

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT II**

IA 1703 of 2020

In

CP (IB) 434/MB/C-II/2018

Under Section 60 (5) of the
Insolvency and Bankruptcy Code,
2016 and Rule 11 of the National
Company Law Tribunal Rules, 2016

In the Application of

**Punjab National Bank
(The erstwhile Oriental Bank of
Commerce)**

...Applicant

In the matter of

Oriental Bank of Commerce

...Financial Creditor

Versus

Mittal Corp Limited

...Corporate Debtor

Order Delivered on 27.05.2021

Coram:

Hon'ble Member (Judicial) : Mr. Harihar. P. Chaturvedi

Hon'ble Member (Technical) : Mr. Ravikumar Duraisamy

Appearances:-

For the Applicant : Mr. Rohan Agrawal,
Ms. Almira Larado i/b MDP
Partners

For the Respondent : Ms. Upasana Vasu

Per: H.P. Chaturvedi, Member Judicial

ORDER

1. By this Application filed under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016, as amended (“**Code**”) and Rule 11 of the National Company Law Tribunal Rules, 2016. (hereinafter referred to as “Code”) by Punjab National Bank (erstwhile Oriental Bank of Commerce) has sought for following reliefs :-
 - a. To restore the Company Petition No. 434 of 2018 and urgent hearing of the Company Petition No. 434 of 2018.*
 - b. To Order and direct the substitution of Oriental Bank of Commerce with Punjab National Bank in the aforesaid Company Petition and permit the Applicant to carry out amendments.*
2. The Applicant Bank informs that pursuant to Notification dated 04.03.2020, Oriental Bank of Commerce has amalgamated with Punjab National Bank. It is stated that Applicant i.e. erstwhile Oriental Bank of Commerce had filed a Company Petition (IB) 434 of 2018 on 20.03.2018 against the Respondent Mittal Corp Limited under section 7 of the Code claiming a debt of Rs. 244,85,29,569/-.

3. The Applicant further submits that this Tribunal vide an Order dated 20.12.2019 had dismissed the Company Petition 434 of 2018 on such ground that the present petition was a consequence of the Reserve Bank of India circular dated 12.02.2018, the same has been quashed and set aside by the Hon'ble Supreme Court in the Judgement dated 02.04.2019 in the matter of "Dharani Sugars and Chemicals Ltd. V/s Union of India & Ors." Hence present I.B. Petition was not maintainable.
4. Being aggrieved with this Order, the Applicant preferred an Appeal before the Hon'ble National Company Law Appellate Tribunal (NCLAT) (vide Company Appeal 260 of 2020). Wherein the Hon'ble NCLAT has pleased to allow the appeal by setting aside the impugned order of this court with following observation/directions: -

"16. To reiterate, in the absence of any cogent evidence to show that the Appellant has filed the Application only pursuant to the 'Circular' issued by Reserve Bank of India, which we hold at the outset, was not applicable to the facts of the instant case, it was not open to the Adjudicating Authority to reject the Application on this ground. The Petition under Section 7 of the I&B Code is to be considered by the Adjudicating Authority on its own merits taking into consideration the records.

17. For the reasons aforesaid, we set-aside the Impugned Order dated 20.12.2019 and remit the case to the Adjudicating Authority (National Company Law Tribunal), Mumbai Bench, with a direction to decide the Admission of the Application on merits as expeditiously as practicable”.

5. In view of the directions of Hon’ble NCLAT, the present I.B. Petition stands restored by the Hon’ble NCLAT and needs for urgent re-hearing of the aforesaid Company Petition because the Debt of the Respondent is large to the tune of Rs. 245 Crores.
6. It is stated that the Original Petitioner i.e. Oriental Bank of Commerce has now amalgamated with Punjab National Bank, hence Applicant seeks permission for the substitution of the name of it i.e. Punjab National Bank in view of the notification dated 04.03.2020 in place of the original petitioner, Oriental Bank of Commerce in the I.B. Petition.
7. The Respondent appeared on the date of hearing i.e. on 02.12.2020 and on 05.01.2021, however they did not file their reply to the present IA 1703 of 2020. Hence it goes uncontested. Having heard the Learned Counsel for both the parties. We are of the view that the present I.A deserves to be allowed in terms of its prayer clause because the main I.B. Petition has been restored by the order of Hon’ble NCLAT and the case has been remanded back to us for fresh hearing on its merits. Further

there is statutory change that original petitioner Bank e.g. Oriental Bank of Commerce has got merged now with the Punjab National Bank by the Government of India Gazette Notification dated 04.03.2020. Hence the Punjab National Bank steps in to shoe of the Original Petitioner Oriental Bank of Commerce. Hence proposed amendment being pursuant to the Government Policy is hereby allowed in terms of its prayer clause. The applicant to carry necessary amendment in main I.B. Petition within two week from the date of receipt of a copy of this order and to serve a copy thereof to the Respondent/Corporate Debtor so as to enable it to file consequential reply by another two weeks from the date of receipt of the amended copy of the I.B. Petition.

With the aforesaid Order/Direction, the Petition **IA No. 1703/2020** is allowed and stands disposed off.

Sd/-

RAVIKUMAR DURASAMY
Member (Technical)
27.05.2021

Sd/-

H.P. CHATURVEDI
Member (Judicial)