IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT-V

I.A. NO. 1441/2021
IN
CP IB NO. 190 (PB)/2017

IN THE MATTER OF:

UNION BANK OF INDIA

...PETITIONER

VERSUS

ERA INFRA ENGINEERING LTD.

....CORPORATE DEBTOR

IN THE MATTER OF:

MR. AJAY KUMAR
PROPRIETOR VANSHIKA CONSTRUCTION CO.
At 112 Pocket, A-3, Sector-11, Rohini, New Delhi-110085

...APPLICANT

VERSUS

MR. RAJIV CHAKRABORTY
RESOLUTION PROFESSIONAL,
ERA INFRA ENGINEERING LTD. (UNDER CIRP)
12, Sukhdev Vihar, 1st Floor, New Delhi-110025

....RESPONDENT

Order Delivered On: 21.08.2026

CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)

MS. REENA SINHA PURI,
HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the Applicant: Mr. Vibhor Garg, Mr. Keshav Tiwari, Advs.

For the RP **:** Mr. Gopal Jain, Mr. Ajay Bhargava, Ms. Wamika Trehan, Mr. Siddhant Kumar, Advs. for Ex-RP

ORDER

1. The present application has been filed by Mr. Ajay Kumar, proprietor of Vanshika Construction Co., under Section 60(5) of IBC[1], seeking directions against Mr. Rajiv Chakraborty, Resolution Professional of Era Infra Engineering Limited, Corporate Debtor, for payment of amounts allegedly due towards the raw materials supplied after commencement of CIRP[2].

2. The reliefs sought by the Applicant through the present application are as follows:
   a. Allow the present application and direct the Resolution Professional to disburse the amount of Rs.38,49,782.62/- due to the Applicant for the raw materials supplied by him to the Corporate Debtor post grant of moratorium i.e. 08/05/2018; and
   b. Any other order and/or direction this Hon'ble Tribunal deems fit and proper in the interest of justice.

Averments of the Applicant

3. The Applicant submits that he is a supplier of raw materials such as rodi, sand and dust used for construction and rehabilitation work. It is stated that the Applicant had been supplying raw materials to the Corporate Debtor since 2015 till November 2018 for completion of its projects, including projects with DDA and DMRC relating to underground works under Delhi MRTS Phase-III.

4. It is submitted that after initiation of CIRP of the Corporate Debtor on 08.05.2018, the Applicant submitted its claim of Rs. 1,70,43,473/- towards material supplied prior to commencement of moratorium before the Resolution Professional. The claim was verified and admitted by the Resolution Professional to the extent of Rs. 1,64,37,793/-, and thereafter revised to Rs. 1,39,37,793/-, vide lists dated 11.08.2020 and 01.03.2021, respectively.

[1] The Insolvency and Bankruptcy Code, 2016
[2] Corporate Insolvency Resolution Process

5. The Applicant further submits that he continued to supply raw material at two project sites of the Corporate Debtor even after commencement of CIRP. According to the Applicant, raw material of the approximate value of Rs. 65,49,782.62/- was supplied between 08.05.2018 and 30.11.2018. Against the said supplies, the Applicant states that part payments of Rs. 2,00,000/- and Rs. 25,00,000/- were received on 18.06.2018 and 06.10.2018, respectively. The Applicant therefore claims that an amount of Rs. 38,49,782.62/- remains outstanding as on 30.11.2020 towards material supplied after commencement of CIRP.

6. It is further submitted that, on account of non-payment, the Applicant issued a legal notice dated 03.10.2020 to the Resolution Professional through email and speed post, seeking disbursal of the pending principal amount. The Applicant states that, in the said legal notice, the amount of Rs. 65,49,782.62/- was inadvertently mentioned as Rs. 91,58,408/-.

7. The Applicant states that the Resolution Professional replied to the legal notice and acknowledged receipt of raw materials only to the extent of Rs. 63,61,251/-, while stating that the same had already been paid. The Applicant disputes receipt of the said amount and claims that the outstanding amount remains payable.

8. The Applicant submits that due to non-receipt of the said amount, he has suffered undue hardship and has accordingly filed the present Application seeking directions for disbursement of Rs. 38,49,782.62/-.

Reply of the Resolution Professional

9. The Resolution Professional has stated that, vide emails dated 19.11.2020 and 30.03.2021, the Applicant had already been informed that no outstanding dues were payable by the Corporate Debtor for raw materials supplied during CIRP.

10. It is further submitted that while the Applicant claims Rs. 38,49,782.62/-, the raw material supplied by the Applicant during CIRP was only to the value of Rs. 63,61,298/-. Against the said supply, the Corporate Debtor has paid

Rs. 96,55,447/- to the Applicant, which is more than the value of raw material supplied during CIRP.

11. With respect to the raw materials supplied prior to CIRP, it is stated that the Applicant has not challenged admission of its claim to the extent of Rs. 1,39,37,793/-. Further, in terms of the Resolution Plan approved vide order dated 11.06.2024, the Monitoring Agency has already approached the Applicant for bank details for crediting the amounts payable under the approved Resolution Plan. It is therefore submitted that no dispute survives in respect of pre-CIRP dues, as the same are to be dealt with in terms of the approved Resolution Plan.

12. The Resolution Professional has accordingly submitted that the present Application is misconceived and malicious, as no amount remains outstanding towards raw materials supplied during CIRP.

Rejoinder of the Applicant

13. In rejoinder, the Applicant has denied the submissions of the Resolution Professional and alleged suppression and misrepresentation of material facts.

14. It is submitted that the plea that the Applicant has been paid more than the value of raw materials supplied is baseless and absurd, as no prudent company or person would pay in excess of the goods or services received, particularly when the Corporate Debtor was undergoing CIRP.

15. The Applicant has further submitted that, vide letter dated 14.06.2018, he had informed the Chief Project Manager, DMRC, that a sum of Rs. 69,55,400/- was pending towards material supplied at Metro Site CC07 before commencement of CIRP and requested DMRC to release the said payment directly. It is submitted that the said letter was acknowledged by DMRC officials, and payment of Rs. 69,55,400/- was received by the Applicant directly from DMRC towards pre-CIRP dues.

Analysis and Findings

16. We have heard learned counsel for the Applicant and the Resolution Professional, and have perused the Application, Reply, Rejoinder, written submissions and documents placed on record.

17. The present Application seeks recovery of alleged outstanding dues towards raw materials supplied to the Corporate Debtor during the CIRP period. While the Applicant claims Rs. 38,49,782.62/-, the Resolution Professional disputes the claim and contends that no amount remains payable.

18. The limited issue for consideration is whether any amount remains outstanding and payable to the Applicant towards raw materials supplied during CIRP of the Corporate Debtor.

19. The material on record shows that the Applicant received payments aggregating to Rs. 96,55,400/- after commencement of CIRP. The details of payments are as follows:

Date	By whom payment made	Amount (Rs.)
18.06.2018	Corporate Debtor	2,00,000
27.06.2018	Client-DMRC	25,00,000
31.08.2018	Client-DMRC	10,00,000
06.10.2018	Corporate Debtor	25,00,000
14.11.2018	Client-DMRC	34,55,400
	Total	**96,55,400**

20. The receipt of the aforesaid amounts is admitted by the Applicant in the Application[3] as well as in the Rejoinder[4]. However, the Applicant contends that out of the said amount, Rs. 69,55,400/- was paid by DMRC towards settlement of pre-CIRP dues and therefore cannot be adjusted against supplies made during CIRP.

[3] Para 4 at Page 6 of the Application
[4] Para 3 at Page 4 of the Rejoinder

21. In this regard, reference may be made to the judgment of the Hon'ble NCLAT in *Uttarakhand Power Corporation Ltd. v. M/s Shirdi Industries Ltd. & Ors.*[5], wherein it was held that any payment made by the Corporate Debtor after the insolvency commencement date cannot be appropriated towards pre-CIRP dues, and must be adjusted only towards dues arising during the CIRP period. The Hon'ble NCLAT held that pre-CIRP dues are to be dealt with in accordance with the approved Resolution Plan.

22. Applying the aforesaid principle to the facts of the present case, any payment received after commencement of CIRP is required to be appropriated towards CIRP-period dues. Therefore, even if the payment of was received from DMRC towards alleged pre-CIRP supplies, the same, having been received after commencement of CIRP, cannot be treated as payment towards pre-CIRP dues so as to create a fresh outstanding liability Rs. 69,55,400/- for supplies made during CIRP.

23. The Applicant claims to have supplied raw materials of the value of Rs. 65,49,782.62/- between 08.05.2018 and 30.11.2018. Against this, the Applicant admittedly received Rs. 96,55,400/- during the CIRP period between 18.06.2018 and 14.11.2018. The amount received by the Applicant during CIRP is therefore higher than the value of supplies claimed to have been made during the CIRP period.

24. In view thereof, the claim of the Applicant that Rs. 38,49,782.62/- remains payable towards CIRP-period supplies cannot be accepted. The payments received during CIRP are sufficient to cover the value of supplies claimed by the Applicant for the said period.

25. As regards pre-CIRP dues, the Applicant's admitted claim has already been dealt with in terms of the approved Resolution Plan. The Monitoring Agency has also approached the Applicant for bank details for crediting the amount

[5] Company Appeal (AT) (Insolvency) No. 799 of 2024

payable under the approved Resolution Plan. Therefore, no further direction is required in respect of pre-CIRP dues in the present Application.

26. Accordingly, we are of the considered view that no amount remains outstanding and payable to the Applicant by the Corporate Debtor towards raw materials supplied either prior to or during CIRP.

27. In view of the foregoing discussion, **IA No. 1441/2021 in CP IB No. 190(PB)/2017** is dismissed.

SD/-	**SD/-**
(REENA SINHA PURI)	**(MANNI SANKARIAH SHANMUGA SUNDARAM)**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT-V

I.A. NO. 731/2024
IN
CP IB NO. 190 (PB)/2017

IN THE MATTER OF:

UNION BANK OF INDIA
Industrial Finance Branch M-11,
1st Floor, Middle Circle,
Connaught Circus
New Delhi-110001

....FINANCIAL CREDITOR

VERSUS

ERA INFRA ENGINEERING LIMITED
B-292, Chandra Kanta Complex, Shop No. 2 & 3,
Near Metro Pillar No. 161,
New Ashok Nagar,
New Delhi-110096

....CORPORATE DEBTOR

AND IN THE MATTER OF:
Rajiv Chakraborty
Resolution Professional for the Corporate Debtor
(IP Registration: IBBI/IPA-001/IP-P00602/2017-2018/11053)
1st Floor, 12 Sukhdev Vihar,
New Delhi-110025

....APPLICANT

ORDER DELIVERED ON: 21.08.2026

CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)

MS. REENA SINHA PURI,
HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the RP: Mr. Gopal Jain, Mr. Ajay Bhargava, Ms. Wamika Trehan, Mr. Siddhant Kumar, Advs. For Ex-RP

ORDER

1. This Application has been filed by the Resolution Professional of Era Infra Engineering Limited, the Applicant, under Rule 154 of the NCLT Rules, 2016[1] seeking rectification of an error in the order dated **06.10.2023** passed in **IA No. 6159/2022**. The Applicant has prayed for the following reliefs:

   "1. Allow the present application and direct that the rectified order dated 06.10.2023 qua IA/6159/2022 relies upon and reads out the correct clause of the resolution plan, being Clause 1.2 of Part B (Financial Proposal) of the Resolution Plan which has been reproduced hereunder: "The Information Memorandum discloses a demand of Rs. 108.67 Crores by the Central Board of Trustees (EPFO), which matter is currently pending before the Hon'ble Delhi High Court. In the event of this amount of Rs. 108.67 Crores (or any part thereof) becomes payable pursuant to final directions of concerned court (including any appeal which may be lodged before a superior court), the Resolution Applicant shall cause the Company to pay the after exhausting all the legal remedies available to the Company."

   2. Pass such other order(s) as it deems fit and proper in the facts and circumstances of the case."

2. Ld. Counsel for the Applicant/Resolution Professional were heard and material placed on record.

3. It is submitted that this Adjudicating Authority disposed of IA No. 6159/2022 vide order dated 06.10.2023. However, due to an inadvertent typographical error, Clause 1.1 of Part B of the Resolution Plan was reproduced/referred to in the said order instead of Clause 1.2 of Part B (Financial Proposal) of the approved Resolution Plan.

4. On perusal of record, it is evident that the error does not go to the merits of the order dated 06.10.2023, and does not alter the substantive rights or obligations of any party. The error is confined to an incorrect

[1] National Company Law Tribunal Rules, 2016

reference/reproduction of the relevant clause of the approved Resolution Plan. The same appears to be an accidental slip or typographical error apparent on the face of the record. If left uncorrected, the error may cause practical difficulties in implementation of the order.

5. Rule 154 of the NCLT Rules, 2016 empowers this Adjudicating Authority, either on its own motion or on an application made by any party, to rectify any clerical or arithmetical mistake or any error arising from an accidental slip or omission at any time. The present Application squarely falls within the ambit of the said provision.

6. In view of the above, we are satisfied that the error in the order dated 06.10.2023 is clerical/typographical in nature and deserves to be corrected in exercise of powers under Rule 154 of the NCLT Rules, 2016, in order to secure the ends of justice and ensure effective implementation of the order.

7. Accordingly, IA No. 731/2024 is allowed. The order dated 06.10.2023 passed in IA No. 6159/2022 shall stand corrected to the following extent:

   "To clarify, the Resolution Applicant is committed to pay upfront amount of INR 30 crore and also to redeem the NCDs proposed to be issued towards the Committed Payments proposed for the Assenting Secured Financial Creditors for INR 378 crore, irrespective of the contingent/residual receivables from the arbitral awards."

   Shall be read as:

   "The Information Memorandum discloses a demand of Rs. 108.67 Crores by the Central Board of Trustees (EPFO), which matter is currently pending before the Hon'ble Delhi High Court. In the event of this amount of Rs. 108.67 Crores (or any part thereof) becomes payable pursuant to final directions of the concerned court (including any appeal which may be lodged before a superior court), the Resolution Applicant shall cause the Company to pay the same after exhausting all legal remedies available to the Company".

8. Except to the extent indicated above, all other observations, findings and directions contained in the order dated **06.10.2023** shall remain unchanged.

9. Accordingly, IA No. 731/2024 stands allowed and disposed of. This order shall be read as part of the order dated 06.10.2023 passed in IA No. 6159/2022.

SD/-

(REENA SINHA PURI)
MEMBER (TECHNICAL)

SD/-

(MANNI SANKARIAH SHANMUGA SUNDARAM)
MEMBER (JUDICIAL)