



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

IBC Case Law Capsule

Number 270

(April 06, 2026)



Vishal Ganpat Shinde vs Union of India & Ors.

Writ Petition (Lodging) No. 30071 of 2025 with Writ Petition (Lodging) No. 31334 of 2025

Date of Bombay High Court's Judgment: 26th March 2026

Facts of the Case: -

The present writ petitions before the High Court of Judicature at Bombay ("High Court") arose from an order dated 09.09.2025 passed by the Adjudicating Authority (NCLT), Mumbai, concerning withdrawal of Corporate Insolvency Resolution Process ("CIRP") under Section 12-A of the Insolvency and Bankruptcy Code, 2016 ("IBC/the Code") in respect of Gokul Sugar Industries Limited ("Corporate Debtor/CD").

The CIRP was initiated at the instance of a financial creditor, M/s. Mohandas Chhataram, under Section 7 of the Code, and was admitted by the NCLT on 27.06.2024, pursuant to which an Interim Resolution Professional ("IRP") was appointed. Aggrieved by the admission, the suspended director of the CD preferred an appeal before the NCLAT, wherein he expressed willingness to settle the dues. The Appellate Tribunal, by order dated 24.01.2025, granted time to facilitate settlement and permitted filing of an application for withdrawal under Section 12-A of the IBC.

Subsequently, the financial creditor submitted Form FA to the IRP seeking withdrawal of CIRP, and the IRP filed an application under Section 12-A before the NCLT. Meanwhile, several banks/financial creditors, including Union Bank of India and Solapur District Central Co-operative Bank Limited (SDCCBL), filed intervention applications opposing such withdrawal on the ground of outstanding dues. The NCLT, by its impugned order dated 09.09.2025, allowed the intervention applications and rejected the withdrawal application, holding that in view of objections by a substantial majority of financial creditors, withdrawal of CIRP could not be permitted.

Aggrieved thereby, the suspended director of the CD and the original financial creditor filed separate writ petitions before the High Court, primarily contending that the impugned order was passed in violation of principles of natural justice, as they were neither served with copies of the intervention applications nor granted an opportunity of hearing. The respondents opposed the maintainability of the petitions on the ground of availability of an alternative remedy under Section 61 of the Code and contended that due procedure had been followed through the IRP.



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)



High Court's Observations:

The High Court examined the maintainability of the writ petitions challenging the NCLT's order through which the withdrawal of CIRP was not allowed under Section 12-A of the IBC. The core issue was whether the impugned order suffered from violation of principles of natural justice so as to warrant interference despite the availability of an alternative remedy under Section 61 of the Code. The Court emphasised that upon admission of CIRP, proceedings become in rem and are governed by the statutory framework, with the IRP assuming control over the affairs of the CD and acting as its sole representative.

Analysing Section 12-A read with Regulation 30-A of the CIRP Regulations, 2016, the Court observed that withdrawal applications must be mandatorily routed through the IRP, who alone is empowered to act on behalf of the CD. It held that the relevant stakeholders to be heard in such proceedings are the IRP and the financial creditors, particularly those opposing withdrawal, and that hearing the IRP satisfies the requirement of hearing "all parties concerned" in light of the settled position of law.

Rejecting the plea of violation of natural justice, the Court noted that the suspended director failed to utilise the opportunity granted by the NCLAT to seek withdrawal through the IRP, while the financial creditor had authorised the IRP to act on its behalf and remained absent before the NCLT on multiple occasions. In these circumstances, the Court held that the grievance of lack of opportunity was untenable and did not disclose any procedural irregularity or denial of fair hearing. Agreeing with the NCLT, the High Court held that rejection of the withdrawal application, in light of objections by a substantial majority of financial creditors, was justified and consistent with the scheme of the Code.

Order/Judgement: Considering the facts and circumstances of the case as highlighted above, the High Court held since the petitioners have failed to make out their case of violation of principles of natural justice, the writ petitions cannot be entertained, in the face of alternative remedy of approaching the NCLAT being available with the petitioners.

Case Review: *Writ Petitions dismissed.*