IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

I.A. No. 5734/2023
In
C.P. (IB) No.160 (PB)/2018

(Under section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016)

IN THE MATTER OF:

ASEET RECONSTRUCTION COMPANY (INDIA) LIMITED

....FINANCIAL CREDITOR

VERSUS

M/S WHITE METALS LIMITED

....CORPORATE DEBTOR

AND IN THE MATTER OF:

RANJIT KAPOOR

... APPLICANT

VERSUS

HEMANT SHARMA AND ORS.

...RESPONDENTS

Order Pronounced On: 21.08.2026

CORAM:
JUSTICE ANUPINDER SINGH GREWAL
HON'BLE PRESIDENT

SHRI RAVINDRA CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

Present:

For the Applicant	:	Adv. Akshat Vachher
For the RP	:	Adv.Varsha Banerjee, Adv. Hemant Sharma
For the NOIDA Authority	:	Adv. Rachit Mittal, Adv. Parish Mishra, Adv. Kanishk Raj, Adv. Srishti Agrawaal, Adv. Abhishek Sinha, Adv. Shivansh Bansal
For IGL	:	Apoorva Singhal, DGM Legal

Order

1. The instant Application has been filed by Mr. Ranjit Kapoor, promoter and one of the directors of M/s White Metals Limited ("**Corporate Debtor**" / "**CD**"), under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("**Code**" / "**IBC**") read with Rule 11 of the National Company Law Tribunal Rules, 2016 ("**NCLT Rules, 2016**"), seeking the following reliefs:

A. Issue appropriate directions to the Respondents to treat the status of the Company as it stood on 12.06.2018 for all purposes;

B. Issue appropriate directions to the Respondents quashing all penalties/interests/costs/duties/levies imposed upon the Company during the period commencing from 13.06.2018 till 06.09.2022;

C. Issue appropriate directions to the Respondents quashing all proceedings initiated against the Company by all/any of the Respondents on account of any delay in compliance/non-compliance under any applicable statute, during the period commencing from 13.06.2018 till 06.09.2022;

D. Issue appropriate directions to the Respondents restraining the Respondents from initiating any coercive measures against the Company for a period of one year;

E. Issue appropriate directions against the Respondent No. 1 to make good the losses occasioned to the Company on account of the theft of machinery/equipment from the Factory premises while the samewere in his custody during the CIRP period;

F. Issue appropriate directions to the Respondent no.5 to restore the gas connection of the Company after waiving all charges, penalties, interest etc. imposed for the period 13.06.2018 to 06.09.2022.

G. Issue appropriate directions to the Respondent no.3 to restore the electricity connection of the Company after waiving all charges, penalties, interest etc. imposed for the period 13.06.2018 to 06.09.2022;

H. Issue appropriate directions to the Respondent no.4 to revive the GST registration number granted to the Company and to waive all demands, penalties, interest etc imposed for the period 13.06.2018 to 06.09.2022 and to allow the Company to file past GST returns;

I. Issue appropriate directions to the Respondent No. 7 to waive all penalties and interest etc. imposed for the period 13.06.2018 to 06.09.2022.

J. Issue appropriate directions to the Respondent No. 16 to provide for financial assistance to the Company through a nationalized bank to enable its revival and achieve the object and purpose of IBC;

K. Issue appropriate directions to Respondent No. 15 to compensate the Company for the losses occasioned during the CIRP period from the Insolvency and Bankruptcy Fund;

L. Pass any other order(s) that this Hon'ble Tribunal deems fit in the interest of justice.

2. During the course of arguments on 01.07.2026, Ld. Counsel for the Applicant submitted that only Prayer (a) was being pressed. It was submitted, in the short note filed on record, that what is sought is restoration of *status quo ante* qua liabilities of the CD arising during the CIRP, and not any waiver or extinguishment of liabilities.

3. The Application was originally filed against 16 Respondents. Vide order dated 05.08.2025, this Adjudicating Authority, on the basis of endorsements made on behalf of the Applicant, deleted Respondent Nos. 2 (Ministry of Corporate Affairs), 6 (Deputy Director of Factories), 8 (ESIC), 10 (CONCOR), 11 (Commissioner of Customs), 13 (Additional DGFT), 14 (New India Assurance Co. Ltd.) and 16 (Reserve Bank of India) from the array of parties. The Application accordingly survives against original Respondent Nos. 1, 3, 4, 5, 7, 9, 12 and 15, renumbered as Respondent Nos. 1 to 8 in the Amended Memo of Parties filed on 01.04.2026.

4. Notices were issued to, and duly served upon, all the Respondents. Respondent No. 1 ("**Erstwhile Resolution Professional**" / "**RP**") filed a detailed reply. Respondent No. 6 (NOIDA) entered appearance and filed its reply. The remaining Respondents, except Respondent No. 2, did not enter appearance despite service.

Brief Background of the Case:

5. The CD was admitted into Corporate Insolvency Resolution Process ("**CIRP**") vide order dated 13.06.2018 on an application under Section 7 of the Code filed by Asset Reconstruction Company (India) Limited (ARCIL). Mr. Hemant Sharma was appointed IRP and later confirmed as RP.

6. An application for approval of the resolution plan of J.P. Engineers Private Limited **(CA(IBC)-455(PB)/2019)** was rendered infructuous on account of CIRP proceedings initiated against the said Resolution Applicant, and was disposed of vide order dated 01.07.2021, with directions to the RP to invite a fresh expression of interest.

7. In the interregnum, a One-Time Settlement (OTS) was arrived at between the ex-directors and the Financial Creditors (ARCIL and PNB), which was approved by the CoC with 100% voting share in its 18th meeting held on 11.05.2022, whereby the CIRP cost of Rs. 9,00,50,073/- (Rupees One Crore Fifty Thousand and Seventy-three only), as on 31.05.2022 was ratified, and the ex-directors, Mr. Ranjit Kapoor and Mr. Kiran Kapoor, unconditionally undertook to bear this amount together with any further costs accruing until the final order under Section 12A.

8. Thereafter, RP filed I.A. No. 2615/2022 under Section 12A of the Code seeking withdrawal of CP (IB) No. 160/PB/2018, which was allowed vide order dated 06.09.2022 and the petition was disposed of as withdrawn, the moratorium under Section 14 stood lifted, the CD and its directors were released from CIRP, and RP was permitted to continue operating the designated CIRP bank account for disbursal of the ratified CIRP cost.

9. Pursuant to the aforesaid order dated 06.09.2022, the RP filed Reports by way of Applications being I.A. 4965/2022 and I.A. 5741/2022. As per the report, RP sent an e-mail dated 22.09.2022 to the CoC Members and the Directors/Promoters of the Corporate Debtor, intimating them about the withdrawal order with a request to the Directors/ Promoters of the CD to deposit the amount of Rs. 9,00,50,073/- (Nine Crores Fifty Thousand and Seventy three only) incurred towards the CIRP Costs in the Bank Account held with Axis Bank and maintained by the RP, within 3 days, failing which, the Bank Guarantee dated 06.05.2022 submitted by the Promoters/Directors would be encashed.

10. However, the Directors of the CD failed to deposit the said amount within three days of intimation of the said Order as stipulated under Regulation 30A(7) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016 and thus the RP invoked the Bank Guarantee No. 003GT02221260010 received under Regulation 30A(2) of the CIRP Regulations amounting to Rs. Rs.9,00,50,073/- by issuing a Letter of Invocation to the Guarantor Bank i.e., HDFC Bank, dated 27.09.2022, the proceeds whereof were credited to the CIRP bank account maintained in Axis Bank bearing Account No. 922020027769280 on 29.09.2022.

11. In the meantime, while adjudicating IA4935/2022, this Adjudicating Authority permitted the Respondent No. 1 to hand over the possession of the Corporate Debtor to the promoters. The relevant portion of the order is extracted below:

ORDER

IA-4935/2022

The relief sought in the above application is reads as follows:

> *"a. Pass appropriate order(s) directing the Respondent No.1 to transfer the amount of Rs. 1,97,99,251/- to the bank account of the Corporate Debtor to enable the Corporate Debtor disburse the same to the persons concerned after verification and reconciliation of their account;*
> *b. Pass appropriate order(s) directing discharge of the Resolution Professional with respect to the CIRP Account; and*
> *c. Pass such further order(s) as this Hon'ble Tribunal deems fit under the facts and circumstances of the present case."*

The Company Petition was withdrawn on 06.09.2022 under Section 12A.

Mr. Hemant Sharma, RP appeared through VC.

Ld. Counsel Mr. Prashant Katara for the Promoter Director physically appeared and states that an amount of Rs. 9 crores was left with the RP to pay off the various dues including statutory dues. Against that Rs. 7.50 crores approximately has been paid by the RP. For the remaining amount of Rs. 1.5 crores approximately, he seeks the order of this Court that the Promoter/Director be allowed to operate the account as the RP is unable to pay off the same, these being small petty amounts which will require some time to pay off and RP seeks to discharge himself from his duty.

The application **is allowed**.

The RP is directed to hand over the account to the Promoter Director, who will henceforth operate the same and pay all the statutory dues and give us the report within 45 days on or before the next date of hearing **i.e. 03.07.2023**.

12. Of the ratified CIRP cost of Rs. 9,00,50,073/- (Rupees Nine crores Fifty Thousand and Seventy-Three only), the erstwhile RP disbursed a total of Rs. 7,53,25,711/- (Rupees Seven Crores Fifty-Three Lakhs Twenty-Five Thousand Seven hundred and eleven only) in two tranches, Rs. 7,12,74,973/- (Rupees Seven Crore Twelve Lakhs Seventy-four Thousand Nine Hundred and Seventy-Three only) towards professional fees, service providers, major creditors and TDS, pursuant to orders dated 06.09.2022 and 14.10.2022, followed by a further Rs. 40,50,738/- (Rupees Forty Lakhs Fifty Thousand Seven Hundred and Thirty-Eight only), leaving a balance of Rs. 1,47,24,362/- (Rupees One Crore Forty-Seven Lakhs Twenty-four thousand three hundred and sixty-two only) payable towards petty creditors and estimated statutory dues (TDS, GST, PF/ESI and electricity dues) for the period 13.06.2018 to 11.01.2019.

13. Vide order dated 14.10.2022 this Adjudicating Authority directed the RP to disburse the remaining amount as per the CIRP Cost Sheet and file a compliance report; RP's reports (I.A. Nos. 4965/2022 and 5741/2022) and the correspondence exchanged with the Promoters between December 2022 and January 2023 record that the residual amount remained undisbursed on account of reconciliation difficulties and non-functional/suspended statutory accounts and portals (GST registration suspended, electricity connection permanently disconnected, TDS returns not filed).

14. Thereafter, Mr. Ranjit Kapoor, having regained control of the CD, filed I.A. No. 5734/2023 seeking restoration of *status quo ante* as it existed prior to commencement of CIRP, together with consequential reliefs against the Respondents. The application was initially dismissed for want of prosecution vide order dated 27.10.2023, however, the same was restored on allowing R.A. No. 183/2023 filed by the Applicant vide order dated 06.11.2024.

Submissions on behalf of the Applicant:

15. It is submitted that the OTS, unanimously approved by the CoC, secured a higher and more efficient recovery for creditors than the erstwhile resolution plan of J.P. Engineers Private Limited, as reflected in the comparative table placed on record.

16. It is contended that, upon withdrawal of the CIRP under Section 12A, the Resolution Professional handed over possession of the Noida factory premises on 29.09.2022. However, the Applicant found the factory in a completely dilapidated condition, unlike the operational and functional state in which it was taken over by the Resolution Professional at the commencement of the CIRP. Critical machinery, equipment and cabling estimated worth approximately Rs. 20 crores, comprising dies, instruments, cabling and aluminium raw material/finished goods were stolen during the CIRP period while in RP's statutory custody, with no insurance cover subsisting. It was submitted that the Applicant has filed criminal complaints regarding the same. Because of the loss so caused, there have been hindrances in starting operations at the CD factory, and the Applicant's efforts to revive the CD are going in vain.

17. It is submitted that the resultant loss has hindered resumption of operations, and that continued classification of the CD's accounts as a Non-Performing Asset (NPA) in CIBIL records, notwithstanding withdrawal of CIRP, has blocked fresh financing despite prospective financiers being otherwise willing to invest once operations are restored. Representations for removal of the NPA classification, made to the Reserve Bank of India, have not yielded results.

18. It is contended that RP failed to preserve the CD as a going concern, in violation of Sections 17(2)(e), 18(2)(f), 20(2)(e) and 25 of the Code, resulting in disconnection or lapse, during CIRP, of statutory licences and utilities electricity, GST registration, VAT assessment, gas connection, pollution-control NOC, factory licence, fire licence and IEC certificate and accrual of unanticipated post-CIRP liabilities, including PF/ESI arrears and other statutory dues, in respect of which waiver of CIRP-period interest and penalty is sought (while undertaking to discharge the principal amounts). Illustratively, the Applicant states having paid approximately Rs. 1.35 crore towards EPFO dues without access to RP's records to verify the demand.

19. The Applicant submits that the Resolution Professional failed to furnish the books of accounts, financial statements, inventory records and details of statutory payments made during the CIRP period. Consequently, after restoration of possession, the Applicant was compelled to discharge various statutory liabilities without access to the underlying records or reconciliation of accounts.

20. It is submitted that, after regaining possession, the promoters undertook extensive revival measures, restoration of utilities, repair of machinery and infrastructure, replacement of stolen equipment, engagement of fresh workforce, discharge of statutory dues, pursuit of criminal proceedings, and correspondence with authorities and prospective customers while pursuing the present proceedings.

21. The Applicant submits that representations have also been made before the Reserve Bank of India for removal of the continued NPA classification of the Corporate Debtor. It is contended that despite withdrawal of the CIRP under Section 12A, the Corporate Debtor has not been granted the benefit of the "clean slate" principle.

22. Further, it was submitted on behalf of the Applicant that there is no provision in the code distinguishing between the case of a promoter where, pursuant to Section 12-A, the factory premises were handed back to the Applicant/promoter, vis-à-vis a case where a unit is purchased by the Successful Resolution Applicant or a liquidation purchaser for the purposes of the 'clean slate' principal. Thus, it was submitted that there is a vacuum in the Code, and its rules and regulations qua the losses and liabilities accrued during the CIRP period, especially in cases where the settlement under Section 12-A has been allowed after a considerable delay. Reliance is placed on **Arun Kumar Jagatramka v. Jindal Steel and Power Limited & Anr., (2021) 7 SCC 474**, for the proposition that withdrawal under Section 12A restores the position as it existed on the commencement of CIRP, i.e., 12.06.2018.

23. Relying on the short note filed on 09.07.2026, it is further submitted that Section 14 of the Code operates as a statutory freeze, and that any penalty, interest, cost, duty or levy imposed, assessed or compounded against the CD during subsistence of the moratorium would be in violation of Section 14 and would be non-est in law.

24. It is submitted that the Applicant does not seek waiver or extinguishment of liabilities as such, but a declaration that liabilities cannot be compounded or enhanced during the CIRP period, and that any liability subsisting as on the date of imposition of the moratorium must be computed with reference to the position as it stood on 12.06.2018, failing which the moratorium would become a meaningless exercise.

25. Reliance in this regard is placed on **Rajendra K. Bhutta v. State of Maharashtra, (2020) 13 SCC 208**, for the proposition that Section 14 results in a statutory freeze so that the CD is kept as a going concern; **P. Mohanraj & Ors. v. Shah Brothers Ispat Pvt. Ltd., (2021) 6 SCC 258**, for the proposition that Section 14 is intended to prevent depletion of the CD's assets; and **Swiss Ribbons (P) Ltd. v. Union of India, (2019) 4 SCC 17**, for the proposition that Section 14 is a beneficial provision intended to put the CD back on its feet.

26. Reliance is further placed on **EPFO v. Jaykumar Pesumal Arlani, 2025 SCC OnLine NCLAT 9**; **CA Pankaj Shah v. EPFO & Anr., 2025 SCC OnLine NCLAT 1403**; and **Regional Provident Fund Commissioner, EPFO v. Manish Kumar Bhagat, 2023 SCC OnLine NCLAT 2176**, for the proposition that assessment proceedings cannot be initiated, and damages or penalties cannot be levied, during subsistence of the moratorium under Section 14(1) of the Code, and that only such dues as stood assessed or crystallised prior to imposition of the moratorium can be enforced.

27. Reliance is also placed on the decisions of the Ld. NCLT, Chennai, in **Krishnaswamy Vasudevan v. SBHI & Ors., I.A. (IBC) 2119/CHE/2023 in IBA/483/2020**, and in **I.A. (IBC)/1410/(CHE)/2022 in IBA/1459/2019** concerning **M/s Appu Hotels Ltd.** In illustration of the resultant prejudice, it is pointed out that EPFO's claim, originally submitted before the RP on 09.10.2018 at Rs. 48,85,916/-, was subsequently sought to be enforced at Rs. 5,14,82,383/- vide notice dated 07.11.2023; and that the NOIDA Authority is stated to have compounded its dues during the CIRP period and raised a demand of approximately Rs. 6 crores, which has been paid by the Applicant, without prejudice to his rights and contentions.

Submissions by the Respondent No. 1 / RP

28. It is submitted that RP discharged all statutory duties and was formally discharged pursuant to order dated 25.04.2023. Further, in the 18th CoC meeting, the committee ratified an estimated CIRP cost of Rs. 9,00,50,073/- (Rupees Nine Crores Fifty Thousand Seventy-Three only) accrued up to 31.05.2022 which included Rs. 67,11,390/- (Rupees Sixty-Seven Lakhs Eleven Thousand Three Hundred Ninety only) allocated for statutory dues (PF, GST, ESI, TDS) for a 3-month operational period ending September 2018, after which operations ceased. It is submitted that the ex-directors, Mr. Ranjit Kapoor (the Applicant) and Mr. Kiran Kapoor, unconditionally agreed to personally bear these costs, as well as any additional expenses accruing over and above the Rs. 9.00 Crores until the final Section 12A order was passed.

29. After approval of withdrawal by the AA, the RP directed the ex-directors to deposit the approved CIRP cost of Rs. 9,00,50,073/- (Rupees Nine Crores Fifty Thousand Seventy-Three only) into CD's bank account within 3 days. Upon failure of the ex-directors to deposit the ratified amount within three days as directed, RP invoked the Bank Guarantee dated 06.05.2022 on 27.09.2022, the proceeds whereof were credited to the CIRP bank account on 29.09.2022. Possession, custody and control of all assets of the CD was handed over to the promoters on the same date under a handover letter unconditionally signed by both sides. It is contended that the Applicant, having accepted the assets without protest or reservation, is estopped from alleging theft or destruction after a delay of over 1.5 years.

30. In compliance with orders dated 06.09.2022 and 14.10.2022, the RP disbursed a total sum of Rs. 7,53,25,711/- (Rupees Seven Crores Fifty-Three Lakhs Twenty-Five Thousand Seven Hundred and Eleven only) in aggregate towards the approved CIRP costs, leaving a balance of Rs.

1,47,24,362/- (Rupees One Crore Forty-Seven Lakhs Twenty-Four Thousand Three Hundred and Sixty-Two only) towards petty creditors and estimated statutory dues for the period 13.06.2018 to 11.01.2019, correspondence in respect whereof was exchanged with the Promoters between December 2022 and January 2023.

31. Further, as regards the allegation of failure to preserve the CD as a going concern, RP relies on the minutes of the 2nd and 3rd CoC meetings, which record that despite sufficient orders from buyers, operations could not be serviced on account of mismatch in inflow/outflow and negative working capital, a position also explained by the Directors themselves with reference to the 75–90-day conversion cycle prevailing in the aluminium industry and shrinking availability of raw material, with no explanation offered for the erosion of EBITDA.

32. RP further relies on Section 233 of the Code, which protects insolvency professionals from action for acts done in good faith, and submits that withdrawal under Section 12A, being in the nature of a settlement, is to be distinguished from a resolution plan approved under Section 31 of the Code or a liquidation purchaser for the purposes of the 'clean slate' principle. It is submitted that this benefit is not available where an application is withdrawn simpliciter under Section 12A of the Code.

Findings & Analysis:

33. We have heard the learned Counsel appearing on behalf of the parties and have perused the material available on record, including the pleadings, written submissions, documents and the judgments relied upon. In light of the pleadings and submissions advanced by the parties, three issues arise for consideration:

I. Whether withdrawal of CIRP under Section 12A of the Code restores *status quo ante* in a manner that extinguishes, waives or exempts the Applicant from liabilities, costs and consequences that arose or accrued during the CIRP?;

II. Whether the grievances raised in the present Application, being grievances that arise subsequent to withdrawal of the CIRP, are maintainable before this Adjudicating Authority under Section 60(5) of the Code?; and

III. Whether penalties, interest, costs, dues or levies imposed, assessed, compounded or enhanced against the CD during subsistence of the moratorium under Section 14 of the Code are valid in law, and, if not, what relief, if any, the Applicant is entitled to in the present proceedings?

34. On the **first issue,** the legal position stands settled by the Supreme Court in **Arun Kumar Jagatramka v. Jindal Steel and Power Limited & Anr., (2021) 7 SCC 474** wherein the Court held that an application for withdrawal under Section 12A is "*not intended to be a culmination of the resolution process*" but operates "*at the inception*" of it; that withdrawal, being at the instance of the applicant, restores a status quo ante only "*in respect of the liabilities of the corporate debtor*" as they existed vis-à-vis the applicant/financial creditor who sought withdrawal, and is "*in the nature of settlement*", to be distinguished from a resolution plan approved under Section 31 or a scheme of arrangement sanctioned under Section 230 of the Companies Act, 2013, both of which represent the culmination of the process and alone attract the "*clean slate*" principle recognised in **Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta, (2020) 8 SCC 531**. A withdrawal simpliciter, by contrast, neither results in a change of management to an unrelated third party nor culminates the CIRP; it merely terminates it.

35. That Section 29A of the Code (ineligibility) does not apply to an application for withdrawal under Section 12A as held by the NCLAT in **Shweta Vishwanath Shirke & Ors. v. Committee of Creditors 2019 SCC OnLine NCLAT 1049** does not advance the Applicant's case. If anything, it reinforces the distinction that Section 29A and its rigours, as extended by **Arun Kumar Jagatramka (supra)** to other modes of resolution such as a scheme under Section 230, attach only to processes that culminate in a transfer of control to a third party. Settlement under Section 12A, precisely because it does not involve such a transfer, is placed on a different footing altogether, a footing that carries no corresponding entitlement to the concessions attached to resolution. A withdrawal of the CIRP under Section 12A of the IBC operates as a settlement among stakeholders, meaning the corporate debtor resumes operations with all its prior liabilities, avoiding the clean slate principle.

36. This distinction is dispositive of the immunity claimed by the Applicant. The only statutory immunity contemplated under the Code, under Section 32A, is confined in terms to liability "for an offence committed prior to the commencement of the corporate insolvency resolution process", and is available only where a resolution plan approved under Section 31 results in a change of management or control to a person not connected with the erstwhile promoters.

37. It is also pertinent to note that any statutory waiver, concession or extinguishment of liabilities under the Code can arise only where the Code expressly provides for such consequence; no such provision exists in relation to a withdrawal under Section 12A.

38. A withdrawal under Section 12A merely terminates the CIRP pursuant to a settlement and restores the parties to their pre-insolvency legal relationship; it neither obliterates the acts undertaken during the CIRP nor

creates any statutory mechanism for waiver or extinguishment of liabilities, obligations, claims or consequences arising during the CIRP or surviving upon its withdrawal. Withdrawal under Section 12A also cannot be construed as granting any waiver of the statutory obligations or liabilities of the Corporate Debtor, all of which continue to be governed by the applicable law and remain enforceable before the competent authorities. Restoration of the management of the Corporate Debtor upon withdrawal is merely a statutory consequence of termination of the CIRP and cannot be equated with restoration of the Corporate Debtor to a position as though the CIRP had never commenced or with nullification of the legal consequences that validly arose during the CIRP.

39. The clean slate doctrine is a core pillar of the IBC applied exclusively to the resolution of the CD, including for the approval of a Resolution Plan under Section 31. This grants a successful new resolution applicant / Transferee person a "fresh start", wiping out all prior historical claims, statutory dues, and liabilities.

40. By contrast, a Section 12A withdrawal functions on vastly different mechanics. When an application is withdrawn under Section 12A (typically due to a One-Time Settlement or a compromise), the CIRP is terminated. The corporate debtor is not sold to a new management; instead, the original promoters or management generally take back control. Because the corporate entity's ownership does not transition to a third party, historical claims against the company remain fully intact and enforceable.

41. Under the IBC, an application to withdraw can only be initiated by the original applicant and strictly requires the approval of 90% voting share of the Committee of Creditors (CoC). This high threshold exists precisely because withdrawal overrides the collective resolution process in favour of

a settlement, thus bringing back the original debtor-creditor dynamics outside the IBC's strict debt-extinguishing mechanisms.

42. Because a withdrawal does not provide a clean slate and relies on a settlement, the IBC ensures that dissenting or operational creditors aren't left without recourse. The withdrawal of a main petition does not prevent other financial or operational creditors from initiating their own CIRP applications against the corporate debtor if their claims remain unsatisfied.

43. A withdrawal of the CIRP under Section 12A of the Insolvency and Bankruptcy Code, 2016 cannot be equated with the approval of a resolution plan under Section 31 of the Code or a scheme of compromise or arrangement under Section 230 of the Companies Act, 2013. Consequently, the reliefs recognized by the Supreme Court in **Ghanshyam Mishra & Sons (P) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd., (2021) 9 SCC 657** which are premised on a genuine change of management are not available where the CIRP is withdrawn under Section 12A.

44. It is pertinent to note that, upon withdrawal of the CIRP under Section 12A of the IBC, 2016, the management of the Corporate Debtor reverts to the same promoters or persons who were in control prior to the commencement of the CIRP. The Legislature has consciously distinguished such a situation from one where a resolution plan is approved under Section 31 of the Code.

45. In the latter case, the approved resolution plan ordinarily results in a change in the management and control of the Corporate Debtor, with the successful resolution applicant being a person who may have had no involvement in the prior affairs of the Corporate Debtor. It is in this backdrop that Section 32A was introduced to grant immunity to the Corporate Debtor and its new management from liabilities arising out of or

offences committed prior to the commencement of the CIRP, subject to the fulfilment of the statutory conditions stipulated therein. The legislative intent is, therefore, clear that such immunity is intended to facilitate a genuine change in management and not to enure to the benefit of the erstwhile promoters who resume control of the Corporate Debtor pursuant to withdrawal of the CIRP under Section 12A.

46. This position finds further, and specific, reinforcement in Regulation 30A(7) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which obliges the applicant seeking withdrawal to bear the actual costs incurred during the CIRP up to the date of approval of the withdrawal application by the Adjudicating Authority, not merely up to the date of its filing.

47. The NCLAT, in **Minita D Raja v. Cosmos Co-Op Bank Ltd., 2026 SCC OnLine NCLAT 683**, has recently reaffirmed this position, holding that the Resolution Professional's duties, and the obligation to discharge CIRP costs, subsist throughout the interregnum between filing of the Section 12A application and its eventual approval, and do not lapse merely upon filing. Regulation 30A(7) thus fixes, as a matter of statutory design, a continuing and non-negotiable obligation on the applicant promoter to bear the costs of the process for the entire period during which the Corporate Debtor remained under CIRP an obligation that is the necessary quid pro quo for the benefit of regaining control that the promoter obtains upon withdrawal, and one which cannot later be shed by re-characterising the withdrawal as having restored a status quo ante retrospectively to the date of commencement of CIRP.

48. More so, in the 18th CoC meeting, as recorded in the order passed by this Adjudicating Authority on 06.09.2022, it was categorically recorded that every cost incurred during the CIRP is liable to be compensated by the Applicants, to which the Applicants also purportedly concurred. Now, the Applicant, through the instant Application, is attempting to resile from these commitments, on the basis of which the feasibility of the settlement plan was assessed by the CoC, a course this Adjudicating Authority deprecates.

49. The original management of the CD, who, based on certain assurances, has taken over the CD after settlement, cannot be allowed any exemptions from cost or claims, including statutory claims that may have arisen during CIRP. Allowing such exemptions and reliefs to the Applicant would welcome a new practice of settling CIRPs ordinarily rather than letting the CIRP be completed through resolution, and we are of the view that such proposed new normal is impliedly prohibited by the Insolvency and Bankruptcy Code 2016, as it requires 90% CoC approval as against 66% in case of approval of resolution plan.

50. The principle that a party cannot resile from a commitment made to, and acted upon by, the CoC recognised by the Supreme Court in the analogous context of resolution plans in **Ebix Singapore Pvt. Ltd. v. Committee of Creditors of Educomp Solutions Ltd., (2022) 2 SCC 401**, where it was held that a plan once sanctioned by the CoC binds the applicant and admits of no subsequent renegotiation or withdrawal applies with equal, if not greater, force to a settlement under Section 12A, which similarly proceeds on the basis of representations made to, and relied upon by, the CoC. The Applicant's attempt, through the present Application, to resile from the very commitment on the basis of which the feasibility of the OTS was assessed and approved is impermissible, and is accordingly deprecated.

51. In view of the foregoing reasons, **Issue I is answered against the Applicant**. Accordingly, the prayer seeking restoration of *status qua* ante is rejected, as withdrawal under Section 12A neither obliterates the CIRP nor extinguishes the liabilities, obligations or legal consequences, including CIRP costs, arising during its pendency.

52. On the **second issue,** namely, whether the present application is maintainable in law, we deem it necessary to examine the scope and ambit of Section 60(5)(c) of the Code which confers on this Adjudicating Authority jurisdiction over "any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution" of a corporate debtor. This residuary jurisdiction, though wide, is not unlimited. Section 60 (5) reads as follows:

Section 60: Adjudicating Authority for corporate persons.

…

(5) Notwithstanding anything to the contrary contained in any other law for the time being in force, the National Company Law Tribunal shall have jurisdiction to entertain or dispose of—

(a) any application or proceeding by or against the corporate debtor or corporate person;

(b) any claim made by or against the corporate debtor or corporate person, including claims by or against any of its subsidiaries situated in India; and

(c) ***any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution*** *or liquidation proceedings of the corporate debtor or corporate person under this Code.*

53. On the interpretation of the said provision the Supreme Court in **Gujarat Urja Vikas Nigam Ltd. v. Amit Gupta, (2021) 7 SCC 209**, held that Section 60(5)(c) permits adjudication of disputes relating to the insolvency resolution process, but that a dispute arising dehors the insolvency of the corporate debtor must be pursued before the competent authority under the relevant law. In **Embassy Property Developments Pvt. Ltd. v. State of Karnataka, (2020) 13 SCC 308**, the Court cautioned that Section 60(5)(c) cannot be stretched to bring within its fold "any question of law or facts under the sky", and that matters in the realm of public law fall outside it.

54. Most recently, in **Gloster Limited v. Gloster Cables Limited & Ors., 2026 264 Comp Cas 607: 2026 SCC OnLine SC 105**, the Supreme Court reiterated that this Tribunal's residuary jurisdiction, though wide, must find a specific textual hook, and that it "cannot do what IBC consciously did not provide it the power to do."

55. The aforesaid judgments make it clear that the jurisdiction of the Adjudicating Authority under Section 60(5)(c) of the Insolvency and Bankruptcy Code, 2016, though wide in amplitude, is confined to questions arising out of or in relation to the Corporate Insolvency Resolution Process or liquidation proceedings. Tested against this backdrop, the grievances raised by the Applicant i.e., outstanding electricity, GST and other statutory dues, restoration of utility connections, and compensation for alleged theft of machinery, are matters that arose or crystallised, and in large part continue to be contested, after the successful withdrawal of the CIRP. They are not questions arising out of or in relation to the insolvency resolution process; they are disputes between the Corporate Debtor, now under the management of its promoters, and the concerned statutory or utility authorities, to be agitated under the respective governing statutes and before the fora designated thereunder. To adjudicate them here would

amount to this Adjudicating Authority usurping the jurisdiction of those authorities, contrary to the caution administered in Embassy Property and Gloster.

56. Further, insofar the allegation of theft of machinery and equipment is, in any event, vague and unparticularised, the Applicant has not specified the equipment allegedly stolen with any precision and stands categorically denied by Respondent No. 1. This Adjudicating Authority possesses no investigative jurisdiction to return a finding on such an allegation; the appropriate remedy, if any, lies before the criminal courts or other competent forum, where, as recorded above, the Applicant states it has already lodged complaints. It is also not without significance that possession of the assets was accepted by the promoters on 29.09.2022 under a handover letter signed without protest or reservation, and the grievance of theft has been raised in the present proceedings only after a considerable delay.

57. Furthermore, it is pertinent to note that the Corporate Debtor has always remained the company of the Applicant. It was, therefore, open to the Applicant to discharge the outstanding liabilities and prevent the Corporate Debtor from being subjected to insolvency proceedings. It is not in dispute that a default in repayment of the debt had occurred, which ultimately led to the initiation of the Corporate Insolvency Resolution Process. Had the CIRP not commenced, the Corporate Debtor would nevertheless have remained liable to discharge its outstanding debts, ensure compliance with the applicable statutory requirements and satisfy all statutory dues. Merely because the Applicant subsequently entered into a settlement with the financial creditors resulting in withdrawal of the CIRP under Section 12A of the Code, it cannot seek to avoid liabilities that may have arisen during the CIRP period.

58. Accordingly, **Issue II is also answered against the Applicant**. Claims and disputes, whether by or against the Corporate Debtor, arising or subsisting after successful withdrawal of the CIRP under Section 12A do not constitute questions arising out of or in relation to the CIRP within the meaning of Section 60(5)(c) of the Code, and are to be dealt with in the respective forums in accordance with law.

59. We now turn to **Issue III**. The proposition urged by the Applicant, that Section 14 of the Code operates as a statutory freeze during which penalties, interest, dues or levies cannot be validly imposed, assessed, compounded or enhanced against a corporate debtor, is well-founded and is supported by the observations of the Supreme Court in **Rajendra K. Bhutta v. State of Maharashtra, (2020) 13 SCC 208**, **P. Mohanraj & Ors. v. Shah Brothers Ispat Pvt. Ltd., (2021) 6 SCC 258**, and **Swiss Ribbons (P) Ltd. v. Union of India, (2019) 4 SCC 17**. Although the said proposition was not advanced by the Applicant in its pleadings, however, the same have been made part of the short note filed by the Applicant on 09.07.2026, and therefore, we deem it appropriate to deal with the same.

60. This proposition stands on a footing distinct from, and is not answered by, our findings on Issue-I, which concern whether withdrawal under Section 12A retrospectively extinguishes liabilities and costs that validly accrued during the CIRP, whereas the question here is the anterior one of whether a liability could validly be enhanced, compounded or assessed at all while the moratorium was subsisting. A liability that was never validly enhanced during the moratorium is not one that Section 12A needs retrospectively extinguish; it never came into being in the first place.

61. It follows that any demand raised, or any liability enhanced, assessed or compounded against the CD by invocation of penal or compounding provisions during the period the moratorium under Section 14 was in force,

i.e., 13.06.2018 to 06.09.2022, would, to that extent, be non-est in law, and the CD would be liable only to the extent such liability stood crystallised as on the date of commencement of the moratorium, together with such further liability as forms part of the CIRP cost ratified by the CoC and dealt with under Issue I above.

62. However, while the invocation of coercive proceedings or the enhancement of penalties during the CIRP period is legally interdicted, this statutory shield must not be conflated with the substantive extinguishment of the Corporate Debtor's statutory liabilities. The Supreme Court has unambiguously delineated the scope and limits of Section 14 in **P. Mohanraj & Ors. v. Shah Brothers Ispat Pvt. Ltd., (2021) 6 SCC 258**, holding as follows:

"A moratorium provision, on the other hand, does not extinguish any liability, civil or criminal, but only casts a shadow on proceedings already initiated and on proceedings to be initiated, which shadow is lifted when the moratorium period comes to an end."

63. Thus, the temporary suspension of the remedy to enforce a claim during the CIRP merely provides the Corporate Debtor with a protective breathing space. Upon the withdrawal of the CIRP under Section 12A, the shadow cast by the moratorium is entirely lifted, thereby reviving the enforceability of the debts and statutory obligations as they stood crystallized on the insolvency commencement date.

64. Moreover, the possession of the CD to the suspended director/promoter was restored vide order dated 25.04.2023 passed by this Adjudicating Authority in IA No. 4935/2023, whereby the Resolution Professional was directed to hand over the management of the Corporate Debtor to the suspended Board of Directors. This restoration merely denotes the

restoration of the management of the Corporate Debtor to its suspended Board of Directors and cannot be construed as retrospectively extinguishing liabilities validly incurred during the subsistence of the CIRP or creating a legal fiction that such liabilities never existed.

65. Neither the order dated 25.04.2023 nor Section 12A of the Code provides for the retrospective extinguishment or waiver of liabilities validly incurred during the subsistence of the CIRP. To hold otherwise would effectively read into Section 12A a 'clean slate' consequence which the legislature has consciously reserved for an approved resolution plan under Section 31 of the Code."

66. Consequently, while the Applicant is correct in principle that penal enhancements could not validly be assessed during the currency of the moratorium, this clarification of law does not, however, translate into the specific reliefs claimed in the present Application. Whether, and to what extent, a particular demand such as the enhanced EPFO demand of Rs. 5,14,82,383/- (Rupees Five Crores Fourteen Lakhs Eight-Tow Thousand Three Hundred and Eighty-Three Only) raised vide notice dated 07.11.2023, or the compounding of dues by the NOIDA Authority referred to by the Applicant was in fact raised, assessed or compounded during the currency of the moratorium, and the resultant quantum properly payable by the CD upon reworking the demand with reference to 12.06.2018, are disputed questions of fact turning upon assessment records, dates of demand and correspondence exchanged with the respective authorities, none of which is placed on record in a form that would enable this Tribunal to return specific findings qua each such demand.

67. It is also relevant, in this behalf, that the EPFO notice relied upon is dated 07.11.2023, over a year after withdrawal of the CIRP on 06.09.2022, and its correlation to the moratorium period requires factual scrutiny that this

Tribunal, sitting under Section 60(5), is not the appropriate forum to undertake, for the reasons already recorded under Issue II above.

68. **Issue III is accordingly answered as follows**: The legal position that penalties, interest, costs, dues or levies cannot validly be imposed, assessed, compounded or enhanced against a corporate debtor during subsistence of the moratorium under Section 14 of the Code, and that any liability subsisting must be computed with reference to the position immediately prior to commencement of the moratorium, is affirmed in as much as the same is applicable upon the successful conclusion of the CIRP/approval of the Resolution Plan. However, in the facts and circumstances of the present case the CIRP did not culminate in the approval of a Resolution Plan but stood withdrawn under Section 12A of the Code pursuant to a settlement. Consequently, the legal consequences flowing from the approval of a resolution plan under Section 31 of the Code cannot be equated with those arising from a withdrawal under Section 12A of the Code.

69. Neither Section 12A of the Code nor Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons Regulations), 2016 provides that upon such withdrawal liabilities or obligations validly incurred during the subsistence of the CIRP stand automatically waived, extinguished or rendered unenforceable. In the absence of any express statutory provision to that effect, such a consequence cannot be read into Section 12A by implication.

70. It is, however, clarified that this finding is confined to the legal consequence of withdrawal under Section 12A of the Code and shall not preclude the Applicant from availing such statutory remedies as may be available under the respective enactments in relation to the validity, computation or quantification of any individual demand.

71. For the reference of future proceedings involving withdrawal of CIRP under Section 12A of the Code, and to obviate repeated recourse to this issue, we summarise the position as follows:

(a) Withdrawal of CIRP under Section 12A is in the nature of a settlement and not a culmination of the resolution process; it restores status quo ante only qua management and control of the corporate debtor, and not qua liabilities, obligations or costs that validly arose or accrued during the CIRP.

(b) The "clean slate" principle and the statutory immunity under Section 32A of the Code are attracted only upon approval of a resolution plan under Section 31 resulting in a genuine change of management to a person unconnected with the erstwhile promoters, and have no application where control reverts, upon withdrawal, to the very promoters who were in control prior to CIRP.

(c) The obligation to bear the actual costs of the CIRP, including under Regulation 30A(7) of the CIRP Regulations, subsists up to the date of approval of the withdrawal application by the Adjudicating Authority, and is not discharged merely upon filing of the Section 12A application; this obligation is the quid pro quo for the benefit of regained control and survives the withdrawal.

(d) Commitments recorded in the minutes of the CoC including an undertaking by promoters/ex-directors to bear CIRP costs form the basis on which the CoC exercises its commercial wisdom in approving a settlement, and cannot thereafter be unilaterally resiled from by the very party that gave them.

(e) Section 12A of the Code cannot be employed by promoters or ex-directors as a mechanism to shift, avoid, defer or recover, after regaining control of the corporate debtor, the costs and liabilities of the CIRP accruing between its commencement and the approval of the withdrawal application; any such attempt runs contrary to the object and scheme of the Code and is liable to be rejected.

(f) Grievances and disputes, whether by or against the corporate debtor, arising or crystallising after successful withdrawal of the CIRP under Section 12A do not fall within the residuary jurisdiction of the Adjudicating Authority under Section 60(5)(c) of the Code, and must be pursued before the competent statutory, civil or criminal fora, as applicable.

ORDER

72. **In view of the findings recorded above, I.A. No. 5734/2023 is dismissed, for want of merit as well as maintainability.**

73. The dismissal of the present Application shall not preclude the Applicant/Corporate Debtor from pursuing, before the competent statutory, civil or criminal fora, as may be applicable and available in law its grievances regarding electricity, GST, gas and other statutory/utility dues and connections; its allegations regarding theft of machinery and equipment during the CIRP period; and reconciliation of accounts maintained during the CIRP; and its contentions regarding the effect of the moratorium under Section 14 of the Code on demands raised, assessed, compounded or enhanced against it during the CIRP period, in light of the observations recorded hereinabove, to the extent permissible in law. All rights and contentions of the parties in any such proceedings are left open.

Sd/-
(ANUPINDER SINGH GREWAL)
PRESIDENT

Sd/-
(RAVINDRA CHATURVEDI)
MEMBER (TECHNICAL)