



**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. 1
KOLKATA**

Interlocutory Application (IB) No. 695/KB/2024
IN
Company Petition (IB) No. 1111/KB/2018

*An Application under Rule 11 of the National Company Law Tribunal
Rules, 2016*

IN THE MATTER OF:

State Bank of India

... Operational Creditor

Versus

Hanumanta Engineering Private Limited

... Corporate Debtor

And

IN THE MATTER OF:

**Mr. Sanjit Kumar Nayak, Liquidator of Hanumanta Engineering Private
Limited**

... Applicant

Versus

Yes Bank & Anr.

... Respondent

Date of Pronouncement: 15.05.2026

CORAM:

**Smt. Bidisha Banerjee, Hon'ble Member (Judicial)
Cmde. Siddharth Mishra, Hon'ble Member (Technical)**

APPEARANCE:

For the Applicant:

Mr. Shaunak Mitra, Adv.
Ms. Namrata Basu, Adv.
Mr. Sanjit Kumar Nayak (Liquidator in Person)

For Respondent No. 1:

Mr. Rishav Banerjee, Adv.
Mr. Sayak Ranjan Ganguly, Adv.
Ms. Srijani Ghosh, Adv.
Ms. Indrani Majumdar, Adv.

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For Respondent No. 2:
Ms. Swheta Maity, Adv.

ORDER

Per: Cmde. Siddharth Mishra, Member (Technical):

1. This Court is congregated through a hybrid mode.
2. Learned Counsels for all the parties were heard at length.
3. The instant application being I.A. (IB) No. 695/KB/2024, has been preferred by Sanjit Kumar Nayak, the Liquidator of the Corporate Debtor, hereinafter referred to as the '**Applicant**', against the Respondents, Yes Bank, hereinafter referred to as "**Respondent No. 1**" and the erstwhile Director of the Corporate Debtor, Gouri Shankar Chatterjee, hereinafter referred to as "**Respondent No. 2**", seeking the following reliefs:
 - a. *An order be passed directing Respondent No. 1 to remit Rs. 31, 55,689 (Rupees Thirty-one lakhs, fifty-five thousand, six hundred and eighty-nine only) to the account of the Corporate Debtor.*
 - b. *An order be passed restraining Respondent No. 1 from further allowing Respondent No. 2 and/or suspended Board of Directors from operating the Bank Account of the Corporate Debtor maintained with Respondent No. 1.*
 - c. *An order be passed directing Respondent No. 1 to act in accordance with the letters dated 26.04.2023 and 27.12.2023.*
 - d. *Such other order/orders as this Hon'ble Tribunal may deem fit and proper.*



4. Factual Matrix:

4.1 This tribunal, on 20.02.2020, passed an order of liquidation against the Corporate Debtor, and appointed Sanjay Kumar Agarwal as the liquidator. Later, this Tribunal, vide order dated 15.10.2020, replaced the erstwhile Liquidator and appointed Mr. Sanjit Kumar Nayak as the liquidator instead.

4.2 On 15.10.2020, the Hon'ble High Court at Calcutta quashed the order of admission of CIRP, and the order of liquidation passed by this Tribunal. However, this order was set aside by the Hon'ble Supreme Court, and the Financial Creditor was granted leave to file an appeal before the Hon'ble NCLAT. Later, the Hon'ble NCLAT vide order dated 24.02.2023, upheld the order of admission of CIRP and Liquidation against the Corporate Debtor.

4.3 The Applicant informed Respondent No. 1 of his appointment vide letter dated 26.04.2023. Through the said letter, the Applicant prohibited them from permitting any Director or Employee from operating the bank account of the Corporate Debtor. Further, the Applicant also disallowed any debit transactions from the account of the Corporate Debtor.

4.4 However, the Applicant has ascertained from the Statement of Account provided by Respondent No. 1 that a sum of Rs. 31, 55,689 (Rupees Thirty-one lakhs, fifty-five thousand, six hundred and eighty-nine only), has been debited from the account of the Corporate Debtor.

5. Submissions of the learned Counsel on behalf of the Applicant:


5.1 It is submitted that vide letter dated 26.04.2023, the Applicant informed Respondent No. 1 of his appointment as the Liquidator of the Corporate

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Debtor and prohibited the Respondent Bank from allowing any of the Directors and/or Employees of the Corporate Debtor from operating the account of the Corporate Debtor maintained by Respondent No. 1. Further, the Applicant also precluded Respondent No. 1 from allowing any debit transactions in respect of any of the bank accounts of the Corporate Debtor.

- 5.2** It is submitted that the Applicant requested Respondent No. 1 to provide all the Bank statements for the period commencing from 19.08.2019 till date. Despite repeated follow-ups, Respondent No. 1 was reluctant to divulge any information and stated that the letter dated 26.04.2023 was never received by them. The Applicant vide letter dated 15.09.2023, addressed to the Post Master, Salt Lake Post Office, India Post, sought the status of delivery of the said letter, to which the Post Master responded that the letter was delivered on 02.05.2023.
- 5.3** It is submitted that the erstwhile Directors have entered into a Rental Agreement with NF Forgings Pvt. Ltd on 24.09.2022. Pursuant to the said Agreement, several amounts were deposited by NF Forgings Pvt Ltd to the bank account of the Corporate Debtor maintained with Respondent No. 1, which is corroborated with the application being I.A. No. 1321/KB/2023 filed by NF Forgings Pvt. Ltd before this Tribunal and the Bank Statements handed over by Respondent No. 1. Additionally, there have been several unauthorized debits from the bank account of the Corporate Debtor.
- 5.4** It is submitted that the previous Resolution Professional (hereinafter referred to as RP) had instructed Respondent No. 1 to disallow any operation of any bank account of the Corporate Debtor maintained with the Respondent No. 1 vide letter dated 26.08.2019.

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5.5 It is contended that the erstwhile Directors have tried to unfairly gain through the Rental Agreement and utilizing the amount deposited by NF Forgings Pvt. Ltd. for their own benefit. After the admission of CIRP, the erstwhile Directors could not have been retained as the signing authority in the Accounts maintained with Respondent No. 1.

5.6 It is submitted that the unauthorized debit amounts to Rs. 31,55,689. Vide letter dated 27.12.2023, the Applicant has requested refund of the said amount.

6. Submission on behalf of Respondent No. 1/YES Bank:

6.1 It is submitted that the legal representative of the Corporate Debtor issued a letter dated 20.10.2020, wherein Respondent No. 1 was informed that the order of initiation of CIRP and order of Liquidation has been quashed by the Hon'ble High Court at Calcutta. Pursuant to the aforesaid order, Respondent No. 1 vested the control of the bank account in the suspended Directors of the Corporate Debtor and the signatory of the said bank account. Thus, the resultant transactions were authorized.

6.2 It is submitted that Respondent No. 1 received no communication after the letter dated 20.10.2020 for three years. Thus, Respondent No. 1 had no information of the events that transpired within the span of the said period.

6.3 It is submitted that on 04.08.2023, Respondent No. 1 received the letter dated 26.04.2023 through hand service. Thereafter, Respondent No. 1 immediately froze all the transactions pertaining to the Corporate Debtor's account and provided the bank statement to the liquidator as requested.



7. Submission on behalf of Respondent No. 2:

7.1 It is submitted that Respondent No. 2 preferred an application under Article 227 of the Constitution of India before the Hon'ble High Court of Calcutta against the order of initiation of CIRP passed by this Tribunal. Vide order dated 15.10.2020, the Hon'ble Calcutta set aside and quashed the aforesaid order. Thereafter, the Financial Creditor filed an appeal against the order dated 15.10.2020 before the Hon'ble Supreme Court. The Financial Creditor was directed to file appeal before the Hon'ble NCLAT within four weeks from the date of Supreme Court order.

7.2 It is submitted that since his appointment as an employee director in Hanumanta Engineering Private Limited in 2014, Respondent No. 2 was the authorised signatory of all the transaction cheques and documents and a salaried employee of the Corporate Debtor during the CIRP.

7.3 It is submitted that due to pendency of proceedings before the Hon'ble Supreme Court, Hon'ble High Court of Calcutta and the Hon'ble NCLAT, the Applicant filed an application being I.A. (I.B.C.) 507/KB/2023 before this Tribunal seeking exclusion of 1098 days. Consequently, this Tribunal excluded the period from 15.10.2020 to 24.02.2023 from the Liquidation period.

7.4 After the order of the Hon'ble High Court of Calcutta, the bank account was restored by Respondent No. 1. Subsequently, Respondent No. 2 issued cheques/NEFT/RTGS as the authorised signatory for the payment of electricity bill of the Corporate Debtor from the months of December 2020. He also paid salary of the security guard, rent of the factory, sundry creditors, suppliers, remuneration for solicitors and attorneys for all litigation disposed and pending from the December 2020 to July 2023.



8. Analysis and Findings:

- 8.1** We have heard the Learned Counsel for the parties and perused the records placed before us.
- 8.2** The primary issue for consideration is whether withdrawal of Rs. 31,55,689 by the erstwhile Director of the Corporate Debtor is permissible under I&B Code after the Corporate Debtor has been admitted into liquidation.
- 8.3** In the present case, it is evident that this Tribunal had admitted the Corporate Debtor into CIRP on 19.08.2019, while the order of liquidation had been passed on 20.02.2020. Soon after, the RP revoked the debit freeze on the account of the Corporate Debtor and permitted operation of the account to honour certain cheques presented by the beneficiaries.
- 8.4** Thereafter, Respondent No. 2 filed an application before the Hon'ble High Court of Calcutta to quash the order passed by this Tribunal admitting the Corporate Debtor into CIRP. Pursuant to decision of the Hon'ble High Court of Calcutta, Respondent No. 1 restored bank operations of the Corporate Debtor from 21.12.2020.
- 8.5** The Financial Creditor challenged the aforementioned order before the Apex Court, wherein the order of quashing the decision of this Tribunal for admission of CIRP and order of liquidation of the Corporate Debtor was set aside. Further, the Financial Creditor was also granted liberty to prefer an appeal before the Hon'ble NCLAT. Accordingly, the Hon'ble NCLAT upheld the order of admission of the Corporate Debtor into CIRP and the order of liquidation passed by this Tribunal.



8.6 At this juncture, this Tribunal deems it apposite to rely upon Section 36 of the I&B Code which, inter alia, delineates the constituents of the Liquidation Estate. The said provision is reproduced below for clarity:

Section 36. Liquidation Estate. —

(3) Subject to sub-section (4), the liquidation estate shall comprise all liquidation estate assets which shall include the following:—

- a. any assets over which the corporate debtor has ownership rights, including all rights and interests therein as evidenced in the balance sheet of the corporate debtor or an information utility or records in the registry or any depository recording securities of the corporate debtor or by any other means as may be specified by the Board, including shares held in any subsidiary of the corporate debtor;*
- b. assets that may or may not be in possession of the corporate debtor including but not limited to encumbered assets;*
- c. tangible assets, whether movable or immovable;*
- d. intangible assets including but not limited to intellectual property, securities (including shares held in a subsidiary of the corporate debtor) and financial instruments, insurance policies, contractual rights;*
- e. assets subject to the determination of ownership by the court or authority;*
- f. any assets or their value recovered through proceedings for avoidance of transactions in accordance with this Chapter;*
- g. any asset of the corporate debtor in respect of which a secured creditor has relinquished security interest;*
- h. any other property belonging to or vested in the corporate debtor at the insolvency commencement date; and*
- i. all proceeds of liquidation as and when they are realised.*

XXX XXX XXX

8.7 A conjoint perusal of the afore mentioned provision, pleadings and records annexed to the application reveals that the amount withdrawn by Respondents is an asset owned by the Corporate Debtor and thereby forms a part of the Liquidation Estate. The assets are to be distributed by the Liquidator in accordance with the waterfall mechanism provided under Section 53 of the Code. It is the liquidator's duty to ensure that the value of the liquidation estate is not compromised amidst the liquidation process.

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- 8.8** The contention of the Respondents that withdrawal of sums from the Corporate Debtor's account is authorized is devoid of merit as such withdrawal occurred when the moratorium was in effect.
- 8.9** Moratorium under Section 14 of the I&B Code prohibits transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein. Thus, any debit transaction from the account of the Corporate Debtor while the moratorium is in place is illegal in law.
- 8.10** In the present case, the moratorium commenced once the order of CIRP was passed on 19.08.2019, and continued till the said order was quashed by the Hon'ble High Court of Calcutta on 15.10.2020. Since moratorium does not operate in vacuum, it ceased to exist once the order of CIRP and liquidation was set aside.
- 8.11** Thereafter, the moratorium resumed on 15.04.2021, once the Hon'ble Apex Court vacated the order of the Hon'ble High Court of Calcutta. As a result, the moratorium existed from 19.08.2019 to 15.10.2020 and again from 15.04.2021 onwards till date.
- 8.12** Thus, there is a brief period of six months, where there was no CIRP and as a consequence, no moratorium either. Therefore, any debit transactions that occurred in this duration appear to be prime facie lawful.
- 8.13** Respondent No. 2 also contends that they were not informed of the orders of the Hon'ble Supreme Court and the Hon'ble NCLAT which vacated the order of the Hon'ble High Court of Calcutta and subsequently restored the order of admission of CIRP and liquidation passed by this Tribunal.

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8.14 Since Respondent No. 2 was not impleaded in the numerous proceedings before this Tribunal, the Hon'ble High Court of Calcutta, the Hon'ble Apex Court and the Hon'ble NCLAT, and received information of decisions of the proceedings only through the parties, their permission to operate the account of the Corporate Debtor was in good faith. However, actions taken in good faith does not render the debit transactions in question lawful.

8.15 Further, Section 35(a) of the I&B Code places the responsibility of taking the assets of the Corporate Debtor into custody upon the liquidator with a corresponding power under Section 35(b) to take measures to protect and preserve such assets.

8.16 In the present scenario, the Applicant, being a Liquidator of the Corporate Debtor, was under a clear obligation to take custody of the assets of the Corporate Debtor, pursuant to which, he should have informed Respondent No. 2 of the subsequent events that took place, including the vacation of order of the Hon'ble High Court of Calcutta. However, despite such obligation, the liquidator failed to communicate the material developments that took place and also directed freezing of the account of the Corporate Debtor two years after the vacation of the order of Hon'ble High Court of Calcutta.

8.17 This lapse in duty has led to depletion in the value of the liquidation estate. Such unauthorized transactions which diminish the value of assets owned by the Corporate Debtor are untenable in law and defeat the objectives of the I&B Code, namely maximizing the value of Corporate debtor's assets. Thus, withdrawal of the sum by the Respondents is beyond the purview of the liquidation process as envisioned under the scheme of the I&B Code. Accordingly, we find sufficient grounds to allow the present application.

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ORDER

9. In view of the foregoing discussions, it is hereby directed that:
- a. Respondent No. 1 shall remit an amount equivalent to money debited from 19.08.2019 to 15.10.2020 and from 15.04.2021 onwards till date to the account of the Corporate Debtor. Since neither CIRP nor liquidation existed from 15.10.2020 to 15.04.2021, the amount debited during this period is lawful.
 - b. Respondent No. 1 is restrained from further allowing Respondent No. 2 and/or suspended Board of Directors from operating the Bank Account of the Corporate Debtor maintained with Respondent No. 1.
 - c. The Applicant shall examine the transactions undertaken between 15.10.2020 and 15.04.2021, and upon identifying any preferential, undervalued, fraudulent or extortionate transaction, shall file a PUFÉ Application before this Tribunal.
 - d. We also find that the liquidator has not carried out his job diligently and lapsed in informing the bank to prohibit debit transactions from the account of the Corporate Debtor after commencement of liquidation. Hence we reprimand him and a penalty of Rs. 1 Lakh is imposed upon the Liquidator for failing to dutifully protect and preserve the assets of the Corporate Debtor.
10. In view of the above directions, the instant Application being **I.A. (IB) No. 695/KB/2024** in **C.P. (IB) No. 1111/KB/2018** is **allowed** and **disposed of**.

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11. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
12. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Cmde Siddharth Mishra
Member (Technical)

Smt. Bidisha Banerjee
Member (Judicial)

The Order signed this, on the **15th** day of **May** 2026.

Anubhuti S (LRA)