

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH, COURT-II

KOLKATA

I.A. (IBC) 779(KB) of 2026

IN

C.P. (IB) 378(KB) of 2018

An application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of The National Company Law Tribunal Rules, 2016

IN THE MATTER OF:

Devi Trading And Holding Private Limited

... Financial Creditor

Versus

Avani Projects Infrastructure Limited

... Corporate Debtor

And

IN THE MATTER OF:

M/S ANU AGRO PRIVATE LIMITED

... Applicant.

Versus

I. AJAY KUMAR AGARWAL, RESOLUTION
PROFESSIONAL, AVANI PROJECTS &
INFRASTRUCTURE LIMITED.

II. ASHOK AGARWAL, AUTHORISED
REPRESENTATIVE OF HOME BUYERS.

... Respondents.

Coram:

Shri Labh Singh : Member (Judicial)

Ms. Rekha Kantilal Shah : Member (Technical)

Appearances (via hybrid mode)-:

For the Applicant

i. Mr. Saurav Jain, Adv.

For RP

i. Mr. Rishav Banerjee, Adv.

ii. Mr. Supriyo Gole, Adv.

iii. Mr. Ajay Kumar Agarwal, RP

Date of Pronouncement-: 22.06.2026

ORDER

Per: Rekha Kantilal Shah, Member (Technical)

1. I.A. (IBC) 779 (KB) of 2026

1.1 The instant application has been preferred praying for the following reliefs:-

- a. Allow the present Application; and
- b. Direct the Resolution Professional as well as the Authorised Representative of the creditors in class/homebuyers to provide access to the documents crucial in the CIRP of the Corporate Debtor including but not limited to Resolution Plan and Information Memorandum; and
- c. Pass such other order(s) as this Ld. Adjudicating Authority may deem fit and proper in the facts and circumstances of the case.

2. Fact in a nutshell -:

2.1 The present Application has been filed by the Applicant, a homebuyer and member of the Committee of Creditors of Avani Projects and Infrastructure Limited (“Corporate Debtor”), under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016, seeking directions upon the Resolution Professional and the Authorised Representative of the homebuyers to provide copies of the Information Memorandum, Resolution Plans received from

prospective resolution applicants and other documents relating to the Corporate Insolvency Resolution Process. The Application has been filed pursuant to a Board Resolution dated 02.03.2026. (Annexure-1)

- 2.2 The Corporate Debtor was admitted into CIRP by order dated 13.03.2019 passed in C.P. (IB) No. 378 of 2018 titled *M/s Devi Trading & Holding Private Limited vs. M/s Avani Projects and Infrastructure Ltd.* (Annexure-2)
- 2.3 The Applicant submitted its claim form dated 06.03.2025 before the Resolution Professional. Since the claim was not taken on record, the Applicant filed IA (IBC) No. 787/KB/2025 seeking condonation of delay in filing the claim. By order dated 23.06.2025, this Adjudicating Authority allowed the application and directed the Resolution Professional to collate the Applicant's claim. (Annexure-3)
- 2.4 Pursuant thereto, the Applicant addressed an email dated 15.12.2025 requesting admission of its claim, which was acknowledged by the Resolution Professional on 16.12.2025. Thereafter, by email dated 02.01.2026, the Resolution Professional provisionally admitted the Applicant's claim of ₹2,07,41,600/-. (Annexures-4, 5 and 6)
- 2.5 Following admission of the claim, the Applicant's name was included in the list of creditors of the Corporate Debtor as on 19.01.2026. (Annexure-7)

- 2.6 In order to obtain access to CIRP-related information, the Applicant executed a Non-Disclosure Undertaking dated 05.03.2026 and requested the Resolution Professional to provide relevant documents. Thereafter, by further communications dated 24.03.2026, the Applicant reiterated its request for access to CIRP records and documents. (Annexures-8, 9 and 10)
- 2.7 By email dated 24.03.2026, the Resolution Professional informed the Applicant that all CIRP-related information was being disseminated through the Authorised Representative of the homebuyers and advised the Applicant to coordinate with the Authorised Representative for obtaining the relevant documents and updates. (Annexure-11)
- 2.8 Consequently, the Applicant approached the Authorised Representative on 24.03.2026 seeking verification of its claim and circulation of all CIRP-related communications including agendas, minutes, voting links and other relevant documents. The Authorised Representative sought certain additional documents, which were furnished by the Applicant on 25.03.2026. (Annexures-12 and 13)
- 2.9 Thereafter, the Applicant addressed further communications dated 31.03.2026 requesting access to documents necessary for effective participation in the CIRP. The Resolution Professional once again sought a Non-Disclosure Undertaking, which was furnished by the Applicant on the same date. (Annexure-14)

- 2.10 The Applicant subsequently executed a Non-Disclosure Agreement dated 02.04.2026 specifically seeking access to the Resolution Plan submitted by M/s Prominent Suppliers Pvt. Ltd., which had been placed before the Committee of Creditors. The Applicant undertook to maintain confidentiality of the information and use the same solely for CIRP-related purposes. (Annexure-15)
- 2.11 Despite repeated requests, the Applicant was not provided with the Resolution Plan or the Information Memorandum. By email dated 06.04.2026, the Resolution Professional reiterated that the Applicant was represented through the Authorised Representative. However, on the same date, the Authorised Representative informed the Applicant that the Resolution Plan and Information Memorandum were not in his possession and could only be provided by the Resolution Professional. (Annexure-16 Colly)
- 2.12 The Applicant thereafter issued follow-up communications dated 09.04.2026, 14.04.2026, 16.04.2026 and 21.04.2026 requesting the Resolution Professional and the Authorised Representative to provide the Resolution Plan and Information Memorandum. Despite repeated reminders and follow-ups, the requested documents were not furnished to the Applicant. (Annexures-17, 18 Colly, 19 Colly and 20)
- 2.13 Aggrieved by the continued denial of access to CIRP documents, the Applicant contends that the Resolution Professional and the

Authorised Representative have failed to discharge their statutory obligations under the Insolvency and Bankruptcy Code, 2016 and the CIRP Regulations by withholding material documents necessary for meaningful participation in the CIRP and exercise of voting rights by the Applicant as a homebuyer and member of the Committee of Creditors.

2.14 The Applicant further contends that both the Resolution Professional and the Authorised Representative have shifted responsibility onto each other regarding disclosure of the Resolution Plan and Information Memorandum, thereby depriving the Applicant of access to crucial CIRP documents and compelling the Applicant to approach this Adjudicating Authority seeking appropriate directions.

3. Analysis and Findings -:

3.1 We have gone through the case file carefully and perused the pleadings of the parties and documents placed on record by the parties and heard the arguments put forth by learned Counsels for the parties; and after hearing the learned counsels for the parties, we shall now proceed to consider the present petition on its merits, specifically within the ambit of points involved in the instant application.

3.2 Having heard the submissions of the Applicant and upon perusal of the records placed before this Adjudicating Authority, it is observed that the Applicant is a homebuyer whose claim has been

admitted by the Resolution Professional and whose name stands reflected in the list of creditors of the Corporate Debtor. Consequently, the Applicant is entitled to participate in the Corporate Insolvency Resolution Process in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 and the regulations framed thereunder.

3.3 The correspondence placed on record demonstrates that after admission of its claim, the Applicant repeatedly sought access to the Information Memorandum, Resolution Plan and other CIRP-related documents. It is further evident that the Resolution Professional directed the Applicant to approach the Authorised Representative, whereas the Authorised Representative subsequently stated that the documents were not available with him and could only be furnished by the Resolution Professional. Such conduct reflects a lack of coordination between the Resolution Professional and the Authorised Representative and has resulted in avoidable hardship to the Applicant.

3.4 This Adjudicating Authority is of the considered view that the Authorised Representative, being entrusted with the responsibility of safeguarding the interests of the creditors in a class, ought to have acted with greater diligence and promptitude in addressing the grievances of the Applicant. The material on record discloses that despite repeated requests made by the Applicant, effective steps were not taken by the

Authorised Representative to ensure that the information sought by the Applicant was made available within a reasonable time. Such inaction cannot be appreciated.

3.5 At the same time, this Adjudicating Authority cannot lose sight of the fact that the Applicant was aware of the alleged non-supply of documents much earlier. Despite repeated exchanges of correspondence, the Applicant continued to pursue the matter through emails for a considerable period instead of promptly approaching this Adjudicating Authority for appropriate relief. The Applicant therefore cannot be absolved of its own delay in seeking judicial intervention.

3.6 It is also relevant to note that by the time the present Application came to be filed, the Committee of Creditors had already considered the Resolution Plan and the CIRP had progressed substantially. The Applicant's claim was admitted on 02.01.2026, whereas the present proceedings were initiated only after considerable lapse of time. Had the Applicant approached this Adjudicating Authority at an earlier stage, appropriate directions could have been issued before substantial progress had been made in the resolution process.

3.7 In the circumstances, this Adjudicating Authority is inclined to direct the Resolution Professional to furnish to the Applicant, subject to the confidentiality requirements prescribed under the Code and the Regulations framed thereunder,

the Resolution Plan, Information Memorandum and such other CIRP-related documents as are permissible to be disclosed.

However, it is clarified that the Applicant, having executed a Non-Disclosure Agreement, to sought access to the Resolution Plan submitted by M/s Prominent Suppliers Pvt. Ltd. In view thereof, the Resolution Professional shall furnish the Resolution Plan pertaining to the Avani Grand Project.

3.8 The instant I.A. (IBC) 779 (KB) of 2026 is allowed in terms of the above.

3.9 I.A. (IBC) 779 (KB) of 2026 in C.P. (IB) 378(KB) of 2018 is disposed off accordingly.

3.10 The Registry is directed to send copies of the Order forthwith to all the parties and their representative for information and for taking necessary steps.

3.11 Certified copies of this order, if applied for with the Registry of this Adjudicating Authority, be supplied to the parties upon compliance with all requisite formalities.

Rekha Kantilal Shah
Member (Technical)

Labh Singh
Member (Judicial)

Order signed on the 22nd day of June 2026.

RSM(LRA)