

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH, (COURT NO.-II)  
KOLKATA

I.A.(I.B.C)/1500(KB)2025

In

C.P.(IB)/170(KB)2017

Section 60(5) of the Insolvency and Bankruptcy Code, 2016 and  
Rule 11 of the National Company Law Tribunal Rules, 2016;

And

IN THE MATTER OF

RBL Bank Limited

...Financial Creditor

Versus

MBL Infrastructure Limited

...Corporate Debtor

And

IN THE MATTER OF

1. MBL Infrastructure Limited, a company within the meaning of the Companies Act, 2013 and having its registered office at 308, 3rd Floor, Bani Corporate One, Commercial Centre, Jasola, New Delhi-110025.
2. Anjaneer Kumar Lakhota, residing at B-37, 1st Floor, Soami Nagar (South), New Delhi-110017,

...Applicants

Versus

1. Goods and Services Tax Department,  
represented by the Assistant  
Commissioner Ward-94, 9th Floor,  
Department of Trade and Taxes,  
Vyapar Bhawan, I.P. Estate, New  
Delhi 110002
2. Sales Tax Officer, Class II/AVAT0,  
Ward-94, Zone-8, 9th Floor,  
Department of Trade and Taxes,  
Vyapar Bhawan, I.P. Estate, New  
Delhi 110002

...Respondents

**CORAM:**

MR. LABH SINGH, HON'BLE MEMBER (JUDICIAL)

MS. REKHA KANTILAL SHAH, HON'BLE MEMBER (TECHNICAL)

**APPEARANCES (Via Hybrid mode):**

Mr. Rahul Sinha, Adv.	] For applicant in IA62/2026
Ms. Shivee Pandey Sinha, Adv.	]
Ms. Muskan Rathore, Adv.	]
Mr. Arvind Gupta, Adv.	] For R-2 in IA 1680/2025
Mr. Jishnu Saha, Sr. Adv.	] For SREI Equipment Finance Ltd
Mrs. Ramya Hariharan, Adv.	]
Mr. Soumyajit Saha, Adv.	]
Mr. S Rao, Adv.	]
Mr. Ratnanko Banerji, Sr Adv.	] For MBL Infrastructure Ltd
Mr. Shaunak Mitra, Adv.	] & AK Lakhotia
Mr. Kanishk Kejriwal, Adv.	]
Ms. Neha Somani, PrCS.	]

None present for respondent no. 1 and 2

Order Pronounced On:22.6.2026

**O R D E R**

(Hearing through Hybrid Mode)

**LABH SINGH, JUDICIAL MEMBER**

1. The present application has been filed by MBL Infrastructure Limited, the Corporate Debtor and one Anjanae Kumar Lakhotia, under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 and Rule 11 of the National Company Law Tribunal Rules, 2016, against respondents seeking following reliefs:
  - a. *Injunction restraining the Respondents from acting in contravention of the Resolution Plan or making any demands not contemplated in the Resolution Plan;*
  - b. *Injunction restraining the Respondents from demanding payment of any alleged dues for the year 2017-18, being a sum of Rs.2,04,85,196, or any other sum;*
  - c. *Interim Order of injunction restraining the Respondents from taking any steps or further steps in respect of any demand for the financial year 2017-18 or for any period prior to approval of the Resolution Plan on 18.04.2018;*
  - d. *Order quashing any demand of GST made by the Respondent Department for the period 2017-18 or prior to approval of the Resolution Plan on 18.04.2018;*

- e. *Ad-interim orders in terms of prayers above;*
- f. *Such further orders or directions be passed as this Hon'ble Tribunal may deem fit and proper.*
2. The Corporate Debtor, was admitted into the Corporate Insolvency Resolution Process (for short "CIRP") by this Tribunal vide order dated March 30, 2017. Following the initiation of the CIRP, the Interim Resolution Professional made a public announcement on April 01, 2017, in leading newspapers inviting claims from creditors.
  3. While various creditors filed their claims, the Respondent Department never submitted any claim whatsoever during the CIRP or even until the approval of the Resolution Plan. Subsequently, the applicant No. 2, Mr. Anjaneer Kumar Lakhotia, submitted a Resolution Plan which was approved by the Committee of Creditors with a 78.50% majority and was thereafter approved by this Tribunal vide order dated April 18, 2018.
  4. The approved Resolution Plan was challenged in appeal before Hon'ble NCLAT and Hon'ble Supreme Court; however, Hon'ble NCLAT vide order dated August 16, 2019, and Hon'ble Supreme Court vide order January 18, 2022 disposed of the appeal. Due to various periods of litigation and stays granted by the Hon'ble Supreme Court in between November 25, 2019, and January 18, 2022, this Tribunal passed orders on March 11, 2022, and September 13, 2023, excluding litigation periods

from the calculation of the implementation timeline and extending all dates mentioned in the Resolution Plan. The Resolution Plan has attained finality and is binding on all concerned, including the Respondent Department.

5. On September 27, 2023, the Respondent Department issued a Show Cause Notice (SCN) demanding alleged Central Goods & Service Tax and State Goods & Service Tax, including interest amounting to Rs. 2,04,85,196 for the Financial Year 2017-18.
6. This demand relates to a period prior to the approval of the Resolution Plan i.e before April 18, 2018. The applicant No. 1 submitted a reply on October 13, 2023 stating that the demand is baseless and the claims stand extinguished by operation of law since the respondent has failed to lodge any contemporaneous claim during the CIRP. Despite this, the Respondent No. 2 issued a reminder on December 2, 2023, directing the applicant to appear for a personal hearing.
7. Aggrieved by this, the applicant No. 1 filed a Writ Petition before Hon'ble High Court of Delhi challenging the validity of a notification that extended the time limit for GST assessments. While Hon'ble High Court initially restrained the Department from passing final orders; however, later on disposed of the petition vide order dated May 5, 2025, leaving the question of the notification's validity open for the Hon'ble Supreme Court but permitting the respondent to

proceed with adjudication after a personal hearing.

8. It is submitted that since the respondent Department failed to file any claim during the CIRP process or prior to the approval of the Resolution Plan on April 18, 2018, all dues for the period preceding the said date stand permanently and automatically extinguished by operation of law without any recourse. The approved Resolution Plan has attained finality and is binding on all concerned, including the Respondent Department.
9. It has further been submitted that the reference in the Resolution Plan to “statutory dues” indicates only those claims that were submitted to the IRP/RP and were admitted and accounted for in the Resolution Plan. Since no claim was admittedly filed by the Respondents, such claims could not have been made part of the approved Resolution Plan and are now barred by law of limitation. Furthermore, by virtue of Section 238 of the IBC 2016, the Code has an overriding effect over all other laws, including the GST regime, and any proceedings initiated on the basis of extinguished claims are nullities in the eyes of law and an abuse of process.
10. It is submitted that the “Summary of Show Cause Notice” dated September 27, 2023, demanding Central and State Goods & Service Tax for the Financial Year 2017-18, dehors the provisions of the IBC and the terms of the approved



did not decide on the issue of the extinguishment of the claim under the IBC, which arises directly out of the Approved Resolution Plan.

14. It is submitted that the applicants have been advised that the proper forum to adjudicate on these rights and remedies is this Tribunal, and the order of the High Court in no manner affects the jurisdiction of this Tribunal to decide on issues arising out of the insolvency resolution.
15. It has further been submitted that the respondent Department will resort to coercive action, including the freezing of assets, which would lead to irretrievable injury and render the entire purpose of the CIRP nugatory. It is submitted that such actions would be highly prejudicial to the Company's operations and would jeopardize the interests of thousands of workers, employees, and creditors.
16. It is submitted that in similar matters involving wrongful claims by Income Tax and GST authorities, this Tribunal has passed detailed orders on March 13, 2024, and March 27, 2025, clarifying that the claims not submitted during CIRP stand extinguished and cannot be proceeded with.
17. This Tribunal issued notice upon respondents; however, respondents, despite receipt of notice, opted not to appear in the present matter. Therefore, the matter was taken for ex-parte hearing against respondent no. 1 & 2.
18. We have gone through the case file carefully and perused the

pleadings of the applicant and documents placed on record by the applicant and heard the arguments put forth by learned Counsel for the applicant; and after hearing the learned counsels for the applicant, we shall now proceed to consider the applications on its merits.

19. Before entering upon the merit of the present application, it is relevant to refer provision of Section 18 of the IBC 2016 which provides for receipt and collation of all claims submitted to him in pursuance of public announcement. The relevant provision of Section 18 of IBC read as under:

**“18. Duties of interim resolution professional.**

The interim resolution professional shall perform the following duties, namely:–

- (a) xxxxx
- (b) receive and collate all the claims submitted by creditors to him, pursuant to the public announcement made under sections 13 and 15;
- (c) to (g) xxxxx

20. Thus, the Resolution Professional under Section 18(1)(b) of the IBC, 2016 is obliged to receive and collate all the claims submitted by creditors. The term “receive” implies a passive role dependent on filings and the term “collate” suggests an active duty to verify and arrange the claims. Further, Regulation 36(2) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, prescribes

the contents of the Information Memorandum. The Information Memorandum must contain details of all material litigation and crucially, a list of creditors and liabilities.

21. In the instant case, the Resolution Professional, in compliance with Section 13 and 15 of IBC 2016, published Form 'A' in newspapers dated 01.04.2017. The resolution plan has been approved by this Adjudicating Authority on 18<sup>th</sup> April 2018. After approval of the resolution plan, the respondent has issued show cause notice dated September 27, 2023 to the Corporate Debtor, respondent no. 1 demanding Central Goods & Service Tax and State Goods & Service Tax, including interest amounting to Rs. 2,04,85,196 for the Financial Year 2017-18.
22. The CIRP process was initiated against the Corporate Debtor on March 30, 2017, and subsequently the Resolution Plan submitted by applicant No. 2 was approved by the Committee of Creditors with a 78.50% majority. This Tribunal approved the resolution plan vide order dated April 18, 2018. We note that the approved Resolution Plan has attained finality after having been affirmed by the Hon'ble NCLAT in appeal vide order dated August 16, 2019. The appeal preferred against order of Hon'ble NCLAT got dismissed by Hon'ble Supreme Court vide order January 18, 2022.
23. It is observed that several orders have been passed in aid of implementation, formally excluding litigation periods

from the calculation of the plan's timeline and extending all mentioned dates accordingly. Consequently, the approved Resolution Plan is binding on all concerned, including the Respondent Department herein.

24. In *Ghanashyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited* reported in MANU/SC/0273/2021: (2021)9 SCC 657: [2021] 13 SCR 737 Hon'ble Apex Court categorically held that:

“102.1. That once a resolution plan is duly approved by the adjudicating authority under sub-section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any Local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the adjudicating authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan.

102.2. The 2019 Amendment to Section 31 IBC is clarificatory and declaratory in nature and therefore will be effective from the date on which IBC has come

*into effect.*

*102.3. Consequently all the dues including the statutory dues owed to the Central Government, any State Government or any Local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the adjudicating authority grants its approval under Section 31 could be continued.”*

25. It is also pertinent to note that despite the public announcement and invitations for Expressions of Interest, the Respondent Department never filed any claim during the CIRP or even until the approval of the Resolution Plan on April 18, 2018.
26. The purported demands made vide Show Cause Notice dated September 27, 2023, for the Financial Year 2017-18 are clearly ex-facie in violation of the provisions of the IBC and the terms of the approved Resolution Plan. By virtue of Section 238 of the IBC, the Code has an overriding effect over all other laws, including the GST regime, and any proceedings initiated on the basis of such extinguished claims are nullities in the eyes of law. The relevant extract of the Section is reproduced below:

*“Section 238: Provisions of this Code to override other laws. 238. The provisions of this Code shall*

*have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.”*

27. In the absence of any claim lodged by the Respondent at relevant time, the law is well-settled that all dues for the period prior to the date of approval of the Resolution Plan stand permanently and automatically extinguished by operation of law.
28. We are of the view that the purported claim of the Respondent cannot form part of the CIRP Costs as it does not satisfy the necessary ingredients, and any claim not made part of the Resolution Plan would stand extinguished automatically. The reference in the Resolution Plan to “statutory dues” indicates only those claims that were submitted to the IRP/RP and were admitted and accounted for in the Plan.
29. Therefore, in view of the facts stated above and law applicable thereon, we restrain Respondents from demanding payment of dues of Rs.2,04,85,196, for the year 2017-18.
30. **I.A.(I.B.C) 1500(KB)2025 in C.P. (I.B) 170(KB)2017 is allowed with the above directions and is hereby disposed of accordingly.**
31. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for

information and for taking necessary steps.

32. File be consigned to records.

**Rekha Kantilal Shah  
Member (Technical)**

**Labh Singh  
Member (Judicial)**

SRIDHAR.R(LRA)