

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.305

IA/1386(AHM)2026 in CP(IB) 264 of 2018

Proceedings under Section 60(5) r/w 31 of the Ibc,2016 Reg 7 & 12 Reg 12A of the IBBI,2016 & Rule 11 of the NCLT Rules,2016

IN THE MATTER OF:

Patel Kokila Nileshbhai Partner of Central Rock-fuel
Suppliers
V/s
Techno Forge Limited

.....Applicant

.....Respondent

Order delivered on: 08/10/2026

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)**

IA 1386 of 2026

In

CP (IB) No. 264 of 2018

(Filed Section 60(5) read with Section 31 of the Insolvency and Bankruptcy Code, 2016 ('Code'), Regulations 7 and 12 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ('CIRP Regulations'), and Rule 11 of the National Company Law Tribunal Rules, 2016)

IN THE MATTER OF:

Patel Kokila Nileshbhai,

Partner of Central Rock-Fuel Suppliers

Ground Floor, Regent Tower, Opp. Income Tax Office,

Race Course, Vadodara, Gujarat - 390007.

Residential: Ashirwad Bungalow, Race Course Circle,

Opp. Rokadnath Society, Gadapura Road,

Vadodara, Gujarat - 390007

...Applicant/ Operational Creditor

Versus

Techno Forge Limited,

CIN: L28910GJ1979PLC003508,

Registered Office: 1022, GIDC Estate,

Ankleshwar, Bharuch, Gujarat - 393001.

Email: vikram_kapasi@yahoo.com

.... Respondents

Order Pronounced on 08.10.2026

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Coram:

MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)

MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)

Present:

For the Applicant : Mr. Parth S Shah Adv.

JUDGEMENT

1. This application, is filed under Section 60(5) read with Section 31 of the Insolvency and Bankruptcy Code, 2016 ('Code'), Regulations 7 and 12 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ('CIRP Regulations'), and Rule 11 of the National Company Law Tribunal Rules, 2016, seeking following reliefs:

- a. *Permit the Applicant to file and place on record its claim in Form-B as an Operational Creditor, together with all supporting documents including invoices, delivery challans, ledger, demand notice, civil court judgment / decree and execution order, and condone the delay in filing the said claim;*
- b. *Direct the Respondent, namely the Corporate Debtor acting through its present / reconstituted Board of Directors and / or the Monitoring Committee constituted under the approved Resolution Plan and / or the Successful Resolution Applicants, to receive, verify and consider the Applicant's*

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claim of Rs. 14,11,571/- together with interest as decreed (computed at Rs. 18,17,399/- as claimed in the execution petition). or as admissible under the Code and the approved resolution plan;

c. In the alternative, direct the Respondent to treat the Applicant's claim within such plan-compatible category / mechanism as this Hon'ble Tribunal 'may deem fit, including under the "Proposal for Contingent Liabilities and Other Operational Creditor of Corporate Debtor" in the approved resolution plan on its true construction, and to satisfy the same out of, and up to, the sum of Rs. 11,41,500/- reserved thereunder, without reopening the CIRP or modifying the commercial terms of the plan;

2. The brief facts of the case are that the Applicant, being a partner of Central Rock-Fuel Suppliers, had supplied furnace oil to the Corporate Debtor against six invoices issued between 21.08.2015 and 25.10.2015, involving a principal outstanding of Rs.14,11,571/-. The Applicant had instituted a civil suit in respect of the said dues on 15.09.2017, much prior to commencement of CIRP. The Corporate Debtor had appeared through counsel in the said proceedings, and the suit was ultimately decreed on 18.08.2023 in favour of the Applicant.
3. The Applicant further submitted that it had earlier filed IA No. 926 of 2026 seeking substantially similar reliefs, which was

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permitted to be withdrawn vide order dated 17.06.2026 with liberty to file a fresh application after impleading the proper party. The present Application has accordingly been filed against the Corporate Debtor through its present/reconstituted Board of Directors.

4. It is stated that the CIRP of the Corporate Debtor commenced on 02.07.2020 and public announcement inviting claims was issued on 08.07.2020. The Applicant did not submit its claim in Form-B within the prescribed period, allegedly on account of the medical condition of Mr. Nilesh Patel, who was managing the Applicant's business, accounts and litigation, coupled with the Applicant's lack of actual notice of the CIRP. It is contended that the omission was neither wilful nor deliberate.
5. The Applicant further submitted that the pending civil proceedings were within the knowledge of the Corporate Debtor, which had participated therein through counsel, and that the liability was capable of being traced from the Corporate Debtor's books and records. It is therefore contended that the claim could have been considered during the CIRP notwithstanding non-filing of Form-B by the Applicant.

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6. It is submitted that the Resolution Plan was approved by this Tribunal on 02.02.2024 and implemented, resulting in revival of the Corporate Debtor. Thereafter, the Applicant initiated execution proceedings in respect of the decree, which were disposed of by the Commercial Court vide order dated 05.08.2025 on the ground that execution could not proceed in view of the CIRP and the approved Resolution Plan. The Applicant accordingly contends that the present proceedings are necessary for consideration of its claim within the insolvency framework. The Applicant submits that the present IA does not seek reopening of the CIRP, modification of the approved Resolution Plan, or introduction of any fresh claim. The limited issue is whether the Applicant's pre-CIRP liability falls within the contingency-liability mechanism already provided under the approved Resolution Plan.
7. It is submitted that the Resolution Plan provides for payment in respect of contingent liabilities, including liabilities known or unknown after approval of the Plan, at 0.01% of the amount determined, subject to a maximum of Rs. 11,41,500/-. The Plan Approval Order also records extinguishment of claims against the Corporate Debtor except those provided for in the

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Plan. Accordingly, the Applicant seeks only determination of eligibility under the existing provision of the Plan and not any variation thereof.

8. Reliance is placed upon Section 60(5)(c) of the Code and the judgment of the Hon'ble Supreme Court in *Gujarat Urja Vikas Nigam Ltd. v. Amit Gupta*, (2021) 7 SCC 209 paras 69, 87 and 173(i), to submit that this Tribunal has jurisdiction to determine questions of law or fact arising out of or in relation to the insolvency resolution proceedings. Reliance is also placed upon *Gloster Limited v. Gloster Cables Limited*, 2026 INSC 81 paras 37-38 and 41, to contend that Section 60(5) cannot be invoked to create rights contrary to an approved Resolution Plan; however, the present IA seeks only implementation of a mechanism expressly contained therein.
9. The Applicant further relies upon *Indian Bank & Ors. v. State Bank of India & Ors.*, Company Appeal (AT) (Ins.) No. 629 of 2024, and *Bank of Baroda v. IDBI Bank Limited & Ors.*, Company Appeal (AT) (Ins.) No. 1708 of 2025 paras 65-68 and 71-73, to submit that while an approved Resolution Plan cannot be modified or rewritten, its existing provisions may be implemented in accordance with their terms.

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10. The present IA is confined to determination of the Applicant's eligibility, if any, under the contingency mechanism contained in the approved Plan. Accordingly, the Applicant submits that the present IA is maintainable under Section 60(5)(c) of the Code, to the limited extent of determining whether the Applicant's claim falls within the contingency-liability provision of the approved Resolution Plan, with the question of actual entitlement and disbursal to be considered strictly in accordance with the terms of the Plan i.e. maintainability of application.

11. Observations:

- a. The applicant had not filed his claim before the RP during the CIRP of claim if any and the reason stated is beyond the purview of this tribunal to grant any relief as the RP has followed the process in submitting the claims received for the consideration of the COC.
- b. During the moratorium period no legal proceedings can be pursued and we observe that the CD was admitted to CIRP on 02.07.2020 and the resolution plan was approved on 02.02.2024. The applicant even if he had got a decree

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in his favour should have filed an application before this tribunal before the adjudication of the resolution plan.

- c. The stated contingency provision provided is apparently covering the liabilities as per claims identified by the RP which is an expected 0.01% of the total maximum of Rs. not amount provided is subject to a 11,41,500.
- d. The applicant submits that the said suit was filed before the Commercial Court and Principal Senior Civil Judge, Vadodara on 15.09.201 and was pursuing the matter a judgment which was passed and decreed on 18.08.2023 for Rs. 14,11,571 plus interest from date of filing the suit. After the resolution plan was approved on 02.2024, the applicant is stated to have filed Commercial Execution Petition No.50 of 2024 before the Commercial Court, Vadodara for execution of the decree which dismissed as not maintainable as the decree lost its enforceability in view of IBC moratorium and resolution plan approval, and the execution petition cannot be proceeded.
- e. The legal course of action initiated reached its finality when the moratorium prevailed and as observed by the Ld Judge of Commercial Court in Execution Petition, the

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claim is no more enforceable, as irrespective of any pending suit, if any, has not filed any claim before the RP during CIRP which is an admitted fact, and cannot be condoned or restored.

- f. Hence we observe this application is not maintainable after the due claims have been considered and the CD has been resolved on approval of the resolution plan.

12. In view of the same we pass following order

ORDER

The Interlocutory Application No. 1386 of 2026 in CP(IB) No. 264 of 2018 is rejected and disposed of.

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DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

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CHITRA HANKARE
MEMBER (JUDICIAL)

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