

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

**I.A. NO. 2045 OF 2026
IN
C.P. (IB) NO. 243 OF 2023**

(Under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016)

IN THE MATTER OF:

STATE BANK OF INDIA

...PETITIONER/FINANCIAL CREDITOR

VERSUS

BAREILLY HIGHWAYS PROJECT LIMITED

...CORPORATE DEBTOR

AND

IN THE MATTER OF:

ERA INFRA ENGINEERING LIMITED

...APPLICANT

VERSUS

**SANDEEP GOEL,
RESOLUTION PROFESSIONAL OF
BAREILLY HIGHWAYS PROJECT LIMITED**

...RESPONDENT

Order reserved on: 25.05.2026

Order pronounced on: 10.06.2026

CORAM:

**JUSTICE ANUPINDER SINGH GREWAL
HON'BLE PRESIDENT**

**SHRI RAVINDRA CHATURVEDI
HON'BLE MEMBER (TECHNICAL)**

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PRESENT:

For the Applicant (s) : Mr. Gopal Jain, Mr. Harshit Khare, Mr. Suraj Anand, Mr. Bijresh Gupta, Advs.

For the Respondent : Mr. Ashish Verma, Mr. Saksham Thareja, Ms. Kriti, Advs. With Mr. Sandeep Goel, RP

ORDER

1. The instant Application has been filed by M/s Era Engineering Infra Limited **“Applicant”/ “EIEL”**), under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (**“Code”**) seeking directions to be issued to the Resolution Professional (**“Respondent”/ “RP”**) of BAREILLY HIGHWAYS PROJECT LIMITED (**“CD”/”BHPL”**) for modification of the Request for Resolution Plan (**“RFRP”**) and the Information Memorandum (**“IM”**) by including a clause stating that the rights of the Applicant/EIEL under the Arbitral Award dated 08.07.2025 (**“Era-BHPL Arbitral Award”**) shall continue to subsist and shall be dealt with in terms of the provisions of the Arbitration and Conciliation Act, 1996 (**“1996 Act”**). The prayers made in the Application are as follows:

INTERIM PRAYER

a. Direct the Resolution Professional not to place for voting any Resolution Plan in the CIRP of the Corporate Debtor, during the pendency of this Application; (Interim Relief)

PRAYERS

a. Allow the present Application;
*b. Direct the Respondent (RP) to add a mandatory clause in the RFRP stating that the rights of Era Infra Engineering Limited under the Era-BHPL Arbitral Award (currently under adjudication under Section 34) shall not be impacted under the terms of the Resolution Plan, and shall continue to subsist and be dealt with only as per the procedure prescribed under the Arbitration and Conciliation Act, 1996; **alternatively;***

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- c. *Direct the Respondent (RP) to ensure that any resolution plan being placed by the Resolution Professional for voting by the COC in the CIRP of the Corporate Debtor shall include a statement confirming that the rights of Era Infra Engineering Limited under the Era-BHPL Arbitral Award (currently under Adjudication under Section 34) shall not be impacted in any manner on account of approval of the Resolution Plan, and shall continue to subsist and be dealt with only as per the procedure prescribed under the Arbitration and Conciliation Act, 1996; and*
- d. *Pass such other and further directions as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.*

2. Ld. Counsel for the Applicant states that the present Application is being filed on the ground that since the claim of the Applicant has not been admitted by the Respondent and also, the application challenging Era-BHPL Arbitral Award is under adjudication before the High Court of Delhi in O.M.P. (COMM.) 377/2025 along with I.A. 23217/2025, which has been listed multiple times before the High Court, however, no stay has been granted on the execution of the said Era-BHPL Arbitral Award till date and the same is under adjudication. Further, National Asset Reconstruction Company Limited ("**NARCL**") has also challenged the said Arbitral Award before the Delhi High Court by way of Writ Petition (C) No. 15832 of 2025.

3. Ld. Counsel for the Respondent/RP vehemently contested the maintainability of the said Application. It was stated that the Respondent/RP has already considered the claims of the Applicant as contingent in the IM. It was further submitted that in terms of Section 29 of the Code, and Regulation 36(2)(a) and Regulation 36A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("**CIRP Regulations, 2016**"), the obligation to disclose contingent claims and liabilities is mandated only in respect of the IM and not the RFRP; accordingly, the RP has fully discharged his statutory disclosure obligations by reflecting the Applicant's contingent

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claim in the IM, even though the claims of the Applicant are entirely based on an Arbitral Award which is already under challenge before the Delhi High Court and has been passed on the basis of an Application filed in violation of Section 14 of the Code.

4. During the course of hearing, this Adjudicating Authority, while reserving the matter for orders on 25.05.2026, directed the parties to file brief notes of arguments, not exceeding two pages. In compliance with the said direction, the respective parties have filed their briefs, which have been taken on record and duly considered by this Adjudicating Authority.
5. The Applicant in its brief note, submits that the request for modification of the RFRP and IM be allowed on the following grounds:
 - a. That the Arbitral Tribunal, under Paragraph 13.6 of the Arbitral Award, held that EIEL is entitled to its claims and has priority over other claims against BHPL. Further, under Para 13.11 of the Award, the Tribunal held that since BHPL has no other source of income, EIEL's claims are to be satisfied from the arbitral proceeds receivable from BHPL-NHAI.
 - b. That the said Arbitral Award, though under challenge before the High Court of Delhi, no stay has been granted on the operation or enforcement of the said Arbitral Award till date; therefore, the Applicant's rights and claims and BHPL's liabilities arising from the said Arbitral Award dated 08.07.2025 continue to subsist and remain valid and enforceable in law.
 - c. That merely because the Award is under challenge under Section 34 of the 1996 Act, the same does not cease to exist nor does it become unenforceable in the absence of any stay. Accordingly, the rights and claims of the Applicant cannot be extinguished, compromised or rendered nugatory through the Corporate Insolvency Resolution Process ("**CIRP**") of BHPL, and ought to be duly preserved, recognised and dealt with in accordance with law.

- d. That it is a settled law that claims which are the subject of pending arbitral proceedings do not stand extinguished merely on account of insolvency proceedings. Reliance has been placed on the judgments of NTPC Ltd. (Simhadri Project) v. Rajiv Chakraborty, Civil Appeal No. 2798 of 2020 and Fourth Dimension Solutions Ltd. V. Ricoh India Ltd. & Ors., **Civil Appeal No. 5908 of 2021.**
- e. That in the present Application, the Applicant is not seeking any adjudication of the rights arising under the Era-BHPL Arbitral Award by this Hon'ble Tribunal, the limited relief sought is that the Resolution Professional of BHPL be directed to ensure that the rights and claims of the Applicant under the Era-BHPL Arbitral Award are not extinguished or dealt with under any Resolution Plan placed before the CoC, and that such rights of the Applicant shall continue to subsist and be decided in Section 34 proceedings on its own merits and in accordance with law.
6. In view of the aforesaid cumulative grounds the Applicant prays that this Tribunal be pleased to direct the RP for modification of RFRP and the IM as such a direction would be consistent with the settled position of law that claims under adjudication continue to subsist and must be dealt with by the competent forum, and would ensure that the Applicant's rights are preserved and dealt with only in accordance with the 1996 Act.
7. The Resolution Professional, in opposition to the present Application, submits that the Application is liable to be dismissed at the threshold on the ground of maintainability, contending that the Applicant, being an independent 3rd party/erstwhile management/shareholder, has no *locus standi* to direct, mandate or dictate the Respondent regarding inclusion, deletion or modification of any provisions in the RFRP or IM. It is submitted:

- a. That the power to determine and approve any alteration, modification or revision to the RFRP or IM falls exclusively within the domain of the commercial wisdom of the CoC. Such decisions, including any Resolution Plans received, are solely within the privilege of the CoC and are to be placed for voting or otherwise considered. In the instant case, the IM and the RFRP stand duly approved by the CoC and the same cannot be altered or modified at the instance of the Applicant.

- b. That the instant Application has become infructuous due to the fact that pursuant to the approval of the CoC, the Respondent has already published revised FORM G on 03.05.2026 and RFRP as approved by CoC was issued along with IM on 12.05.2026. It is submitted that RFRP and IM were initially issued on 03.11.2025, and subsequently, as per the CoC's approval, 2nd RFRP and IM were issued on 12.05.2026 as per the revised FORM G. Moreover, no objections were raised by the Applicant during the 1st IM and 1st RFRP; thus, the instant Application is an attempt by the Applicant to delay and derail the ongoing CIRP of the BHPL.

- c. That the purported Arbitral Award dated 08.07.2025 is *non est* and *void ab initio* as it has been passed in violation of Section 14 of the Code, as it is a result of an arbitration proceedings which have been initiated post passing of the CIRP order on 23.09.2024.

- d. That the relief sought is incorrect and liable to be rejected as, in terms of the provisions of the Code and Regulation 36 of the CIRP Regulations, 2016, the details regarding all assets and liabilities, including contingent liabilities, are required to be disclosed in the IM and not in the RFRP.

8. We have heard the Learned Counsel for the parties and have perused the material available on record. At the outset, it is apposite to refer to the provisions of Section 14 and Section 29 of the Code as well as Regulation 36(2)(a) and 36B of the CIRP Regulations, 2016, which read as under:

14. Moratorium. -

(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely: -

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing off by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

29. Preparation of information memorandum. -

(1) The resolution professional shall prepare an information memorandum in such form and manner containing such relevant information as may be specified by the Board for formulating a resolution plan.

(2) The resolution professional shall provide to the resolution applicant access to all relevant information in physical and electronic form, provided such resolution applicant undertakes-

(a) to comply with provisions of law for the time being in force relating to confidentiality and insider trading;

(b) to protect any intellectual property of the corporate debtor it may have access to; and

(c) not to share relevant information with third parties unless clauses (a) and (b) of this sub-section are complied with.

Explanation. – For the purposes of this section, “relevant information” means the information required by the resolution applicant to make the resolution plan for the corporate debtor, which shall include the financial position of the corporate debtor, all information related to disputes by or against the corporate debtor and any other matter pertaining to the corporate debtor as may be specified.

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36. Information memorandum.

- (1) ¹¹²[Subject to sub-regulation (4), the resolution professional shall submit the information memorandum in electronic form to each member of the committee ¹¹³[on or before the ninety-fifth day from the insolvency commencement date ¹¹⁴[and its subsequent updates thereof.]]
- (2) ¹¹⁵[The information memorandum shall highlight the key selling propositions and contain all relevant information which serves as a comprehensive document conveying significant information about the corporate debtor including its operations, financial statements, to the

prospective resolution applicant and shall contain the following details of the corporate debtor-] -

- (a) ¹¹⁶[assets and liabilities ¹¹⁷[including contingent liabilities] with such description, as on the insolvency commencement date, as are generally necessary for ascertaining their ¹¹⁸[values;]

Explanation: ‘Description’ includes the details such as date of acquisition, cost of acquisition, remaining useful life, identification number, depreciation charged, book value, ¹¹⁹[geographical coordinates of fixed assets] and any other relevant details.]

¹⁴²**[36B. Request for resolution plans.**

- (1) ¹⁴³ [The resolution professional shall, within five days of the date of issue of the final list under sub-regulation (12) of regulation 36A, issue the information memorandum, evaluation matrix and a request for resolution plans to every resolution applicant in the final list:

Provided that where such documents are available, the same may also be provided to every prospective resolution applicant in the provisional list.]

- (2) The request for resolution plans shall detail each step in the process, and the manner and purposes of interaction between the resolution professional and the prospective resolution applicant, along with corresponding timelines.
- (3) The request for resolution plans shall allow prospective resolution applicants a minimum of thirty days to submit the resolution plan(s).
- (5) Any modification in the request for resolution plan or the evaluation matrix issued under sub-regulation (1), shall be deemed to be a fresh issue and shall be subject to timeline under sub-regulation (3).

¹⁴⁷[Provided that such modifications shall not be made more than once.]

9. Upon consideration, we are of the view that the present Application is premature and merits no interference by this Tribunal at this stage, as:
- a. The rights and liabilities of the Applicant have already been duly reflected in the IM. The Respondent/RP has acknowledged and recorded the claim of EIEL as a contingent liability in the IM, subject to the final outcome of the pending proceedings before the Delhi High Court. It is noted that Section 29 of the Code read with Regulation 36 of CIRP Regulations, 2016, mandates that the details of contingent claims and liabilities be disclosed in the Information Memorandum; however, there is no such mandate with respect to the RFRP. There is, therefore, no occasion to presume or apprehend that the Applicant's claim has been suppressed, ignored, or treated as non-existent in the CIRP process.'
 - b. The RP has, without prejudice, already shared with the Prospective Resolution Applicants the Copies of all pending Interlocutory Applications in the matter, including the details of the Section 34 Application, along with any pleadings therein, through the Data Room. The PRAs are, therefore, fully informed of the nature, extent and pendency of EIEL's claim and are expected to factor the same into their Resolution Plans.
 - c. The CoC is fully aware of the contingent liability arising from the Arbitral Award dated 08.07.2025, the ongoing challenge thereto before the Delhi High Court, and the legal questions surrounding the maintainability of the said Award in light of the moratorium declared under Section 14 of the Code. These are matters that the CoC shall duly take note of and appropriately address at the time of consideration and approval of the Resolution Plan. This Tribunal sees no reason to pre-empt or supplant the CoC's exercise of its commercial wisdom at this stage.

d. The relief sought by the Applicant, that its rights under the Arbitral Award be preserved and decided by the competent forum, is already secured by operation of law. The pending Section 34 proceedings before the High Court of Delhi continue in accordance with law, and no action taken in the ongoing CIRP proceedings can extinguish a claim that is pending adjudication before a competent forum. The Applicant's apprehensions are therefore premature. In the event the Applicant has any grievance regarding the manner in which its claim is dealt with in the final Resolution Plan, if and when approved, the Applicant shall be at liberty to avail of appropriate remedies in accordance with law at that stage.

10. In view of the foregoing, the present application is **disposed of** as premature. It is, however, clarified that this order shall not be construed as an expression of any opinion on the merits of the Applicant's claim arising from the Arbitral Award dated 08.07.2025, or on the legal questions concerning the said Award pending before the Delhi High Court, all of which are expressly left open.

11. The RP is directed to continue the CIRP of BHPL expeditiously and in accordance with law.

Sd/-
ANUPINDER SINGH GREWAL
(PRESIDENT)

Sd/-
RAVINDRA CHATURVEDI
MEMBER (TECHNICAL)