NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT VI

Item No. P2 & P3

IA(IBC)2690/(MB)2026

And

IA(IBC)2899/(MB)2026

IN

C.P.(IB)/497(MB)2026

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **12.08.2026**

NAME OF THE PARTIES:-

Shaanxi Baoguang Import And Export Company Limited

Vs

Stelmec Limited

Under Section 60(5)/Rule 11 of the IBC

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, *vide* separate order. Detailed order is being uploaded on the NCLT portal today.

Sd/-

NILESH SHARMA
MEMBER (JUDICIAL)

Sd/-

SAMEER KAKAR
MEMBER (TECHNICAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH – VI

INTERLOCUTORY APPLICATION NO. 2690 OF 2026
&
INTERLOCUTORY APPLICATION NO. 2899 OF 2026
IN
COMPANY PETTTTON (IB) NO. 497 OF 2026

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

Shaanxi Baoguang Import & Export Co. Ltd.
Having its registered address at: B-53,
Baoguang Road, Baoji City, Shaanxi, China

…Applicant

Stelmec Limited
Having its registered office at:
Office No. 506/507, 55, Corporate Avenue,
Saki Vihar Road, Andheri East,
Mumbai - 400072.

…Respondent

In the matter Between

Shaanxi Baoguang Import & Export Co. Ltd
Having its registered address at: B-53,
Baoguang Road, Baoji City, Shaanxi, China

... Operational Creditor

Versus

Stelmec Limited
Having its registered office at:
Office No. 506/507, 55, Corporate Avenue,
Saki Vihar Road, Andheri East,
Mumbai - 400072.

…Corporate Debtor

Order pronounced on 12.08.2026

CORAM

SH. NILESH SHARMA, HON'BLE MEMBER (JUDICIAL)
SH. SAMEER KAKAR, HON'BLE MEMBER (TECHNICAL)

APPEARANCE (IN HYBRID MODE)

For Applicant in both IA : Adv. Mr. Shadab Jan a/w Mr. Tanis Amin i/b Vidhi Partners for Applicant

For Respondent in both IA : None present

O R D E R

***PER:* Bench**

INTERLOCUTORY APPLICATION NO. 2690 OF 2026

1. **The IA has been filed by the Applicant seeking the following prayers:**

   a. *That this Hon'ble Tribunal be pleased to permit the Applicant to amend the Company Petition (IB) No. 497 of 2026 as per Schedule-I hereto.*

   b. *That this Hon'ble Tribunal be pleased to condone the delay, if any, in filing the present Application;*

   c. *Costs; and*

   d. *That this Hon'ble Tribunal be pleased to pass such other orders/ directions as necessary, in the interest of justice.*

2. **FACTS OF THE CASE**

   2.1. The Applicant has filed the present Application seeking permission of this Hon'ble Tribunal to amend the present Company Petition as per *Schedule-I* annexed hereto.

   2.2. In the present Company Petition, only the date of '29th March, 2020' is mentioned as the 'date on which default occurred' in Part IV at Sr. No. 2. However, pertinently, the Operational Creditor vide its email dated 10th September,202l (Exhibit K - Pg. 82 of the Company Petition), provided two options to the Corporate Debtor for clearing the Operational Creditor's outstanding dues i.e. Corporate Debtor pays gradually from September 2021 to clear all payments before 25th March 2022 or Corporate Debtor to convert the existing overdue payments to accounts receivable within 1 year by way of restart business cooperation.

2.3. In response to the email dated 10th September, 2021, the Corporate Debtor vide email dated 15th September 2021 (Exhibit K - Pg. 81 of the Company Petition), accepted Option No. 2, and categorically assured the Operational Creditor that the Corporate Debtor "will gradually pay the outstanding amount within next 1 year. We propose to consider this one year starting from October 2021. We propose to pay you at end of every month ... " i.e. starting 31st October 2021. It is submitted that the contents of the email dated 15th September, 2021 read with the Applicant's offer dated 10th September, 2021 constitute a fresh contractual promise to pay under section 25(3) r/w 62 of the Indian Contract Act, 1872 (the "Act"), which restructured the timeline of the debt due and payable on the part of the Corporate Debtor to the Applicant. It is further submitted that the email dated 10th September, 2021 addressed by the Applicant was an offer made to the Corporate Debtor, which was accepted by the Corporate Debtor vide its email dated 15th September, 2021. The Corporate Debtor expressly conditioned the payment schedule thereunder on the Applicant forbearing from initiating any legal actions. Moreover, by actively withholding legal proceedings initially, the Applicant accepted this contract by conduct. Thus, a binding, bilateral settlement agreement was arrived at between the parties on 15th September, 2021. By specifying a fresh deadline to make payments towards the outstanding dues i.e. starting October 2021, the parties renewed the timeline to fulfil its obligation under the original contract. However, since no payments were made by 31st October, 2021, and anytime thereafter the Corporate Debtor failed to abide by its own assurance and committed a default on 31st October,2021.

2.4. In light of the above, it is submitted that it is quintessential that the Applicant be allowed to bring on record the attachment to the email dated 10th September,2021 issued by the Applicant to the Corporate Debtor, which inadvertently was not a part of the record at the time of filing the present Company Petition. Further, it is also important that the Applicant be allowed to amend the present Company. Petition so that the 'date on which default occurred ‘can be revised to '31st October, 2021', and other consequential amendments may be permitted.

2.5. The amendment sought to be carried out is curative, thus necessary. The proposed amendment will not cause any prejudice to the Corporate Debtor however the same is required for proper adjudication of the present Company Petition.

2.6. The case of the Applicant will be gravely prejudiced if the proposed amendment is not permitted. No inconvenience will be caused to the Corporate Debtor if the present Application is allowed.

INTERLOCUTORY APPLICATION NO. 2899 OF 2026

3. **The IA has been filed by the Applicant seeking the following prayers:**

a. That this Hon'ble Tribunal be pleased to pass an appropriate order to de-reserve Company Petition (IB) No. 497 of 2026, which was reserved for orders on maintainability vide order dated 23rd June 2026;

b. That this Hon'ble Court be pleased to list the present Application and Company Petition (IB) No. 497 of 2026 along with Interlocutory Application No.2690 of 2026, which has been directed to be listed on 31st July 2026 vide order dated 6th July 2026 passed by this Hon'ble Tribunal or on any other date convenient to this Hon'ble Tribunal;

c. That this Hon'ble Tribunal be pleased to condone the delay, if any, in filing the present Application;

d. For costs;

e. That this Hon'ble Tribunal be pleased to pass such other orders/directions as necessary, in the interest of justice.

4. **FACTS OF THE CASE**

4.1. The Applicant has filed the present Interlocutory Application inter alia seeking to de-reserve the present company Petition, which was reserved for order on maintainability vide order dated 23rd June 2026 passed by this Hon'ble Tribunal in the present Company Petition.

4.2. The present Company Petition was filed on 20th February 2025 and registered on 4th May 2025.Thereafter, the present Company Petition was listed for hearing, for the very first time, on 6th May 2026. After hearing the Applicant, this Hon'ble Tribunal directed the Applicant to file written submissions on maintainability and relisted the present Company Petition on 23rd June 2026 for hearing on maintainability. Annexed and marked as Exhibit-B is a copy of the order dated 6th May 2026 passed by this Hon'ble Tribunal.

4.3. It is pertinent to note that, inadvertently, the attachment to the email date 10th September 2021 (Pg. 82, Ex. K of the Company Petition) was not a part of the present Company Petition at the time of filing. By the email dated 10ft September 2021 issued by the Applicant to the Corporate Debtor, the Applicant had provided two options to the Corporate Debtor for clearing the Applicant's admitted outstanding dues, of which one option was accepted by the Corporate Debtor vide email dated 15th September 2021 (Pg. 81, Ex. K to the Company Petition). Thus, a binding bilateral settlement agreement was arrived at between the parties on 15th September 2021. By specifying a fresh deadline to make payments towards the outstanding admitted dues, starting October 2021, the parties renewed the timeline for the Corporate Debtor to fulfill its obligation under the original contract. However, since no payments were made by 31st October 2021, and at any time thereafter, the Corporate Debtor failed to abide by its own assurance and committed a default on 31st October 2021.

4.4. In light of the above, it was quintessential that the attachment to the email dated 10th September 2021, issued by the Applicant to the Corporate Debtor, which inadvertently, was not part of the record at the time of filing the present Company Petition be brought on record, before the present Company Petition was heard on maintainability. Therefore, when the present Company Petition was listed on 23rd June 2026, the Applicant sought time from this Hon'ble Tribunal to take steps to file an Interlocutory Application seeking to amend the present Company Petition inter alia to bring the attachment to the email dated 10th September 2021 on record and make other consequential amendments and hear the Applicant on maintainability thereafter. However, the Applicant's request was denied, and the Applicant was directed to proceed with arguments on maintainability, and after hearing the Applicant the present Company Petition was reserved for orders on maintainability. Annexed and marked as Exhibit-C is a copy of the order dated 23rd June 2026 passed by this Tribunal. The fact that time was sought by the Applicant seeking to amend the present Company Petition was, however, not specifically recorded in the said order.

4.5. On the same day, the Applicant also filed written submissions on the online portal of this Tribunal. Thereafter, on 24th June 2026, the Applicant mentioned the present Company Petition before this Tribunal so that the physical set of the written submissions on behalf of the Applicant, filed on the online portal of this Hon'ble Tribunal, could be taken on record, which this Tribunal was pleased to accept.

4.6. The Applicant craves leave to refer to and rely upon the Written Submissions filed by the Applicant on 23rd June 2026, if the circumstances so warrant.

4.7. Subsequently, on 26th June 2026, the Applicant filed Interlocutory Application No. 2690 of 2026 (hereinafter referred to as the "IA for Amendment") in the present Company Petition seeking to amend the present Company Petition inter alia to bring on record the attachment to the email dated 10th September 2026 issued by the Applicant to the Corporate Debtor and for other consequential amendments. annexed and marked as Exhibit-D is a copy of the Interlocutory Application No. 2690 of 2026 filed in the present Company Petition. The Applicant craves leave of this Hon'ble Tribunal to refer to and rely upon the contents of Interlocutory Application No. 2690 of 2026, and the same be treated as part and parcel of the present Application.

4.8. The IA for Amendment was listed for hearing, for the very first time, on 6th July 2026. During the course of the proceedings, this Tribunal observed that since the present Company Petition is reserved for orders on maintainability, the IA for Amendment could not be entertained unless the present Company Petition is first de-reserved. Further it was also observed that no prayer to de-reserve the present Company Petition, was prayed for in the IA for Amendment. Accordingly, on behalf of the Applicant, it was submitted that the Applicant shall file a fresh Interlocutory Application inter alia seeking to de-reserve the present Company Petition which was reserved for orders on 23rd June 2026. After granting liberty to the Applicant to file such an Application, this Hon'ble Tribunal adjourned the IA for Amendment to 31st July 2026.It is in these circumstances that the Applicant has preferred the present Application.

4.9. The Applicant submits that the contents of the email dated 15th September 2021 read with the Applicant's offer dated 10th September 2021 constitute a fresh contractual promise to pay under Section25(3) r/w Section 62 of the Indian Contract Act, 1872 (hereinafter referred to as the "Act"), which restructured the timeline of the debt due and payable on the part of the Corporate Debtor to the Applicant. It is further submitted that the email dated 10th September 2021 addressed by the Applicant was an offer made to the Corporate Debtor, which was accepted by the Corporate Debtor vide its email dated 15th September 2021.

Thus, a binding bilateral settlement agreement was arrived at between the parties on 15th September 2021.By specifying a fresh deadline to make payments towards the outstanding dues i.e. starting October 2021, the Applicant and the Corporate Debtor renewed the timeline to fulfil its obligation under the original contract. However, since no payments were made by 31st October 2021, and at any time thereafter, the Corporate Debtor failed to abide by its own assurance and committed a default on 31st October 2021. Accordingly, on 23rd June 2026, when the present Company Petition was listed for hearing, the Applicant requested this Hon'ble Tribunal for some time for filing an appropriate Application seeking to amend the present Company Petition Inter alia to bring the attachment to the email dated 10th September 2021 issued by the Applicant to the Corporate Debtor on record and for consequential amendments. However, the Applicant's request was denied, and the present Company Petition was reserved for orders on maintainability. Separately, this Tribunal observed that the IA for Amendment filed by the Applicant could not be entertained, without first de-reserving the present Company Petition, considering that the present Company Petition was reserved for orders on maintainability on 23rd June 2026. Therefore, the Applicant was compelled to file the present Application inter alia seeking to de-reserve the present Company Petition, reserved for orders on maintainability on 23rd June 2026, so that the IA for Amendment could be considered.

4.10. The Applicant states that if the present Application is not allowed, and the present Company Petition reserved for orders on maintainability is not de-reserved, the Applicant will not be able to make curative amendments to the present Company Petition, which is necessary for a just and proper adjudication of the present Company Petition. The amendments sought to be carried out are curative, thus necessary. The Applicant further states that if the present Application is allowed, no prejudice will be caused to the Corporate Debtor. However, if the prayers sought for in the present Application are not allowed the case of the Applicant will be gravely prejudiced. No inconvenience will be caused to the Corporate Debtor if the present Application is allowed. The balance of convenience is also in favour of the Applicant.

5. **<u>Analysis and Findings: -</u>**

5.1. We have heard the Ld. Counsel for the applicant in both the IAs and have perused the record.

5.2. Essentially, IA 2690 of 2026 was filed seeking to amend the CP 497 of 2026 and IA 2899 of 2026 was filed adding some prayer to de-reserve the CP 497 of 2026, which was finally heard and reserved for orders on maintainability vide order dated 23.06.2026. Both the IAs have been filed by the applicant in the CP 497 of 2026.

5.3. It will not be out of place to mention here that the applicant has filed the said CP 497 of 2026. This CP was first heard by this bench on 06.05.2026 After hearing the Applicant, this Tribunal directed the Applicant to file written submissions on maintainability and relisted the present Company Petition on 23rd June 2026.

5.4. Order dated 06.05.2026 draws attention of the applicant to few facts which are briefly as under :-

a. The date of default is stated as 29.03.2020.

b. Computation in respect of outstanding has been given on page no. 157, where details of all the pending invoices along with their respective due dates have been stated. It has been observed from the said statement that all the due dates fall within 10-A period i.e. between 25.03.2020 till 24.03.2021.

c. Ld. Counsel for the applicant was asked to explain as to why the application should not be dismissed as outstanding claimed is falling within the 10A period and that the dates of default stated in the application to fall within 10A period.

d. Applicant was also directed to go through the decision of Hon'ble Supreme Court in the matter of Ramesh Kymal VS. Simens Gamesa Renewable Power Pvt Ltd. (Civil Appeal No. 4050 of 2020) and address the applicability of the same to the facts of this case in written submissions.

5.5. The matter was thereafter heard on 23.06.2026 and was reserved for orders on maintainability.

5.6. Post the said order dated 23.06.2026 these two IAs have been filed by the applicant. IA 2690 of 2026 was affirmed on 26.06.2026 and IA 2899 of 2026 was affirmed on 08.07.2026. As such post the CP was reserved for orders these IA's have been filed.

5.7. Hon'ble NCLAT in **Loramitra Rath v. JM Financial Asset Reconstruction Company Ltd**. [vide Judgment dated 01.11.2023 in Company Appeal (AT)(Ins.) No. 1359 & 1360 of 2023], wherein this Tribunal had observed as under:

"2. …………….The Respondent No.1-Financial Creditor filed a Section 7 petition under the IBC for initiation of CIRP of the Corporate Debtor. The matter was heard by the Adjudicating Authority and reserved for orders on 07.08.2023. The orders were pronounced on 25.09.2023.

In the interregnum between the conclusion of hearing and the pronouncement of the order on 25.09.2023, the Corporate Debtor filed IA No. 253/CB/2023 seeking recall of the order which had been reserved on 07.08.2023 and to rehear the matter on the basis of additional objections contained in the IA No. 253/2023 filed by them.

The IA No.253/2023 was dismissed by the Adjudicating Authority on 25.09.2023 on the ground that it had been filed after the final arguments in the main company petition had been heard and matter reserved for orders. On the same date, the Adjudicating Authority also passed the orders in the main company petition directing initiation of CIRP of the Corporate Debtor.

Aggrieved by the said impugned orders, the appeal has been preferred by the suspended director of the Corporate Debtor.

*13. **It is a well settled proposition of law that the two stages of reserving of judgment and pronouncement of judgment are in a continuum with no hiatus or gap as such in the two stages. That***

being the well accepted and time-tested practice in court proceedings, subsequent pleadings filed by way of an I.A. after the judgement is reserved is normally not entertained for reasons of procedural propriety. *The Adjudicating Authority while dismissing the I.A. has applied the same settled position of law that when a matter is reserved for orders, there is no scope for entertaining application from parties to re-hear the matter. The Adjudicating Authority has relied on the judgment of the Hon'ble Supreme Court in Arjun Singh v. Mohindra Kumar & Ors. 1964 5 SCR 946 and Hon'ble Rajasthan High Court in Rajasthan Financial Corporation v. Pukhraj Jain & Ors. in AIR 2001 Raj 71* ***to hold that no application could be moved after the final arguments were heard and the case was closed for judgment. Hence, we find that the Adjudicating Authority had committed no error in not entertaining the I.A. particularly so when the I.A. contained facts which were already in existence at the time of filing of reply and at the time of making pleadings in the main company petition***. *Neither do we find any cogent grounds having been cited to explain what had impeded the Appellant from flagging these issues during the hearing of the main company petition. It also does not stand to any logical reasoning as to why the issues raised in the I.A. could not have been raised in the main company petition. Raising such technical issues and that too after detailed hearing in the main petition was concluded clearly shows that the Appellant was merely trying to raise feeble grounds in the I.A. to somehow delay and derail the admission of CIRP. Hence in our considered opinion, the Adjudicating Authority had rightly rejected the I.A. 253/2023."*

5.8. In the present case, order in the CP (IB) 497/2026 was reserved on 23.06.2026 and that both the IA's have been filed later to the said date. As per the above referred Loramitra Judgment passed by Hon'ble NCLAT, no application can be moved after the final arguments are heard and the case is closed for judgment. Hon'ble NCLAT further held that the IA filed in the referred matter contained facts, which were already in existence at the time of filing of reply and at the time of making of pleadings in the main company petition and, therefore, the adjudicating authority did not commit any error in not entertaining the said IA. In the present matter also, the main CP was reserved for order on maintainability on 23.06.2026 and that the Applicant, after the CP was reserved for order filed IA-2690 of 2026 on 26.06.2026 (date of affirmation) for seeking to amend the CP 497 of 2026 in regard to date of default and thereafter IA No. 2899 of 2026 on 08.07.2026 (date of affirmation) for seeking to add another prayer for de-reserving the order in CP 497 of 2026 to the prayers as made vide IA no. 2690 of 2026. In IA 2690 of 2026 the Applicant has stated that vide email dated 10.09.2021 the Applicant had offered two options to the Corporate Debtor for clearing the Applicant's admitted outstanding dues and out of the said two options, the Corporate Debtor opted for one option vide its email dated 15.09.2021 and as a result of this offer and acceptance of the offer, a binding bilateral settlement agreement was arrived at between the parties, as per which the Corporate Debtor was allowed to clear the entire outstanding within period of one year starting from October, 2021. However, as no payment was made by the Corporate Debtor by the first revised due date of 31.10.2021, the first default date gets shifted to 31.10.2021. The IA 2690 of 2026 sought to amend the CP 497 of 2026 by shifting the date of default from 29.03.2020 to 31.10.2021 based on the email dated 10.09.2021 issued by the

Applicant to the Corporate Debtor and email dated 15.09.2021 vide which Corporate Debtor is stated to have accepted one of the offers of the Applicant for clearing the outstanding dues. The Applicant had also sought to place on record the attachment to email dated 10.09.2021, which contained the two options offered by the Applicant to the Corporate Debtor, for clearing the outstanding payable by the Corporate Debtor to the Applicant.

5.9. The Applicant has not explained why the said attachment to e-mail dated 10.09.2021 was not attached by the Applicant to the CP 497/2026 or placed on record before the order in CP 497/2026 was reserved on 23.06.2026 on maintainability. The Applicant has only stated in IA 2690/2026 that the said attachment to the e-mail dated 10.09.2021 was inadvertently not a part of the record at the time of filing of the CP/497/2026. In our view, at the time of filing of CP/497/2026, the Applicant was in possession of the e-mail dated 10.09.2021 along with the attachment as the said e-mail was issued by it only to the Corporate Debtor and cannot claim, without giving any reason, that the said attachment to the e-mail was inadvertently not a part of the record. Moreover, the said attachment and e-mail dated 10.09.2021 remained with the Applicant till the time the CP 497/2026 was reserved for order by this Bench on 23.06.2026, however, till the said time, the Applicant did not decide to place the said attachment on record. As such, as the said document was available with the Applicant till the time the CP 497/2026 was reserved for order and that the same was not brought on record by the Applicant till that time, we are of the view that this Application through which the said document attached to e-mail dated 10.09.2021 is sought to be placed on record and based on which the Applicant seeks to amend the CP 497/2026 in regard to date of default, cannot be entertained in view of the judgment of the Hon'ble NCLAT in Loramitra matter (supra). Hence, **IA 2690 of 2026** is dismissed.

5.10. Further, IA No. **2899 of 2026** *vide* which, additional prayer as to the de-reservation of the order in CP 497/2026, is sought to be added to the prayers made in the IA 2690/2026, **becomes infructuous and dismissed** as such as IA 2690/2026 has been dismissed for the reasons stated above.

5.11. Even on merits the IA's deserve to be rejected since as per the ratio of the Judgment of Hon'ble Supreme Court in the matter of Ramesh Kymal VS. Simens Gamesa Renewable Power Pvt Ltd. (Civil Appeal No. 4050 of 2020) the date of default if it is within the 10A period, no insolvency petition can ever be filed Moreover we are of the view that as according to proviso to Section 10A, no application shall ever be filed for initiation of Corporate Insolvency Resolution Process of Corporate Debtor for the default, which has occurred during the Section 10A period, by granting extension for making payment, the original default does not get erased or extinguished giving the option to the creditor to file an application for initiation of CIRP against the CD based on the fact that during the extended period of payment/repayment, the Respondent had failed to clear the default. In case the said interpretation is made, in our opinion, the same would be contrary to intent of the legislature as stated in proviso to Section 10A which states that for default under Section 10A period no such Application can ever be filed.

Section 10A is reproduced hereunder:-

"10A. Suspension of initiation of corporate insolvency resolution process.--- Notwithstanding anything contained in sections 7, 9 and 10, no application for initiation of corporate insolvency resolution process of a corporate debtor shall be filed, for any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf:

Provided that no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period.

Explanation.--- For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply to any default committed under the said sections before 25th March, 2020."

5.12. It will not be out of place to mention here that the Ld. Counsel for the applicant was given an opportunity to withdraw the two IAs, however he persisted with the same.

5.13. Moreover CP 497/2026 was listed for pronouncement of orders on 21.07.2026, however we had to defer the pronouncement due to the filing of IA 2899 of 2026.

5.14. Thus, this Tribunal is of the view that due to the conduct of the applicant precious judicial time has been lost. Accordingly, we deem it fit to levy of cost of Rs. 1,00,000/- on the applicant herein to be deposited in the Prime Minister Relief Fund within a period of 7 days from the date of this order.

5.15. Relist these two applications for reporting compliance on 24.08.2026.

Sd/-

NILESH SHARMA
MEMBER (JUDICIAL)

Sd/-

SAMEER KAKAR
MEMBER (TECHNICAL)

(frk)