IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

[Through Physical hearing/ VC Mode (Hybrid)]

ITEM No.32
IA (IBC) 306/2026
CP 177/2016 TP(IBC) 02/BB/2025

IN THE MATTER OF:

M/s SBI Capital Markets Ltd, ... Petitioner

Vs.

M/s Garuda Maverick Infrastructure Projects Pvt Ltd ... Respondent

Petition under Sec 433,434,& 439 of CA 1956

Order delivered on: 10.08.2026

CORAM:

SHRI. SUNIL KUMAR AGGARWAL
HON'BLE MEMBER (JUDICIAL)

SHRI. RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)

COUNSELS PRESENT:

For the Petitioner : Adv. Deepak
For the Respondent : Adv. Ashwini Ravindra

ORDER

1. Heard Ld. Counsels for the parties.
2. **The IA 306/2026 is allowed** vide Separate order.
3. **TP(IBC) 02/BB/2025:** As a corollary to the outcome of IA (IBC) 306/2026, **the petition is dismissed** for want of meeting the prescribed threshold. The Operational Creditor nevertheless shall be at liberty to resort to available remedies before appropriate court/ forum. File be consigned to Record Room.

Sd/-
RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

Sd/-
SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)

Jones

IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

(Hybrid mode)

I.A. (IBC) 306/BB/2026
in
T.P. (IBC) 02/BB/2025
Rule 11 of the National Company Law Tribunal Rules, 2016

IN THE MATTER OF:

Garuda Builders Private Limited,
Regd. Office: No. 78/1, New KR Road,
Basavangudi, Bengaluru- 560 004. ---Applicant/Corporate Debtor

Versus

SBI Capital Markets Limited,
Having its regional office at
6th Floor, Almas Centre,
No. 87, MG Road, Bengaluru- 560 001 ---Respondent/Operational Creditor

Order delivered on: 10.08.2026

CORAM: 1. Shri Sunil Kumar Aggarwal, Hon'ble Member (Judicial)
2. Shri Radhakrishna Sreepada, Hon'ble Member (Technical)

COUNSELS PRESENT:

For the Applicant : Adv. Deepak
For Respondent : Adv. Ashwini Ravindra

O R D E R

1. The Corporate Debtor has filed this application seeking dismissal of the Company Petition for lack of monetary threshold as prescribed under Section 4 of IBC by notification S.O. 1205 (E) dated 24.03.2020, issued by the Ministry of Corporate Affairs, Government of India. The present

proceedings involving a sum of Rs. 32,89,224/- including interest, does not meet the prescribed benchmark, hence the petition is liable to be dismissed.

2. The Operational Creditor although has not filed formal objections to the application yet the application has been opposed by addressing arguments.

3. The Operational Creditor is involved in business of undertaking development of infrastructure work on build, operate and transfer basis on contract from Central & State Governments, Local Authorities, Autonomous bodies and other government departments and are inter-alia experts in real estates for infrastructure, commercial, residential, industrial projects or allied services.

4. The Corporate Debtor was incorporated as a company on 11.12.2006 for the purpose of construction of economically weaker sections of society and additional facilities etc. in Koramangala, Bengaluru.

5. The Corporate Debtor had approached the Operational Creditor for providing project appraisal and Debt Syndication Services. After deliberations, the petitioner had accepted to offer its expertise to the respondent and had issued an offer letter dated 08.10.2013 to the Corporate Debtor. The CD had accepted the terms on 10.10.2013 and accordingly paid inception fee of Rs. 11,23,600/-. On submission of draft Information Memorandum, as per the letter of offer, invoice dated 03.02.2015 for Rs. 11,23,600/- was raised on the CD and on final Information Memorandum being submitted, Invoice dated 05.03.2015 for Rs. 16,85,400/- was raised. The Petitioner continuously demanded payment of invoices for services rendered, but the respondent always dodged. The Operational Creditor came to know that the Corporate Debtor is already indebted to various other Creditors and thus unable to pay its debts and is running into losses. The

Operational Creditor thus got winding-up notice dated 27.04.2016 u/s 433 of the Companies Act, 1956 issued to the respondent but still no payment was received. The Corporate Debtor however sent reply stating false and frivolous grounds for non-payment. The Corporate Debtor had earlier issued a termination letter dated 04.08.2015 while the petitioner was sincerely undertaking the syndication process. The corporate Debtor nevertheless is liable to pay the termination fee to the advisor.

6. The Petition for winding up of CD and appointment of Liquidator thereafter had been filed in the Hon'ble High Court of Karnataka on 27.07.2016. While it was being contested, the Operational Creditor had filed an application for transfer of petition to National Company Law Tribunal, Bengaluru. The Hon'ble High Court of Karnataka had considered and allowed the application on 30.01.2025 and transferred the company petition to this Tribunal.

7. On receipt of the petition it has been treated as a petition u/s 9 of the IBC in terms of Transfer of Proceedings Rules, 2016 and the necessary formalities for hearing the matter before two-member bench got completed.

8. Although the Corporate Debtor has filed the statement of objections in the Company Petition on 25.10.2018 yet in view of the factual question having implications on the maintainability of petition, having been raised through this application, merits of petition are not being considered.

9. Ld. Counsel for the Applicant Corporate Debtor has placed reliance on judgement in **Naveen Ashokkumar Aswani Vs. Falcon Industries and others, 2026 SCC Online NCLAT 556** (New Delhi, Principal Bench) contending that the petition not meeting the prescribed threshold of Rs. One Crore on the date of transfer to this Tribunal, is not maintainable.

10. Ld. Counsel for Operational Creditor has opposed the application by contenting that transfer of case has happened by operation law and not because of the transfer application moved by the Operational Creditor before Hon'ble High Court, Karnataka, which was only facilitative exercise. It is also contended there is no rationale for considering the date of transfer of petition by Hon'ble High Court to be the date for threshold, which should be the date of filing the petition or date of commencement of the provisions of IBC.

11. In the cited judgement winding-up petition for non-payment of outstanding debt for Rs.7,62,500 had been filed by the Operational Creditor with interest in 2004. While the matter was pending for issuance of advertisement in newspapers, it came to be transferred to NCLT vide order dated 25.11.2021 of the High Court relying upon the judgement in ***"Action Ispat and Power Pvt. Ltd. v. Shyam Metalics and Energy Ltd"* (2021) 2SCC 641.** An objection to the petition lacking threshold was raised by the Corporate Debtor which was repelled by the Adjudicating Authority holding that threshold limit of Rs. 1 lakh applied to the mater and admitted the petition u/s 9 of IBC. In appeal, the Hon'ble NCLAT inter-alia held that after transfer of winding up petition, it is converted into a Sec.9 application. The Operational Creditor is required to satisfy all parameters for admission of Sec.9 application including the threshold. It was therefore held that on the date when the application was converted into a Sec.9 IBC application the threshold as provided in IBC has to be looked into which was enhanced to Rs. One crore by way of referred notification, the application was held not fulfilling the threshold on date of its transfer to NCLT.

12. Ld. Counsel for petitioner, although of the opposite view yet fairly agreed that the judgement squarely applies to the facts of this case. The petition alleging outstanding operational debt of Rs. 28,09,000/- against the

Corporate Debtor got converted into a petition u/s 9 of IBC on receipt of transfer in April 2025 and since it does not meet the foundational criteria as prescribed u/s 4 of IBC, it is held to be not maintainable under the provisions of Insolvency & Bankruptcy Code, 2016.

13. **For the above reasons, Interlocutory Application No. 306/2026 is allowed**.

Sd/-	**Sd/-**
RADHAKRISHNA SREEPADA	**SUNIL KUMAR AGGARWAL**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**