NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

IA No. 1388/2026

in

Company Appeal (AT) (CH) (Ins) No. 453/2023
(IA Nos. 1413 & 1414/2023, 1389/2026)

In the matter of:

Goda Ganesh,
Suspended Director of
M/s. Barasat Krishnagar Expressways Ltd. … Appellant

Vs

State Bank of India & Anr. ...Respondents

Present :

For Appellant : Mr. S. Ravi, Senior Advocate
For Ms. Geeta Battula, Advocate
For Respondents : Mr. A.V. Arun, Advocate
For Mr. R. Sugumaran, Advocate for R1
Mr. M. Rama Rao, Advocate for RP/R2

ORDER

(Hybrid Mode)

27.10.2026:

1) This application IA No. 1388/2026 is preferred by the suspended director of the corporate debtor, seeking modification of the order dated 03.08.2026.

2) The appeal is preferred challenging an order admitting the corporate debtor to CIRP under Section 7 IBC.

3) On 09.01.2024, this Tribunal stayed the operation of the order of the Adjudicating Authority, providing the backdrop to this application IA No. 1388/2026, the learned counsel for the applicant submitted that:

a) The corporate debtor is a SPV and it has been awarded a contract for laying roads on 'BOT' basis, that the financial creditor has advanced the money for carrying out the contracted work and the loan agreement provided for realisation of the dues to the bank in the manner indicated therein. Be that as it may. The corporate debtor had completed around 50 % of the contracted work and as to the balance work it could not complete it, since that stretch of property over which road was to be laid was locked in land acquistion disputes. It is in these circumstances, the corporate debtor was constrained to terminate the contract and invoked the arbitration clause against the NHAI. The arbitration proceeding proceeded well and the arguments were also concluded and award alone needed to be pronounced. This was in January 2023, right at that time, the arbitrator applied for extension of time and this was challenged by NHAI before the Hon'ble Supreme Court and the Hon'ble Supreme Court has passed an order of stay owing to which the arbitrator could not deliver his award. Be that as it may, shortly after the arbitrator sought for extension of time, he passed away.

b) While things stood thus, the Hon'ble Supreme Court took stock of the situation and appointed another arbitrator to hold arguments again, vide its order dated 18.08.2026. However, shortly before the order of the Hon'ble

Supreme Court, this Tribunal vide its order dated 03.08.2026 has modified its earlier order dated 09.01.2024. Owing to this turn of events, the NHAI is now objecting to the corporate debtor, appellant representing before the arbitrator.

Concluding his submission, the learned counsel submitted that, the only asset the corporate debtor has is, the receivables for the work already done and other claims which the appellant has made before the arbitrator. In other words, the arbitration award will decide what asset the corporate debtor may have.

4) Heard Mr. AV. Arun, Advocate for the financial creditor. Heard Mr. M. Rama Rao, for the RP.

5) This is a strange case and perhaps out of the ordinary. Now the RP has issued Form G. If the only asset of the corporate debtor is what it might have to receive from the NHAI, and if this is linked to the outcome of the arbitration proceedings, then it is important that, we should not hurry to thwart any such attempt of the appellant to create some asset for the corporate debtor through the arbitration award. The order we have passed on 03.08.2026 is more likely to complicate the issue, something we were not aware of when we passed it. Necessarily, we consider it appropriate to recall our order dated 03.08.2026 and restore the earlier order dated 09.01.2024.

List this appeal on **15.12.2026**.

Till the next date of hearing, the earlier interim order dated 09.01.2024, granted by this tribunal, shall continue.

[Justice N. Seshasayee]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

YS/AA/MS