THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-I

IA 2730 OF 2026 IN CP (IB) NO. 290/MB/2023

Section 60(5) of the Insolvency and Bankruptcy Code, 2016 r/w Rule 11 of the NCLT Rules, 2016

Aditya Raheja

...**Applicant**

V/s

Omkara Assets Reconstruction Pvt. Ltd. & Ors

IA 2724 OF 2026 IN CP (IB) NO. 291/MB/2023

Aditya Raheja

...**Applicant**

V/s

Omkara Assets Reconstruction Pvt. Ltd. & Ors

…**Respondent**

In the matter of

COMPANY PETITION (IB) NO. 290/MB/2023

OMKARA ASSETS RECONSTRUCTION PVT. LTD.

…Petitioner

V/s

NEO CAPRICORN PLAZA PVT. LTD.

…Respondent

COMPANY PETITION (IB) NO. 291/MB/2023

OMKARA ASSETS RECONSTRUCTION PVT. LTD.

…Petitioner

V/s

GSTAAD HOTELS PVT. LTD.

…Respondent

Order delivered on: 03.09.2026

Coram:

Shri Prabhat Kumar Hon’ble Member (Technical)	**Shri Sushil Mahadeorao Kochey** Hon’ble Member (Judicial)

Appearances:

For Applicants in both IA	:	Mr. Akash Agarwal
For the Respondent No.1	:	Mr. Ryan D’souza,
For the SRA	:	Mr. Vishnu Shriram
For the RP	:	Mr. Prateek Seksaria

ORDER

1. The present Application is filed by Mr. Aditya Raheja (hereinafter referred to as “Applicant”) under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 ("IBC") read with Rule 11 of the National Company Law Tribunal Rules, 2016, in the Corporate Insolvency Resolution Process (CIRP) of M/s GSTAAD Hotels Pvt. Ltd. (GSTAAD) seeking following reliefs:-

a) *Exercise jurisdiction under Section 340 read with Section 195(1)(b) of the Code of Criminal Procedure, 1973 and the corresponding provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023, and form an opinion that offences affecting the administration of justice are prima facie disclosed from the record and that it is expedient in the interests of justice to proceed in accordance with law;*
b) *Make a complaint in writing to the Court of competent jurisdiction in accordance with Section 340 CrPC and the corresponding provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023;*
c) *Pending hearing and final disposal of the present Application, direct preservation of all records relevant to the issues raised herein;*
d) *Pending hearing and final disposal of the present Application, defer the proceedings arising from the captioned Company Petition including further proceedings in IA (Plan) No. 42 of 2026 and maintain status quo with respect to the approval, effect and/or implementation of any Resolution Plan and consequential actions arising therefrom;*

2. The present Application is filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016, Section 340 read with Section 195(1)(b) of the Code of Criminal Procedure, 1973 (CrPC) and Section 379 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) seeking initiation of appropriate proceedings in respect of a fraud played upon judicial forums by Respondent No.1, Omkara Assets Reconstruction Private Limited ("Omkara").

3. The Applicant herein has also filed IA 2730 of 2026 seeking identical reliefs in the CIRP of M/s Neo Capricorn Plaza Pvt. Ltd. (Neo).
4. The foundation of these Applications is that Omkara has repeatedly relied upon multiple and mutually destructive Statements of Account, debt computations, repayment histories, default narratives and liability figures before this Tribunal, the Hon'ble NCLAT, the Hon'ble Supreme Court and the Resolution Professional, while representing each version to be true and correct.
5. It is further stated that the debt and default asserted by Omkara constituted the very basis for invocation of jurisdiction under Section 7 of the Insolvency and Bankruptcy Code, 2016, and the same records thereafter formed the basis for admission of claims, constitution of the Committee of Creditors, allocation of voting rights and consideration of the Resolution Plan forming the subject matter of IA (Plan) No. 42 of 2026.
6. It is further stated that a comparative analysis of Omkara's own records reveals material and irreconcilable discrepancies across the Statements of Account relied upon by it at different stages of the proceedings, and the discrepancies are not confined to outstanding balances but extend to repayment histories, penal interest calculations, default declarations, ECLGS exposures and creditor entitlement.
7. It is further stated that, most significantly, Omkara has altered repayment entries pertaining to the period between 16.11.2022 and 30.11.2022, i.e. a period prior to the Assignment Agreement dated 27.12.2022. The same repayments have been reflected differently across successive Statements of Account despite

Omkara not being the lender or assignee during the relevant period. Consequently, Omkara has not merely altered the debt figures; it has altered the historical repayment record itself.

8. It is further stated that the contradictions assume greater significance in view of Omkara's own admission that viewing access to the retention accounts was made available only in October 2023. Despite this, Omkara had already issued a Recall Notice on 15.02.2023, uploaded Information Utility records on 09.02.2023 and initiated insolvency proceedings on 09.03.2023 on the basis of debt and default figures allegedly determined by it.
9. It is further stated that the record further discloses contradictions concerning secured creditor status, CERSAI registrations and ECLGS exposures, all of which formed part of the debt and entitlement asserted before judicial forums and insolvency authorities.
10. It is further stated that the recurring inconsistencies are not isolated errors or accounting anomalies. They recur across virtually every category of record relied upon by Omkara and have continued throughout the insolvency proceedings without any reconciliation statement, corrective affidavit or rectification identifying the true and correct position.
11. It is further stated that the repeated verification and reliance upon mutually destructive records concerning debt and default strike at the very jurisdictional facts upon which insolvency jurisdiction was invoked and exercised. The conduct therefore transcends a mere accounting dispute and constitutes a fraud upon judicial forums affecting the administration of justice itself.
12. It is further stated that the impugned records formed the basis for admission of the Corporate Debtor into CIRP, verification

of claims, constitution of the Committee of Creditors, allocation of voting rights and consideration of the Resolution Plan presently pending before this Hon'ble Tribunal. Consequently, the falsehoods disclosed herein permeate the entire insolvency process and have a direct bearing on the validity of proceedings arising therefrom.

13. Accordingly, the Applicant has submitted that the material on record discloses a prima facie case warranting exercise of jurisdiction under Section 340 CrPC read with Section 379 BNSS and that it is expedient in the interests of justice that an inquiry be initiated into the offences disclosed from the record.

14. The Respondent has filed the reply as well as written submissions stating that the essential ingredients for a case of perjury are completely absent and the Applicant has even fail to make out a prima facie case. It is further submitted that present application is also barred by principle of Res-judicata and issue estoppel, as the allegation regarding inconsistent claims, variance in the amount and inflation of claims have been conclusively determined by this Tribunal by rejecting the aforesaid allegations made by the corporate debtor(s) themselves in Section 7 proceedings before this Tribunal and by father of the Applicant herein Late Deepak Raheja before Hon'ble NCLAT in the Appeal against the admission order, accordingly, the allegations regarding multiple/inconsistent statements of account is not a fresh discovery warranting perjury proceedings. It is further submitted that the applicant has made generic averments in relation to an alleged act of perjury but has not shown how any of the Sections of BNSS. Finally, it is submitted by the Respondent that *the discrepancies sought to be highlighted by the Applicant are*

also riddled with a deliberate attempt to suppress material facts and mislead this Tribunal.

i. *The Piramal SOA was an earlier, pre-Recall Notice figure in which TDS reconciliation and penal interest (as per contract) had not been factored. However, there was a rider in SOA provided wherein it was specifically mentioned that the due position is net of TDS conciliation and Penal interest amount.*

ii. *When the matter was taken up for re-examination by the NCLT (after the same was remanded back from NCLAT). the Corporate Debtor filed Additional Affidavit dt. 08.02.2025 placing on record a fresh Review Report (by their CA) on the SOA, which indicated a different figure than that submitted to NCLAT.*

iii. *Omkara filed Affidavit in reply (to the CD's affidavit) on 21.03.2025, a report prepared by Chartered Accountants was filed with the NCLT, determining the default position. The same was filed to establish the factum of default in each individual facility conclusively and beyond all doubts therefore the report of practicing chartered accountant dated 15.03.2025 was obtained.*

iv. *Accordingly, the statement of accounts produced and filed by Omkara are only:*

   (a) Statement of Accounts (dt. 27.02.2023) annexed to the Section 7 petition filed by Omkara; and

   (b) CA Report submitted by Omkara (dt. 15.03.2025) as on 15.01.2025 which was produced by Omkara before NCLT once the matter was remanded back from NCLAT to NCLT.

v. *It should be noted that the statement of accounts dated 30.04.2024 was produced by Deepak Raheja in the NCLAT by* *way of an additional affidavit that was emailed to him by Omkara but was not put forth by Omkara on record or in any affidavit.*

vi. *The CA Report submitted by Omkara did a comprehensive assessment of the statement. of account relied upon in the 1st Section 7 proceedings (i.e. SOA dt. 27.02.2023) and independently calculated the entire outstanding amount The CA Report submitted by Omkara computed outstanding amount in line with financing documents. Pertinently. whilst this was not germane in the context of the Section 7 petition in as much as it did not affect the threshold or the pecuniary jurisdiction for the purposes of either entertaining, trying or admitting the petition, however, the claim as submitted by Omkara with the RP is in consonance with the CA Report.*

vii. *It is thus evident that the computation has been done by independent CA which was considered by NCLT while admission of section 7 application. Accordingly, there is no question of the claim amount having been inflated, much less of the Respondent having misled this Hon'ble Tribunal.*

15. Heard the learned Counsel and perused the material on record. Both the Application involve identical issue as well as similar facts, accordingly, both the applications are dealt with by this common order.

16. The applicant has filed these applications alleging that Omkara is guilty of perjury before this Tribunal, NCLAT and the Hon'ble Supreme Court while placing reliance on the following documents in the proceedings before this Tribunal as well as Appellate Authorities in respect of both the corporate debtors(s),

contending that there exists a variance in the figures contained in such documents making Omkara liable for perjury proceedings.

i. Piramal Statement of Accounts.
ii. Recall notice dated 15.02. 2023
iii. Nesl Default declaration dated 09.02. 2023
iv. Omkara SOA filed with Section 7 petition
v. Omkara SOA dated 15.10.2023
vi. Omkara SOA dated 30.04.2024
vii. Chitale Report dated 15.03.2025
viii. Claim List—Round 1
ix. Claim List—Round 2

17. At the outset, it is not in dispute that the document listed at Srl. No. viii and ix are the claim list, which were filed by the Resolution Professional before this Tribunal and not by the Respondent in these applications.

18. It is contended by the Applicant that the inquiry under Section 340 of the CrPC is preliminary inquisitorial in nature and the Court/Tribunal is required to satisfy itself on a prima facie basis that it is expedient in the interests of justice that inquiry be made.

19. There is no quarrel with this proposition, however, it is pertinent to note that the aforesaid documents were placed before this Tribunal to arrive at a finding in relation to occurrence of the default, which was disputed by the corporate debtor(s) before this Tribunal, of which the applicant was a director during relevant times. It is noted that the corporate debtor(s) have also placed two audit reports in support of their claim that no default had occurred. After analysing of all these documents this Tribunal gave a finding in relation to the date on which the default had

occurred and amounts in default on such date. In this process this Tribunal considered various documents, including the documents listed at Srl. No. i to vii, as well as submissions of the parties, and concluded at Para 6.7 of its order dated 08.07.2025 passed in CP IB 291 of 2023 as follows:-

> *"6.7. As regard allegation of multiple bank statements being inconsistent with one another, we note that the amount collected by financial creditor/lenders, the interest chargeable on the loans as per the rate of interest agreed under the agreement and the amount disbursed to the corporate debtor are not in dispute. The Corporate Debtor has only challenged the applicable rate of interest and diversion of ECLGS facility disbursement for service of obligation under Loan/RCF facility. These issues have already been dealt with preceding paras, accordingly, there is no merit in this argument as long as their exist a debt and a default in payment thereof exceeding Rs. 1 crores. The Corporate Debtor has also raised contention that the present application has been filed for default of 666 crore whereas the Financial Creditor has admitted as default of about Rs. 17 crore as on 15.11.2022. It is noted that a default of 666 crores stated as on 27.02.2023 is arising from the recall of whole facility subsequently on 15.02.2023, which the Corporate Debtor has consciously been avoiding referring to. It was also submitted by the learned Counsel for the Corporate Debtor that the Corporate Debtor is ready to deposit the amount of default in ECLGS facilities as on 15.11.2022 after appropriation of DSRA balance, if allowed an opportunity to cure the said default. However, we find that subsequent to 15.11.2022 the Financial Creditor has recalled the whole of outstanding credit facilities as on 15.02.2023, accordingly a question of curing the default as on 15.11.2022 does not arise. Further, as we have noted above, the cash accruals available with the Corporate Debtor till December*

2023 have been insufficient to meet the service obligation under the credit facilities, there has occurred the default in subsequent period as well even if the said recall of the whole facilities is ignored."

20. The Applicant has canvassed that variance in the amount due from corporate debtor(s) to the Respondent was varied in Section 7 Petition, statement of account dated 15.10.2023 and 30.04.2024, and Audit Reports dated 15.03.2025 besides default date submitted by the Respondent before this Tribunal. It is further stated that there was a incorrect submissions in relation to Respondent's status in CERSAI records, competence of Respondent to take assignment of ECLGS Exposure, and pre-assignment repayment history etc. Though, these issues were already examined and considered by this Tribunal and thereafter by Hon'ble NCLAT, it is relevant to note that all these documents/information were in nature of claim of Respondent against the corporate debtor(s) and a copy of these documents were provided to the corporate debtor(s) as well while placing before this Tribunal. These documents pertains to a financial transaction between corporate debtor(s) and Respondent and facts discernible from these documents were required to be evaluated in terms of applicable provisions to the extent permissible in the proceedings before this Tribunal. It is not case of the applicant that either of these documents was false or fabricated, though such documents may had inaccurate/incomplete information. It is trite that the financial transaction between two parties before the Court are always subject to confirmation/reconciliation of other party, and legal competence in relation to claim is always subject to determination before the court of competent jurisdiction.

21. It is relevant to refer the decision in the case of ***Santokh Singh v. Izhar Hussain, (1973) 2 SCC 406 @ Para 11***, It is held that "*Every incorrect or false statement does not make it incumbent on the court to order prosecution. The court has to exercise judicial discretion in the light of all the relevant circumstances when it determines the question of expediency. The court orders prosecution in the larger interest of the administration of justice and not to gratify feelings of personal revenge or vindictiveness or to serve the ends of a private party. Too frequent prosecutions for such offences tend to defeat its very object. It is only in glaring cases of deliberate falsehood where conviction is highly likely, that the court should direct prosecution*".

22. It is also relevant to refer to decision in the case of ***State of Punjab Vs. Jasbir Singh 2022 SCC Online SC 1240, wherein the Hon'ble Court observed the decision of Constitution Bench in case of Iqbal Singh Marwah vs. Meenakshi Marwah (2005) 4 SCC 370*** and quoted the Para 23, which reads as follows :

> "*In view of the language used in Section 340 Cr.P.C. the Court is not bound to make a complaint regarding commission of an offence referred to in Section 195(1)(b), as the Section is conditioned by the words "Court is of opinion that it is expedient in the interest of justice." This shows that such a course will be adopted only if the interest of justice requires and not in every case. Before filing of the complaint, the Court may hold a preliminary enquiry and record a finding to the effect that it is expedient in the interests of justice that enquiry should be made into any of the offences referred to in Section 195(i)(b). This expediency will normally be judged by the*

Court by weighing not the magnitude of injury suffered by the person affected by such forgery or forged document, but having regard to the effect or impact, such commission of offence has upon administration of justice. It is possible that such forged document or forgery may cause a very serious or substantial injury to a person in the sense that it may deprive him of a very valuable property or status or the like, but such document may be just a piece of evidence produced or given in evidence in Court, where voluminous evidence may have been adduced and the effect of such piece of evidence on the broad concept of administration of justice may be minimal. In such circumstances, the Court may not consider it expedient in the interest of justice to make a complaint. Emphasis supplied"

23. It follows from the decision of Constitution Bench that the regard must be had to the effect or impact of such document on administration of justice, and if the effect of such piece of evidence on the broad concept of administration of justice is minimal, the Court may not consider it expedient in the interest of justice to make a complaint.

24. Further, in the case of ***James Kunjwal v. State of Uttarakhan & Anr. (2024) SCC Online SC 1943***, the Hon'ble Supreme Court held that " *What we may conclude from a perusal of the above-noticed judicial pronouncements is that –*

(i) The Court should be of the prima facie opinion that there exists sufficient and reasonable ground to initiate proceedings against the person who has allegedly made a false statement(s);

(ii) Such proceedings should be initiated when doing the same is "expedient in the interests of justice to punish the delinquent" and not merely because of inaccuracy in statements that may be innocent/ immaterial;

(iii) There should be "deliberate falsehood on a matter of substance";

(iv) The Court should be satisfied that there is a reasonable foundation for the charge, with distinct evidence and not mere suspicion;

(v) Proceedings should be initiated in exceptional circumstances, for instance, when a party has perjured themselves to beneficial orders from the Court.

25. It is evident from aforesaid binding precedents that not only the perjury proceedings should be initiated in exceptional circumstances, but also there should be deliberation falsehood on a matter of substance and not merely because of inaccuracy in the statements. As noted above, the Applicant is seeking initiation of perjury proceedings on account of reconciliation differences in these statements, and legal issues arising from the financial transaction between corporate debtor and respondent, including its predecessor. Further, it is relevant to note that Section 7 proceedings arises from a default of only Rs. 1 Crore and in the present case even if the variations ranging from Rs. 54 lakhs approx. to Rs. 68.30 Crores approx. had no material bearing on the consideration of issue before this Tribunal in the proceeding in which the afore-stated documents were placed. Accordingly, we are of considered view that the applicant has failed to make out even a prima facie case necessitating reference to Magistrate for inquiry into the allegations of perjury on the part of the

Respondent, hence, both these applications are liable to be dismissed.

26. In terms of the above, IA 2724 of 2026 and IA 2730 of 2026 are dismissed and disposed of.

-Sd/-
Prabhat Kumar
Member (Technical)

-Sd/-
Sushil Mahadeorao Kochey
Member (Judicial)