

**THE NATIONAL COMPANY LAW TRIBUNAL  
SPECIAL BENCH  
AT NEW DELHI**

**C.A. 1750 (PB) /2019  
IN  
Company Petition No. (IB)-694(PB) /2018**

In the matter of:

FAB – Tech Works & Construction Pvt. Ltd.

Applicant

AND

In the matter of:

Zillion Infraprojects Private Limited

Corporate Debtor

*Under Section 60 of the Insolvency and Bankruptcy Code, 2016*  
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***Judgment delivered on: 16.10.2019***

**CORAM**

**DR. DEEPTI MUKESH, MEMBER (TECHNICAL)**

**MR. S. K. MOHAPATRA, MEMBER (TECHNICAL)**

For the Petitioner/Applicant: Mr. Vinod Chaurasia, Advocate

**ORDER**

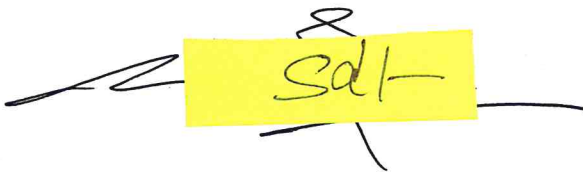
**S. K. Mohapatra, Member**

1. This is an application filed by the Fab- Tech Works & Construction Private Limited under Section 60 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the “Code”) with a prayer to continue *the claim of the applicant and the counter claim of the Corporate Debtor pending before the sole arbitrator.*
2. It is seen that similar prayer for continuation of arbitration proceeding preferred by the applicant vide CA 524 (PB) / 2019 was dismissed by the Principal Bench on 30.04.2019.
3. It is further seen that the application of the corporate debtor for continuance of its counter claim was allowed by the Ld. Arbitrator on 04.07.2019 inter-alia with the observation that *“Section 14 (1) (a) of the Code is very specific which provides that after declaration of moratorium, the proceedings against the corporate debtor shall be prohibited including Arbitral Proceedings. But the aforesaid provision or anywhere in the Code, there is no bar against the Corporate Debtor for claiming its debts or dues from the parties and in absence of any such provision, the counter claim filed by respondent can continue.”*

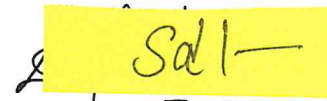


4. Despite the aforesaid order of the sole arbitrator allowing the application of the Corporate Debtor, it is not clear how the Resolution Professional has made a prayer in its reply dated 18.09.2019 that the members of CoC have no objection in continuance of arbitration **with claim** and counter claim.
5. Be that as it may, once the principal Bench has already rejected the self-same prayer for continuance of the claim of the applicant pending before the Sole Arbitrator; the present application intending for re-call/modification of the earlier aforesaid order be placed before the Principal Bench for appropriate orders on 29.10.2019.

Let copy of the order be served to the parties.



**(S. K. MOHAPATRA)**  
**MEMBER (T)**



**(DR. DEEPTI MUKESH)**  
**MEMBER (J)**