

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

Transfer Application (Co. Act)/6(PB)/2026

IN THE MATTER OF:

M/s. PATEL ENGINEERING LIMITED

.... Applicant

Versus

**STATE BANK OF INDIA
Order under Rule 16(d) NCLT, 2016**

.... Respondent

Order Pronounced on: 08.05.2026

CORAM:

**SHRI BACHU VENKAT BALARAM DAS
HON'BLE ACTING PRESIDENT**

PRESENT:

For the Applicant : Mr. Aditya Swarup, Advocate along with Mr. Tushar Bhardwaj, Mr. Ribhav Pande and Mr. Mohammed Ilyas, Advocate
For the Respondent(s) Ms. Srideepa Bhattacharyya, Advocate along with Ms. Neha Shivhare, Ms. Udisha Mishra and Mr. Madhav Kanoria, Advocates

ORDER

1. The present Applicant, has been filed by Applicant / Patel Engineering Ltd ("Guarantor" or "Corporate Guarantor"), seeking the following prayers:

“A. This Hon'ble Tribunal be pleased to pass an order directing transfer of Company Petition (IB) No. 1092 of 2023 pending before the Hon'ble National Company Law Tribunal, Mumbai Bench to the Hon'ble National Company Law Tribunal, Bengaluru Bench;

B. This Hon'ble Tribunal may pass such other order or orders as it may deem fit and proper in the facts and circumstances in the case and thus render justice.”

Brief Background

2. The Applicant/Patel Engineering Ltd ("Guarantor" or "Corporate Guarantor") entered into a Joint Development Agreement ("JDA") with the Principal Borrower, i.e., GM Infinite Dwelling (India) Pvt. Ltd

("Principal Borrower /GM Infinite") for development of the Applicant's property bearing Sy No. 352 (Old Sy No. 155/11) admeasuring 4 acres 38 gunthas, situated at Village - Hullimangla, Jigani - Hobli, Anekal-Talku, Bangalore. Under the JDA, GM Infinite was required to complete the Project at its own cost.

3. To complete its obligations under the Project, GM Infinite approached the Respondent/SBI for a loan facility. A Corporate Guarantee dated 06.07.2018 ("Corporate Guarantee") was given by the Applicant for the said loan facility.
4. GM Infinite and State Bank of India ("Financial Creditor" /"Respondent") executed a Loan-cum-Hypothecation Agreement dated 07.07.2018 under which the Respondent disbursed a loan facility aggregating to Rs 49 Crores to GM Infinite on various dates between 11.07.2018 and 12.02.2020. GM Infinite eventually defaulted on its loans.

Submissions of the Applicant

5. It is submitted that GM Infinite eventually defaulted on its loans. On **16.09.2023**, the **Respondent filed Company Petition (IB) No-4 of 2024 against the Principal Borrower**, i.e., GM Infinite under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC") before the NCLT Bengaluru Bench. The said Company Petition has been admitted by the Hon'ble NCLT, Bengaluru Bench vide its order dated 30.07.2024.
6. GM Infinite has challenged the order dated 30.07.2024 before the Hon'ble Karnataka High Court vide WP No.20601/2024. The Applicant is not a party to the said writ petition.
7. It is submitted that on **21.09.2023**, Company Petition (IB) No.1092 of 2023 came to be filed by the **Respondent against Applicant/Corporate Guarantor** under Section 7 of the IBC before NCLT Mumbai Bench for default on the payment made by the Principal Borrower.
8. The Applicant instituted a Civil Suit before the Ld. Commercial Court, Bengaluru [Comm (OS) No. 1159/2023] seeking, inter alia, a declaration that no liability accrues under the Corporate Guarantee and in the

alternative, a determination of the extent of the Applicant's liability under the Corporate Guarantee. The Ld. Commercial Court, by its ad interim order dated 09.07.2024 was pleased to restrain the Respondent from taking any precipitate steps against the Applicant. Consequently, the hearing in Company Petition (IB) No.1092 of 2023 was adjourned sine die.

9. Vide order dated **25.07.2024** in Comm (OS) No. 1159 of 2023, the **Ld. Commercial Court, Bengaluru was pleased to grant a temporary injunction in favour of the Applicant**, restraining the Respondent from taking/ further proceeding with any steps or actions against the Applicant pursuant to the Guarantee dated 06.07.2018 executed by the Applicant in favour of the Respondent bank till disposal of the said Suit.
10. It is submitted that Respondent challenged the said order dated 25.07.2024 before the Hon'ble Karnataka High Court vide COMAP No.372 of 2024. Hon'ble Karnataka High Court, vide its judgment dated **17.02.2026**, has been pleased to allow the said Appeal.
11. It is submitted that consequently, post the judgment of the Hon'ble Karnataka High Court, the proceedings in Company Petition (IB) No.1092 of 2023 have recommenced before Bench I of the NCLT Mumbai Bench, though the same has not been admitted till date.
12. It is submitted that as per Section 60(2) of the IBC, where a corporate insolvency resolution process of a corporate debtor is pending before a National Company Law Tribunal, an application relating to the insolvency resolution of a corporate guarantor of such corporate debtor shall be filed before such National Company Law Tribunal. Section 60(3) of the IBC mandates that an insolvency resolution process of a corporate guarantor of the corporate debtor pending in any tribunal shall stand transferred to the Adjudicating Authority dealing with insolvency resolution process of such corporate debtor.
13. It is submitted that in the present case, the application to initiate the corporate insolvency resolution process of the corporate debtor viz. GM Infinite was filed before the NCLT Bengaluru Bench. Therefore, in accordance with Section 60(2) of the IBC, the Respondent ought to have

filed the present petition before NCLT Bengaluru Bench and not the NCLT, Mumbai Bench.

14. It is submitted that Under Sections 60(3) of the IBC, if a petition is pending against the principal borrower before a particular bench of the Hon'ble NCLT, then a petition against the corporate guarantor which is filed before another bench of the NCLT "shall stand transferred to the Adjudicating Authority dealing with the insolvency resolution process" of the principal borrower, i.e. NCLT Bengaluru Bench. This is a mandatory provision in law.

Submissions of the Respondent

15. It is submitted that NCLT Mumbai is vested with the jurisdiction to decide the Section 7 Application under Section 60(1) of the Code, and the operation of Section 60(2) and 60(3) of the Code relied upon by the Applicant does not divest it of jurisdiction conferred by Section 60(1). It is undisputed that the registered office of Applicant is in Mumbai, Maharashtra, therefore, the Respondent filed the Section 7 Application before NCLT Mumbai in accordance with Section 60(1) of the Code.
16. It is submitted that Hon'ble NCLAT in *S. Vasudevan v. IDBI Trusteeship Services Limited & Ors., Company Appeal (AT) (CH) (Ins) No. 362/2023 ("S. Vasudevan")* has observed that:

"It is no one's case that judicially the Tribunal at Chennai didn't have jurisdiction to decide the subject; actually, it did have the jurisdiction to decide on the subject. The issue of restriction of territorial jurisdiction in this case is being agitated based on the implications of Section 60(1) of I & B Code and the exception carved out due to Section 60(2). Basically, the question in context of territorial jurisdiction which falls for consideration is because of exception provided by Section 60(2). That means both the Tribunals would have concurrent territorial jurisdiction but which one is to be involved for subsequent proceedings would be subject to the exception provided by Section 60(2), where the restriction of jurisdiction on account of the location of Registered office of the Corporate Debtor as provided under Section 60(1) of I & B Code,

2016, determining place of suing will stand overridden due to existence and pendency of an earlier CIRP proceeding. "

17. It is submitted that ratio of S. Vasudevan (Supra) is particularly instructive in the present context. The fact that the Hon'ble NCLAT treated the two forums as having concurrent territorial jurisdiction establishes beyond doubt that no mandatory obligation exists on the Respondent to file the Section 7 Application against Applicant only before NCLT Bengaluru.
18. It is submitted that Applicant's case is premised on the pendency of the GMIDIPL Section 7 Application before NCLT Bengaluru works to divest NCLT Mumbai of its jurisdiction to entertain the Section 7 Application. This, however, is not a case where NCLT Mumbai lacks inherent or subject matter jurisdiction. Rather, both forums possess concurrent jurisdiction.
19. It is submitted that Section 60(3) of the Code envisions the transfer of insolvency resolution process of a corporate guarantor which is "pending" before one Adjudicating Authority to the Adjudicating Authority dealing with the insolvency resolution process of the principal borrower. As such, Section 60(3) does not envision a pre-emptive transfer of applications filed against corporate guarantors where the insolvency resolution process of the same has not been admitted and has not yet commenced.
20. It is submitted that Applicant has actively participated in the Section 7 Application proceedings before NCLT Mumbai for a period of over two years, without raising any objection to its territorial jurisdiction. To buttress the argument reliance has been placed on the judgement of Hon'ble Supreme Court in *Punjab National Bank v. Atin Arora & Anr. (Civil Appeal Nos. 70-71 of 2025, arising out of SLP(C) Nos. 15347-15348 of 2020)*. In the said judgement Hon'ble Supreme Court has observed as under:

"the principle enjoins that objections regarding the place of suing shall not be allowed unless such objection is taken in the Court/tribunal of first instance at the earliest possible opportunity," and that "if such

objection is not taken at the earliest, it cannot be allowed to be taken at a subsequent stage."

ANALYSIS AND FINDINGS:

21. Details of the Transfer as sought in the Application is as follows:

Particulars of the Matter sought to be transferred	Currently pending before	Seeking transfer to
C.P. (IB) No. 1092 of 2023	NCLT Mumbai Bench	NCLT Bengaluru Bench

22. In brief it is the case of the Applicant/Corporate guarantor that in accordance with section 60(2) and 60(3) of the Code, C.P. (IB) No. 1092 of 2023 should be transferred from NCLT Mumbai Bench to NCLT Bengaluru Bench on the premise that the Respondent filed Company Petition (IB) No-4 of 2024 against the Principal Borrower, i.e., GM Infinite under Section 7 of the Code before the NCLT Bengaluru Bench.

23. Per contra it is the case of the Respondent that NCLT Mumbai is vested with the jurisdiction to decide C.P. (IB) No. 1092 of 2023, as per Section 60(1) of the Code.

24. Further it is contended by the Respondent that the Applicant has actively participated in C.P. (IB) No. 1092 of 2023 filed before NCLT Mumbai Bench for a period of over two years, without raising any objection to its territorial jurisdiction and has waived objection to territorial jurisdiction by its conduct over a period of more than two years.

25. In response to the Applicant/Corporate guarantor has submitted that it has not waived any rights to contest the jurisdiction of the NCLT, Mumbai Bench. Moreover here was a stay on proceedings between 29.11.2023–17.02.2026 and there was no occasion for Applicant/Corporate guarantor to waive any rights qua jurisdiction. The Applicant has further submitted that it is settled law that issues regarding jurisdiction of a Court / Tribunal can be raised at any stage

and has placed reliance on the Judgement of Hon'ble Supreme Court in the case of *Odisha State Financial Corporation. v. Vigyan Chemical Industries, reported in 2025 SCC OnLine SC 1609*, wherein, it was observed that :

“A decree passed without jurisdiction is null and void. A court is said to lack jurisdiction if it has no territorial jurisdiction, or if it has no pecuniary jurisdiction, or if its jurisdiction over the subject matter is circumscribed by any law. Such laws may be either substantive or procedural and may, by express provision or necessary implication, take away the jurisdiction of a court to deal with a matter, leaving no room for any judicial discretion. These provisions may either impose a total bar on the court from dealing with certain subject matters or impose any pre-conditions, non-compliance with which may prevent the court from entertaining the suit, even if it otherwise has jurisdiction over the subject matter. **A plea questioning the jurisdiction of the court can be raised at any stage, including before the High Court or this Court, particularly when it involves a pure question of law.**”

26. At this juncture it becomes apposite to refer to the relevant provisions of the Code which reads as under :

*“60. **Adjudicating authority for corporate persons.—(1)** The Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons including corporate debtors and personal guarantors thereof shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate person is located.*

***(2) Without prejudice to sub-section (1) and notwithstanding anything to the contrary contained in this Code,** where a corporate insolvency resolution process or liquidation proceeding of a corporate debtor is pending before a National Company Law Tribunal, an application relating to the insolvency resolution or [liquidation or bankruptcy of a corporate guarantor or personal guarantor, as the case may be, of such corporate debtor] shall be filed before such National Company Law Tribunal.*

(3) An insolvency resolution process or [liquidation or bankruptcy proceeding of a corporate guarantor or personal guarantor, as the case may be, of the corporate debtor] pending in any court or tribunal shall stand transferred to the Adjudicating Authority dealing with insolvency resolution process or liquidation proceeding of such corporate debtor.”

27. With respect to application of Section 60(2) and 60(3) of the Code, the Hon’ble Supreme Court in its judgement in the case of **ICICI Bank Ltd. v. ERA Infrastructure (India) Ltd., Civil Appeal No. 6094 of 2019, decided on 26.02.2026**, has observed that :

“77. The reasoning against simultaneous proceedings, at first blush, would seem simple: one debt, one proceeding. However, this reasoning was considered and negated by this Court in *BRS Ventures (supra)*, which held as under:

28. Sub-section (2) of Section 60 contemplates separate or simultaneous insolvency proceedings against the corporate debtor and guarantor. Therefore, **sub-section (3) of Section 60 provides that if CIRP in respect of the corporate guarantor is pending before an adjudicating authority and if the CIRP against the corporate debtor is pending before another adjudicating authority, CIRP proceedings against the corporate guarantor must be transferred to the adjudicating authority before whom CIRP in respect of the corporate debtor is pending.** Thus, consistent with the basic principles of the Contract Act that the liability of the principal borrower and surety is coextensive, the IBC permits separate or simultaneous proceedings to be initiated under Section 7 by a financial creditor against the corporate debtor and the corporate guarantor.

78. Thus, the question, whether simultaneous proceedings against the corporate debtor and/or the guarantor(s) can be maintained or not, is no longer *res integra*.”

28. It is also important to note that the Respondent has placed reliance on the Judgement of Hon’ble NCLAT in *S. Vasudevan (Supra)*, however in the said Judgement Hon’ble NCLAT has held that Section 60(2) creates

an exception to the Section 60(1) permitting initiation of insolvency proceedings against a Corporate Person (e.g. Corporate Guarantor, Personal Guarantor as the case may be) before a NCLT, other than the NCLT in whose jurisdiction the registered office of such Corporate Person, is situated, provided that, the CIRP proceedings (or) liquidation proceedings of the Corporate Debtor to which such Corporate Person is linked, is already pending before such NCLT, which supports the case of the Applicant. The relevant part of the said judgment is reproduced below:

*“9. What would be relevant to note at this stage from the above is that the **aforsaid provision under Section 60(2) creates an exception to the general prescription of Section 60(1) permitting initiation of insolvency proceedings against a Corporate Person (e.g. Corporate Guarantor, Personal Guarantor as the case may be) before a NCLT, other than the NCLT in whose jurisdiction the registered office of such Corporate Person, is situated, provided that, the CIRP proceedings (or) liquidation proceedings of the Corporate Debtor to which such Corporate Person is linked, is already pending before such NCLT.***

24. In the instant case, Application under Section 7 was filed against the Principal Borrower on 05.08.2022 the Application under Section 7 against the Corporate Debtor was filed on 19.09.2022. When the Application filed against the Corporate Debtor was taken up for consideration by the Learned NCLT, Chennai Bench on 17.04.2023, the Application against the Principal Borrower already stood registered, the date of such registration being 27.02.2023. Therefore, Learned NCLT, Chennai vide its order 17.04.2023, unhesitatingly took the view that since the case against the Principal Borrower (Ozone Projects) is pending before NCLT, Chennai, the case of the Corporate Guarantor, (M/s. Tuscan Consultants and Developers Private Limited) will also lie before NCLT, Chennai Bench in accordance with the provisions of Section 60(1) and 60(2) of the Code. The Learned Counsel

for the Appellant seeks to controvert it by arguing that 'pendency' of CIRP has to be reckoned from date of commencement of CIRP and not from date of initiation of CIRP. He contends that on the date of initiation, the Application alone was pending, that there is a fundamental difference between merely initiating the CIRP proceedings by filing an application under Section 7, 9 or 10 and Learned Adjudicating Authority commencing the CIRP proceedings by admitting the said application under Section 7(5) of the Code and that pendency of the CIRP proceedings should be reckoned from the date of commencement alone. The contentions of the Learned Counsel for the Appellant runs counter to the objective of the code and the purpose of Section 60(2), as both applications were flowing from the same Debenture Deed, and were based on same facts arising from the deed, governing the inter-se relation of the parties to the debenture deed and both were under consideration of Learned NCLT, Chennai. Purpose of Section 60 (2) is to avoid multiplicity of forum for deciding the similar nature of dispute and to facilitate avoidance of contradictory determination of the documents in relation to same transaction, which would not have been possible if the contention of the Appellant is accepted.”

29. Therefore, having regards to the facts and circumstances of the case and the law laid down by the Hon'ble Supreme Court in ***ERA Infrastructure (Supra)***, it would be appropriate that proceedings qua the Corporate guarantor i.e., C.P. (IB) No. 1092 of 2023 be **transferred from NCLT Mumbai Bench to the NCLT Bengalure Bench**. Accordingly TA (IBC) 6/2026 stands allowed.

Sd/-

**(BACHU VENKAT BALARAM DAS)
ACTING PRESIDENT**