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

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **07.10.2026** THROUGH VIDEO CONFERENCE

CORAM: HON'BLE SHRI SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

IN THE MATTER OF : Emirates Shipping Agencies (India) Pvt Ltd
Vs
Genshipping Pacific Line (India) Pvt Ltd

MAIN PETITION NUMBER : CP(IB)/101(CHE)/2023

(IA/MA) APPLICATION NUMBERS

IA(IBC)/1163(CHE)2025; IA(IBC)/853(CHE)/2026

ORDER

IA(IBC)/1163(CHE)2025
IA(IBC)/853(CHE)/2026

Present: Mr. B.Sarath Babu, Ld. Counsel for the RP.
None for the Applicant / Ashish Vashist

Vide separate order pronounced in the open Court, application IA(IBC)/853(CHE)/2026 is allowed and the application IA(IBC)/1163(CHE)2025 is dismissed.

File be consigned to records.

-sd-
[VENKATARAMAN SUBRAMANIAM]
MEMBER (TECHNICAL)

-sd-
[SANJIV JAIN]
MEMBER (JUDICIAL)

MS

Date: 07.10.2026

IN THE NATIONAL COMPANY LAW TRIBUNAL

DIVISION BENCH – I, CHENNAI

I.A. (IBC) / 853 / (CHE) / 2026
in
CP (IB) / 101 / CHE / 2023

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

Ashish Vashist,
Chairman of COC,
A-91, Ground Floor (Unit 3),
Nagpal Business Towers,
Okhla Indl. Area Ph II,
New Delhi -110 020

… Applicant

-Vs-

S Kangayan,
Plot no 81, 3rd Street, Phrase 1,
Dollars Colony, Tambaram East,
Chennai – 600 127

…Respondent

Along With

I.A. (IBC) / 1163 / (CHE) / 2025
in
CP (IB) / 101 / CHE / 2023

(Filed under Section 33(2) Read with Section 60(5) of Insolvency and Bankruptcy Code, 2016)

S. Kangayan,
Resolution Professional of Genshipping Pacific Line (India) Limited
Plot No.81, 3rd Street, Phase I, Dollars Colony,
Vengambakkam, Tambaram East
Chennai

… Applicant

Order Pronounced on ***07th October 2026***

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

Present:
For Applicant : Kairav Anil Trivedi, Advocate
For Respondent (IRP) : B. Sarath Babu, Advocate

ORDER
*(**Hearing through hybrid mode**)*

I.A. (IBC) / 853 / (CHE) / 2026

1. This application has been filed by Ashish Vashist, under Rule 11 of the National Company Law Tribunal Rules, 2016 seeking the following reliefs:

> *"a) To take on record the minutes of the physical COC meeting held on 06.04.26 along with all the documents referred by the COC during its meeting.*
> *b) To order withdrawal of the CIRP in CP(IB)101/CHE/2023 based on the resolution passed by 100% of COC in its physical meeting held on 06-04-2026 as it has lost faith in the IBC process and would prefer to use the other alternatives as FC instead of IBC."*

2. Another application has been filed by liquidator under Section 33 of Insolvency and Bankruptcy Code, 2016 seeking for following reliefs:

"1. To order liquidation of M/s. Genshipping Pacific Line (India) Pvt Ltd, in term of section 33(1) of Insolvency and Bankruptcy code, 2016

2. To Direct the COC to pay the CIRP Cost incurred by the RP and fee in full.

3. To appoint any other Insolvency Professional as a Liquidator of Corporate Debtor from the Insolvency panel maintained by the IBBI.

4. To Pass any other orders as this Hon'ble Tribunal may deem fit under the circumstances of the case and thereby render justice"

3. The facts relevant for the disposal of the applications are that on a petition filed by the Financial Creditor / Applicant, CIRP was initiated against the Corporate Debtor Genshipping Pacific Line (India) Private Limited vide an order dated 15.11.2023 and Mr. S. Kangayan was appointed as the IRP. The IRP published Form A inviting claims from the creditors. He received one claim. On the basis of the claim received, he constituted the CoC as per Section 21 of IBC. The CoC later confirmed him as the RP by 100% voting in the meeting held on 26.12.2023. In the meeting, he was apprised by the CoC that the CIRP cost would be paid from the recovery of dues in the CIRP. The RP prepared the information memorandum and Form G and placed it before the 2nd CoC meeting held on 24.01.2024. The RP also requested the CoC to discuss on the appointment of Forensic Auditor and publication of Form G but the CoC did not take any decision in this regard. CoC even did not vote on the CIRP cost.

4. The sole CoC member thereafter requested the RP to stop the CIRP process through email. The RP sent a notice and agenda to convene the 3rd CoC as to the withdrawal of petition under Section 12A as requested by the sole CoC member and convened the meeting on 19.02.2024 but the sole CoC member Emirates Shipping Agencies Private Limited, expressed its inavailability to attend the meeting citing reasons. The RP postponed the meeting to the next date i.e. 20.02.2024 and sent the intimation to the sole CoC member asking him to attend the meeting but the sole CoC member did not revert back.

5. The RP also filed an application under Section 19(2). During the hearing on 25.11.2024, the sole CoC member undertook to pay the CIRP cost and the fee. Based on the undertaking, the Tribunal directed the RP to commence the process after getting the fee and expenses and convene the CoC.

6. It is stated by the RP that there was total non-cooperation from the CoC and he was only paid Rs. 1.09 Lakh towards the CIRP cost.

7. Per contra, it is submitted on behalf of the CoC that during the hearing on 16.09.2025 and 12.01.2026, it is stated that the Applicant / sole member of the CoC has lost faith in the IBC process and he raised a concern that RP has been acting under the influence of suspended management of the Corporate Debtor. It is alleged that the RP in defiance of the decision of the

CoC requesting the RP to withdraw the CIRP, filed the application IA/1163/2025 seeking liquidation of the Corporate Debtor. A notice for conducting the CoC was sent on 25.03.2026 but the RP in response vide mail dated 26.03.2026 stated that he is unable to recognize or participate in the proposed meeting and refused to conduct the meeting. Thereafter, the CoC with 100% voting resolved to withdraw the CIRP in the meeting held on 06.04.2026. In terms of the above resolution, application IA/853/2026 has been filed under Section 12A seeking withdrawal of CIRP. The resolution is extracted as under:

> *"RESOLVED THAT the CoC, by 100% voting share, strictly directs the Chairman of CoC that an application be immediately filed before the Hon'ble NCLT under Section 12A of the IBC, read with the relevant regulations, to formalize the withdrawal of the CIRP so the CoC may pursue its alternative recovery rights. Especially since the RP has refused to participate in the COC meeting therefore the COC is left with no choice but to intimate the same to the AA and apply for withdrawal of the CIRP as it is also the applicant who had filed the application u/s 7 of IBC and is the sole 100% CoC member having authorized to withdraw the CIRP by 100% Resolution passed in this physical meeting."*

8. It is submitted that the CoC vide mail dated 12.02.2024 had already communicated that CIRP may be stopped. This fact was also recorded by the Tribunal during the hearing on 14.11.2024 but despite the explicit communication to withdraw the CIRP, the RP filed the application for liquidation.

FINDINGS OF THIS TRIBUNAL:

9. We have heard Ld. Counsel appearing for the CoC / Applicant Ashish Vashist and the Counsel appearing for the RP and perused the record.

10. The principal issue which arises for consideration in I.A. (IBC) / 853 / (CHE) / 2026 is **whether the CIRP of the Corporate Debtor is liable to be withdrawn under Section 12A of the Insolvency and Bankruptcy Code, 2016 ("Code") read with Regulation 30A of the CIRP Regulations.**

11. Section 12A of the Code provides that the Adjudicating Authority may allow withdrawal of an application admitted under Sections 7, 9 or 10 on an application made by the original applicant with the approval of 90% voting share of the CoC, in such manner as may be prescribed. It reads as under:

12A. (1) Subject to sub-section (2), the Adjudicating Authority may allow the withdrawal of an application admitted under section 7, 9 or 10, on an application made by the resolution professional, with the approval of ninety per cent. 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 the 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."

12. The Hon'ble Supreme Court in ***K.N. Rajakumar v. V. Nagarajan & Ors., (2021) ibclaw.in 225*** has held that the Adjudicating Authority is empowered to permit withdrawal of an application admitted under Sections 7, 9 or 10 where the application for withdrawal is supported by the requisite 90% voting share of the CoC.

13. In the present case, the sole CoC member has passed a resolution dated 06.04.2026 with 100% voting, resolving to seek withdrawal of the CIRP under Section 12A. Thus, the statutory voting threshold prescribed under Section 12A stands satisfied.

14. **The next question is whether the Tribunal can disregard the resolution merely because the Resolution Professional did not participate in the meeting dated 06.04.2026.**

15. Hon'ble Supreme Court in ***Vallal RCK v. M/s. Siva Industries and Holdings Limited & Ors., Civil Appeal Nos.1811-1812 of 2022,*** has held that where 90% or more of the creditors, after due deliberation, decide in favour of settlement and withdrawal of CIRP, the Adjudicating Authority or the Appellate Authority cannot sit in appeal over such commercial wisdom. The Court, however, recognised that judicial interference may be warranted where the decision is wholly capricious, arbitrary, irrational or contrary to the provisions of the Code or the applicable Rules and Regulations.

16. In the present case, the CoC consists of only one member, holding 100% voting share. The member has unanimously resolved to seek withdrawal of the CIRP. There is no dissenting creditor whose interest is required to be balanced against the decision of the majority. The resolution dated 06.04.2026 represents the unanimous commercial decision of the CoC.

17. In this case, the Applicant had expressed its intention to discontinue the CIRP much prior to the resolution dated 06.04.2026. The email dated 12.02.2024 and the subsequent proceedings relating to the CoC meeting proposed for 19.02.2024 demonstrate that desire of the sole CoC member to discontinue the CIRP was not made for the first time in the meeting dated 06.04.2026. The communication dated 12.02.2024 constitutes relevance to the subsequent resolution.

18. It is noted that the Resolution Professional had, in February 2024, convened a CoC meeting for consideration of withdrawal under Section 12A pursuant to the request of the sole CoC member. This circumstance establishes that the question of withdrawal had arisen during the CIRP and was not an issue introduced subsequently with a view to defeat the liquidation application.

19. The Resolution Professional has contended that, despite repeated requests, the CoC did not cooperate with the process and did not fully fund the CIRP expenses.

20. The aforesaid conduct of the CoC may be relevant for determining the CIRP expenses and the conduct of the parties during the CIRP, however, such previous conduct cannot operate as a bar against the statutory remedy of withdrawal available under Section 12A.

21. The sole CoC member holding 100% voting share has unequivocally resolved to seek withdrawal of the CIRP. The resolution specifically refers to Section 12A and directs that the necessary application be placed before the Tribunal.

22. The CoC resolution dated 06.04.2026 is not merely an expression of an intention to discontinue the CIRP. It is a specific resolution passed with 100% voting share directing that an application under Section 12A be filed

before this Tribunal. Thus, the decision-making requirement at the level of the CoC stood satisfied.

23. The objection of the Resolution Professional that he did not participate in the meeting dated 06.04.2026 also requires consideration. The record indicates that notice and agenda dated 25.03.2026 were issued for convening the CoC meeting on 06.04.2026. The Resolution Professional, by email dated 26.03.2026, stated that he is unable to recognise or participate in the proposed meeting. The sole CoC member thereafter proceeded to convene the meeting and passed the resolution with 100% voting share.

24. The refusal of the Resolution Professional to participate in the meeting cannot, in the facts of the present case, by itself nullify the decision of the CoC. The role of the Resolution Professional is to conduct the CIRP in accordance with the Code and the Regulations and to place matters requiring consideration before it. The Resolution Professional cannot, merely by declining to participate in a meeting, acquire a veto over the unanimous statutory decision of the CoC, particularly when the meeting was preceded by notice and agenda and the resolution concerning withdrawal under Section 12A.

25. The Resolution Professional has further contended that IA(IBC)/694/CHE/2024 was filed on account of non-cooperation by the CoC

and that, pursuant to the order dated 25.11.2024, the CoC had undertaken to bear the CIRP costs.

26. We find that pendency or disposal of the proceedings relating to alleged non-cooperation does not, by itself, determine the maintainability of the request for withdrawal. The order dated 25.11.2024 and the undertaking recorded therein may have consequences regarding payment of CIRP expenses and compliance with the directions of this Tribunal, however, such proceedings cannot be treated as creating an embargo upon the exercise of the statutory mechanism under Section 12A, unless there is a specific order of this Tribunal or a statutory provision creating such an embargo.

27. The Applicant has stated that an amount of Rs.1.09 lakhs has been paid towards CIRP expenses. The Resolution Professional has claimed that some amounts remain payable. Such claim, if otherwise legitimate and duly established, is required to be appropriately paid with while giving effect to the withdrawal.

28. In the present case, the Applicant is not seeking to impose a settlement upon any other CoC member or to override the decision of any other creditor. The Applicant is the sole CoC member and the Financial Creditor which initiated the proceedings under Section 7. Further, there are no Operational Creditors. The pendency of a liquidation application does

not, by itself, render a duly maintainable Section 12A application incapable of consideration.

29. The object of the Code is resolution of insolvency and value maximisation, and liquidation is contemplated as a consequence where resolution fails and the statutory requirements under Section 33 are attracted. Where, before liquidation is finally ordered, the CoC has exercised its statutory power to seek withdrawal under Section 12A, such request has to be considered in accordance with law.

30. The judgment of the Hon'ble Supreme Court in ***Vallal RCK (Supra)*** is particularly relevant in this regard. In that case also, the issue of withdrawal under Section 12A arose in the backdrop of liquidation proceedings. The Hon'ble Supreme Court emphasised that, the requisite majority of the CoC has exercised its commercial wisdom in favour of withdrawal.

31. At the same time, withdrawal of CIRP cannot be construed as an adjudication that the CIRP costs claimed by the Resolution Professional are not payable. Any legitimate CIRP costs and expenses incurred in accordance with law shall remain payable and shall be dealt with in accordance with the Code and the applicable Regulations.

32. We find that the present case is one where the CoC, holding **100% voting share**, has unequivocally resolved to withdraw the CIRP with the

statutory threshold of 90% prescribed under Section 12A is therefore satisfied.

33. Accordingly, the resolution dated 06.04.2026 merits acceptance and the CIRP is liable to be withdrawn under Section 12A of the Code.

34. Consequently, the liquidation application filed by the Resolution Professional would not survive for consideration upon the withdrawal of the CIRP and would have to be disposed of accordingly.

35. Accordingly, I.A. (IBC) / 853 / (CHE) / 2026 is **Allowed** and I.A. (IBC) / 1163 / (CHE) / 2025 is **Dismissed**.

36. The Applicant Mr. Ashish Vashist, the sole member of the CoC is directed to clear the dues of the RP / CIRP cost, within two weeks from the order subject to production of the bills / invoices by the RP.

37. With the withdrawal of the CIRP, the Corporate Debtor is restored to its original position. The RP is directed to hand over the complete record and the charge to the suspended management which is restored.

38. The copy of the order be sent to the RoC with directions to update the status of the Corporate Debtor as 'Active'.

-Sd-
VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-
SANJIV JAIN
MEMBER (JUDICIAL)