



**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-I), CHANDIGARH**

**I.A. No. 268 of 2026
in
CP (IB) No. 40/CHD/PB/2025**

(An application under section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 and Rule 14 of the National Company Law Tribunal Rules, 2016)

IA 268 of 2026:

PRAMOD KUMAR SUKHIJA

S/o Pramod Sukhija
H. NO. 15H, Bhai Randhir Singh (BRS) Nagar,
Ludhiana, Punjab – 141001
Email: apjlegal05@gmail.com

...Applicant/ Personal Guarantor

Vs.

UCO BANK

MID Corporate Branch, RK Road
Ludhiana, Punjab- 141003
Email: ludmcc@ucobank.co.in

...Respondent

IN THE MATTER OF:

UCO BANK

.....Petitioner

Vs.

PRAMOD KUMAR SUKHIJA

.....Respondent

Order delivered on: 16.04.2026

**CORAM: HON'BLE MR. KHETRABASI BISWAL, MEMBER (JUDICIAL)
HON'BLE MR. SHISHIR AGARWAL, MEMBER (TECHNICAL)**

Present: -

For the Applicants

: Mr. Aalok Jagga, Advocate
Mr. Sahil Lohan, Advocate
Mr. APS Madan, Advocate
Mr. Madhav Singhal, Advocate

ORDER



1. The present Application has been filed by **Mr. Parmod Kumar Sukhija (Personal Guarantor)** under Section 60(5) read with Section 65 of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016, inter alia seeking the following:

(a) Dismiss CP (IB) No. 40/CHD/PB/2025 titled *UCO Bank v. Parmod Kumar Sukhija*, at this stage itself by invoking powers under Section 60(5) read with Section 65 of IBC read with Rule 11 of the National Company Law Tribunal Rules, 2016

(b) Pass consequential directions under Section 65 of the Code against the Financial Creditor for filing malicious proceedings for the initiation of insolvency against a personal guarantor to a corporate debtor for a purpose other than resolution.

(c) Grant ad-interim stay on the proceedings filed vide CP(IB) No. 40 of 2025 titled as “UCO Bank v. Pramod Kumar Sukhija”

BRIEF FACTS AND SUBMISSIONS OF THE APPLICANTS:

2. Brief facts of the case, as stated in the application and relevant for adjudication of the present application, are summarised as follows:

(i) The Applicant, Mr. Parmod Kumar Sukhija, is stated to be the Personal Guarantor to the credit facilities availed by M/s Nirbhai Textiles Private Limited from a consortium of banks comprising Indian Overseas Bank, UCO Bank, Indian Bank (formerly Allahabad Bank) and Canara Bank. It is submitted that the loan accounts of the Corporate Debtor were declared Non-Performing Asset (NPA) on 23.01.2015 by Indian Overseas Bank, which was the lead bank of the consortium. Thereafter, the consortium banks initiated recovery proceedings and issued notices under Section 13(2) of the



Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 on various dates.

(ii) It is submitted that the Financial Creditor, UCO Bank, has initiated proceedings under Section 95 of the Insolvency and Bankruptcy Code, 2016 against the Applicant Personal Guarantor by filing CP (IB) No. 40/CHD/PB/2025, which is presently pending adjudication before this Adjudicating Authority. According to the Applicant, the said proceedings have been initiated with malicious intent and not for the purpose of resolution of insolvency, thereby attracting the provisions of Section 65 of the Code.

(iii) It is further submitted that the Applicant has been making efforts to resolve the outstanding liabilities of the consortium banks by submitting One Time Settlement (OTS) proposals from time to time. The first OTS proposal was submitted on 09.10.2024 offering an amount of ₹11.51 Crores towards settlement of the dues. The said proposal was subsequently revised on multiple occasions in accordance with the guidelines and circulars issued by the Reserve Bank of India. The last revised proposal was submitted on 05.08.2025 offering an amount of ₹12.05 Crores to all the financial creditors. It is submitted that the said amount is higher than the liquidation value of the Corporate Debtor as well as the realizable value of the assets of the Personal Guarantor.

(iv) It is submitted that the aforesaid OTS proposal dated 05.08.2025 was received by the Financial Creditor but the same came to be rejected by UCO Bank on 29.01.2026. It is further submitted that even after the rejection of



the said proposal, the Applicant submitted another OTS proposal on 31.01.2026 reiterating the intention to resolve the outstanding dues of the banks. According to the Applicant, the existence of a pending settlement proposal demonstrates the bona fide intent of the Personal Guarantor to resolve the debt without resorting to insolvency proceedings.

(v) The Applicant has further submitted that the insolvency resolution process under Part III of the Code is essentially aimed at arriving at a repayment plan under Section 105 of the Code. According to the Applicant, the OTS proposals submitted by the Personal Guarantor substantially serve the same purpose as a repayment plan contemplated under Section 105 of the Code, and therefore initiation of proceedings under Section 95 of the Code is unnecessary and unwarranted when a settlement proposal is already under consideration by the creditors.

(vi) It is further submitted that the Applicant had sought information regarding the One Time Settlement scheme of the banks by filing an application under the Right to Information Act, 2005 on 25.11.2022. When the said information was not provided, the Applicant approached the Central Information Commission, which by order dated 31.10.2023 directed the concerned bank to furnish the OTS scheme. It is submitted that the said order was challenged by the creditor bank before the Hon'ble Punjab and Haryana High Court by way of Writ Petition No. 29468 of 2023, wherein notice was issued on 09.01.2024 and the matter is stated to be pending consideration.



(vii) It is submitted that the initiation of proceedings under Section 95 of the Code despite the existence of settlement proposals and ongoing efforts for resolution demonstrates mala fide intent and amounts to misuse of the insolvency framework. According to the Applicant, the provisions of the Code are intended for resolution of insolvency and not for recovery of dues, and therefore the present proceedings deserve to be examined in the light of Section 65 of the Code which provides for penalty in cases of fraudulent or malicious initiation of insolvency proceedings.

(viii) In support of the above submissions, reliance has been placed on the judgment of the Hon'ble Supreme Court in **Sardar Associates v. Punjab & Sind Bank, (2009) 8 SCC 257**, wherein it was held that banks, being instrumentalities of the State, are required to follow their settlement schemes in a non-discriminatory manner. Reliance is also placed on **Devidayal Castings (P) Ltd. v. Haryana Financial Corporation, (2022) 16 SCC 411**, wherein the Hon'ble Supreme Court observed that once an offer made under a policy is acted upon by the borrower, the creditor cannot subsequently depart from the policy to the detriment of the borrower.

(ix) The Applicant has further relied upon the judgment of the Hon'ble Supreme Court in **S.P.Chengalvaraya Naidu v. Jagannath, (1994)1 SCC 1**, to submit that suppression of material facts before the court amounts to fraud on the court and a litigant who approaches the court must disclose all relevant facts. It is submitted that the Financial Creditor has failed to disclose the



relevant circumstances relating to the settlement proposals and the ongoing proceedings before other forums.

(x) On the basis of the aforesaid submissions, the Applicant has prayed that the present application be allowed and CP (IB) No. 40/CHD/PB/2025 be dismissed at this stage by invoking the powers of this Tribunal under Section 60(5) read with Section 65 of the Insolvency and Bankruptcy Code, 2016.

3. We have heard the learned counsels for the Applicant and perused the material available on record.

ISSUES:

4. In view of the submissions and material placed on record, the issue which arises for consideration is Whether the Present Application is maintainable?

OBSERVATIONS AND ANALYSIS:

5. The present application arises out of CP (IB) No. 40/CHD/PB/2025 filed by UCO Bank under Section 95 of the Insolvency and Bankruptcy Code, 2016 seeking initiation of insolvency resolution process against the Applicant, who is the Personal Guarantor to M/s Nirbhai Textiles Private Limited. The Applicant has filed the present application under Section 60(5) read with Section 65 of the Code alleging that the initiation of proceedings under Section 95 is fraudulent and malicious and has been undertaken for purposes other than resolution of insolvency. It has been submitted that the Applicant has been making continuous efforts to resolve the outstanding liabilities of the



consortium banks by submitting One Time Settlement proposals, including the proposal dated 05.08.2025 offering ₹12.05 Crores, which was rejected by the Financial Creditor on 29.01.2026, followed by another proposal dated 31.01.2026. The Applicant has further submitted that since a settlement proposal aimed at resolution of the debt is already pending consideration with the creditors, initiation of proceedings under Section 95 of the Code is unwarranted and amounts to misuse of the insolvency framework, thereby attracting the provisions of Section 65 of the Code.

6. It is pertinent to note that the main petition being CP (IB) No. 40/CHD/PB/2025 filed under Section 95 of the Code is presently at a stage where the Resolution Professional has not yet been appointed. At this stage, reference may be made to the judgment of the Hon'ble Supreme Court in **Dilip B. Jiwrajka v. Union of India & Ors., (2023) ibclaw.in 147 SC**, wherein the Hon'ble Supreme Court observed as under:

“59. The resolution professional submits a report to the adjudicating authority. The report is purely recommendatory in nature and does not bind the adjudicating authority. Section 100(1) requires the adjudicating authority to pass an order either admitting or rejecting the application within fourteen days from the date of the submission of the report under Section 99. The adjudicating authority has the power to instruct the debtor and the creditor to enter into negotiation if it admits the application. It may also entitle the creditors to file for bankruptcy if it rejects the application on the ground that it was intended to defraud the creditors or the resolution professional. The provisions dealing with moratorium under Section 101(2)(c) correspond broadly to the provisions of Section 14(1)(b) in relation to Part II. Significantly, clause (c) of Section 101(2) which places a restraint on the transfer, alienation or disposal of assets does not find a place in Section 96(1)(b). It consequently operates only after the admission of an application under Section 100.

60. This analysis would indicate that the adjudicatory function of the adjudicating authority commences, under Part III, after the submission of a recommendatory report by the resolution professional. Evidently, bearing in mind the clear differences between the CIRP under Part II and insolvency resolution process for individuals and partnership under Part III, the legislature has carefully calibrated:
(i) The role of the resolution professional;



**(ii) The imposition of the moratorium; and
(iii) The stage at which the adjudicating authority steps in under
Part II, on one hand, and Part III, on the other.**

**61. This is based on an intelligible differentia between the
nature of the insolvency resolution process in the case of a corporate
debtor, on one hand, and individuals or partnerships, on the other”**

(Emphasis supplied)

7. The aforesaid observations clearly demonstrate that under Part III of the Code, the adjudicatory role of this Adjudicating Authority effectively commences after submission of the report by the Resolution Professional under Section 99 of the Code. At the stage prior to such a report, the Tribunal is not expected to adjudicate issues relating to the merits of the insolvency application.

8. Accordingly, in view of the legal position discussed hereinabove and considering the stage of the proceedings in the main petition, we are of the considered view that the reliefs sought in the present application cannot be granted at this juncture. However, the Applicant is at liberty to raise all the contentions taken in the present application, before the Resolution Professional, during the preparation of the report under Section 99 of the Code. Further, in the event the Applicant has any objections to the report submitted by the Resolution Professional, the Applicant shall be at liberty to raise all such contentions, including those urged in the present application, before this Adjudicating Authority in accordance with law.

9. With the above observations, **the I.A. No. 268 of 2026 in** CP(IB) No. 40/CHD/PB/2025 is **disposed of**.

Sd/-
Shishir Agarwal
Member (Technical)

Sd/-
Khetrabasi Biswal
Member (Judicial)
Aakash