

M/s. Era Infra Engineering Limited v. Joint Commissioner CGST Delhi South Commissionerate & Others

Case number: W.P.(C) 2281/2025, 2305/2025 and 2307/2025, with connected applications

Citation: 2025:DHC:11409-DB

Decision date: 15 December 2025

Post-resolution GST demands for earlier periods set aside where the Department participated in the insolvency process

Court: Delhi High Court

Bench: Hon'ble Ms. Justice Prathiba M. Singh and Hon'ble Ms. Justice Shail Jain

Decision stage: Final statutory-bar relief under the IBC; challenged orders and consequential demands set aside without remand. Underlying tax merits expressly not examined.

01 Facts of case and issues

Era Infra, a construction company, challenged GST demands concerning FY 2017-18, 2018-19 and 2019-20. The common judgment identifies show-cause notices dated 2 August 2024 and Orders-in-Original dated 14 and 25 November 2024. Its decisive issue was whether additional earlier-period demands could survive after approval of the company's insolvency resolution plan. The GST Department had submitted claims of Rs. 4,02,30,448 before the resolution professional; the judgment records crystallisation at Rs. 1,94,26,381. The NCLT approved S. A. Infrastructure Consultants Private Limited's plan on 11 June 2024, and new management took over. Era relied on the Department's participation and the binding plan. The Department answered that the later orders merely quantified liability and that recovery had not begun.

Pinpoint: Paragraph 2, p. 2; paragraphs 3-9, p. 3; paragraphs 11-12, p. 4.

02 Discussion by Hon'ble Court

The Court reproduced the NCLT approval order, including its finding of compliance with Section 30(2), its binding effect on governmental creditors and cessation of the Section 14 moratorium. Approval of the plan, rather than a continuing moratorium alone, supplied the decisive legal setting.

Ghanashyam Mishra explains that approval under Section 31 freezes claims provided in the plan and extinguishes claims outside it, including statutory dues. The Department relied on Sundaresh Bhatt, which permits assessment of customs dues for participation in insolvency or liquidation while restricting recovery outside the IBC process. That assessment/recovery distinction did not save these additional demands after plan approval.

Reading the two decisions together, the Court held that the Department, having participated and filed claims, could not raise further demands in this manner for earlier periods. Finality of the insolvency process protected the incoming management against additional past-period demands. The reasoning concerns the approved plan and the claims before the Court; it does not establish that every tax obligation arising during insolvency automatically disappears.

Pinpoint: Paragraph 14, p. 5; paragraphs 15-19, pp. 6-8. Ghanashyam quotation: paragraph 16; Sundaresh quotation: paragraph 17.

03 Judicial decision and operative relief

The Orders-in-Original dated 14 and 25 November 2024 and their consequential demands were set aside. All three writ petitions and pending applications were disposed of, without remand or directions for fresh assessment. Paragraph 21 expressly states that the Court did not examine the merits of the orders or demands. No separate refund direction was made.

Pinpoint: Paragraphs 20-22, p. 8.

04 In favour of

Era Infra, through final statutory-bar relief against the identified demands; the underlying GST liability was not adjudicated on its tax merits.

The relief conclusively removed the challenged demands at High Court level on the IBC ground. It is neither merely an interim stay nor a procedural remand. Its holding concerns the IBC statutory bar; tax computation, charging provisions and substantive GST merits were left unexamined.

Pinpoint: Paragraphs 18-22, pp. 7-8.

05 AKHB REVIEW POINT

AKHB analysis: Assemble the approved plan, NCLT order, tax claims and admission records, together with a period-wise comparison of each later notice and demand. Separate liabilities provided for in the plan from additional claims allegedly extinguished; a reduced admitted claim is not proof that it was paid.

Distinguish plan approval from the insolvency commencement date, and completed resolution from a pending CIRP or liquidation. Do not treat this judgment as an exemption from GST or a universal bar on assessment during a moratorium. For present reliance, also examine the subsequently inserted Section 31(6), its exceptions and temporal rule, and current appellate orders. Those later statutory developments were not the basis of this December 2025 judgment.

Pinpoint: AKHB commentary based on paragraphs 6-8, 14 and 16-21; later-law check: Amendment Act 6 of 2026, Section 19(e), and S.O. 2625(E).

Sources and limitations

Relevant provisions

IBC Section 31(1), through Ghanashyam Mishra; Sections 30(2) and 14 in the reproduced NCLT order; historical Sections 14, 33(5) and 53 in Sundaresh Bhatt. Sections 7 and 16 occur in the factual history. No GST charging or assessment provision was substantively adjudicated.

Statutory note

Historical checks used IBBI's compilation updated to 12 August 2021: Section 14, pp. 20-21; Section 30(2), pp. 37-38; Section 31, p. 40; Section 33(5), p. 43; Section 53, pp. 55-56. These provisions explain the law cited in the judgment, not an unqualified current consolidation. Separately, Section 19(e) of Act 6 of 2026 inserts Section 31(6): unless the plan provides otherwise, earlier claims against the corporate debtor and its assets are extinguished and proceedings, including assessment, are barred. Its explanations preserve specified claims against other persons and address temporal application, except matters attaining finality under the Code. Section 20(g) omits the historical Section 33(5). S.O. 2625(E), dated 22 May and published 25 May 2026, brings Sections 8-33 of the amending Act into force on 26 May 2026. This is a targeted later-law check, not a ruling on how its transitional provisions apply to any particular dispute.

Treatment note

Checked 12 October 2026. Bounded official-domain searches by party, the three writ numbers, decision date and neutral citation did not establish a later appellate, review, stay or modifying order concerning this common judgment. The fresh official PDF is unchanged. These results are not a complete live-docket or citator review and do not establish that no appeal or stay exists. The separate 2026 statutory development is identified above; obtain current case orders and test applicable legislation before reliance.

Scope of source review

All eight original judgment pages fully read and individually viewed. Supplementary review was confined to identified statutory provisions, relevant precedent passages and identity/date pages, and the complete two-page commencement notification. Neither the complete 139-page Ghanashyam judgment nor all material in the 96-page Supreme Court Sundaresh download was comprehensively reviewed; the latter includes other connected-appeal material after its first 37 pages.

Source notes

The formal captions and paragraph 2 identify W.P.(C) 2281, 2305 and 2307 of 2025. The running footer incorrectly says W.P.(C) 16944/2025; that number belongs to a different collected Neelmani judgment with a different source hash. This is one common judgment, not three separate notes. Citation 2025:DHC:11409-DB is visible in page artwork. Decision and upload dates differ by one day. The paragraph 2 table repeats one demand figure across writs; no aggregate demand is inferred. The High Court quotes Ghanashyam as paragraphs 102.1/102.3, corresponding to paragraph 95(i)/(iii), pp. 103-104 of the official original; Sundaresh is quoted as paragraphs 48/50, corresponding to paragraphs 45/47, pp. 31-33 of the accessed official original. The NCLT order is relied on only as reproduced here. PDF parsing and visible signature artwork do not establish cryptographic signature validity.

Primary source

Source description: Complete official Delhi High Court common judgment; decided 15 December 2025, uploaded 16 December 2025. Fresh official download matched the archived original byte-for-byte.

Official source: [Open source document](#)

Source pages: 8

Outcome type: final high court substantive relief

Additional source

IBBI official IBC compilation, updated to 12 August 2021

Official source: [Open source document](#)

Pinpoint: Historical Sections 14 (pp. 20-21), 30(2) (pp. 37-38), 31 (p. 40), 33(5) (p. 43), 53 (pp. 55-56). Targeted check; not a current consolidated text.

Ghanashyam Mishra and Sons Private Limited v. Edelweiss Asset Reconstruction Company Limited, Supreme Court, 13 April 2021

Official source: [Open source document](#)

Pinpoint: Official original paragraph 95(i)-(iii), pp. 103-104; corresponds to the High Court quotation labelled 102.1/102.3. Identity/date pages 1 and 139 checked.

Sundaresh Bhatt, Liquidator of ABG Shipyard v. Central Board of Indirect Taxes and Customs, Supreme Court, 26 August 2022

Official source: [Open source document](#)

Pinpoint: First judgment in the download: paragraphs 44-47, pp. 31-33, and conclusions 54-55, pp. 36-37; High Court quotation labels the relevant passages 48/50. Customs assessment for IBC claims distinguished from prohibited recovery.

Insolvency and Bankruptcy Code (Amendment) Act, 2026, Act 6 of 2026

Official source: [Open source document](#)

Pinpoint: Section 19, pp. 8-9, especially Section 19(e), inserting Section 31(6) and explanations; Section 20(g), p. 11, omitting Section 33(5). Later development, not part of the High Court reasoning.

MCA Notification S.O. 2625(E), 22 May 2026, published 25 May 2026

Official source: [Open source document](#)

Pinpoint: English text p. 2, item 2: Sections 8-33 of Act 6 of 2026 commence on 26 May 2026. Both pages read and individually viewed.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete official judgment and identified primary sources. No human legal review is claimed.

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