolution by 100% approving the withdrawal but after 26.05.2026. The applicant RP filed application for withdrawal after 26.05.2026. In view of these facts and the view as expressed herein above on the applicability of the old or new provision of section 12A, we hold that the withdrawal application in the matter will have to be considered in accordance with the erstwhile (old) provision of section 12A as it stood when the CIRP was initiated by admitting the Section 7 application. We have considered the application accordingly. We find that conditions as given under the erstwhile section 12A read with Regulation 30A is fully complied with. We

therefore allow the withdrawal of application admitted under section 7 of the IBC in CP(IB) No 320/CHD/PB/2024 and direct the closure of the CIRP initiated against the corporate debtor. The IRP is directed to handover the control of the corporate debtor to the suspended management. The ROC is directed to change the status of the Corporate Debtor in the master data as appearing in MCA portal.

13. As a result, the Application bearing **IA (IBC)/966(CH)/2026 stands allowed**. Consequently, the **CIRP initiated in CP(IB) No 320/CHD/PB/2024 is terminated and closed.**

Sd/-	Sd/-
(K. BISWAL)	**(K.K. SINGH)**
MEMBER (JUDICIAL)	**MEMBER (TECHNICAL)**

Anjana