

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
CUTTACK BENCH  
CUTTACK**

**IA (IB) No. 366/CB/2023**

**In**

**TP No. 36/CTB/2019**

**CP (IB) No. 1292/KB/2019**

***In the matter of:***

An application filed under Section 60 (5) of Insolvency & Bankruptcy Code read with Rule 11 of the NCLT, Rules, 2016.

-And-

***In the matter of:***

**1. Prasant Chandra Rath**, At. Kairapari, Kotasahi, Bainchua, Tangi, Cuttack, Dist- Cuttack, Odisha – 754 022;

**2. Lora Mitra Rath**, At. Kairapari, Kotasahi, Bainchua, Tangi, Cuttack, Dist- Cuttack, Odisha- 754 022;

**3. Pramod Chandra Rath**, At. Kairapari, Kotasahi, Bainchua, Tangi, Cuttack, Dist- Cuttack, Odisha- 754 022;

**...Applicants**

**-Versus-**

**1. Surya Kanta Satapathy**, At. 4, Lake Gardens, Near Yuvak Sangha, Kolkata, West Bengal- 700 045;

**2. Alok Kumar Agarwal**, At. Handi Chowk, Goushala Road, Raigarh, Dist. Raigarh, Chhattisgarh- 496 001.

**.... Respondents**

-In-

***In the matter of:***

**Bank of India;**

**...Financial Creditor**

**-Versus-**

**Maa Durga Rice Products Private Limited.**

**...Corporate Debtor**

***Coram:***

Shri P. Mohan Raj : Member (Judicial)

Shri Kaushalendra Kumar Singh : Member (Technical)

***Appearances (through Video Conference)***

For the Applicants : Mr. Saswat K. Acharya, Adv.

For the Respondents : Mr. Balram Pandit, Adv.

**Order pronounced on:23.01.2024**

**ORDER**

1. This is an application filed under Section 60(5) of IBC 2016 R/w Rule 11 of NCLT Rules 2016 to defer the pronouncement of order in I.A.No.262/CB/2023 the said application was heard and reserved for orders on 20.11.2023.
2. The applicant is one of the suspended board of directors of the corporate debtor Maa Durga Rice Products Pvt Ltd. The corporate debtor was admitted into CIRP by order dated 4.9.2019 of NCLT-Kolkata Bench. The Respondent Resolution professional filed application I.A.No.276 of 2020 under sections 45 and 66 of IBC 2016 against the applicant and other erstwhile directors of the corporate debtor. The respondent also filed application I.A.No.337 of 2020 for approval of Resolution plan submitted by the applicant as MSME. This Authority by order dated 26.04.2022 allowed I.A.No.276 of 2020 directing the applicant herein and others to pay the amount and in consequence, the plan submitted by the applicant I.A.No. 377 of 2020 was rejected. The applicant preferred an appeal against the order passed in I.A.No.276/CB/2020 before the NCLAT- Delhi, the appeal was dismissed on 30.09.2022. The applicant preferred Civil Appeal before the Supreme Court of India in Diary No.36679 of 2022, the Hon'ble Supreme Court of India dismissed the Civil Appeal in the admission stage on 10.04.2023 as withdrawn by granting liberty to raise all objections available in law in the pending proceedings. The applicant then filed an application I.A.No.262/CB/2023 to declare order passed in I.A.No.276/CB/2020 and all consequences arising therefrom as a nullity in law and non-est and void ab-initio. In the said application, the respondents filed their counter then after hearing both sides, we reserved that for orders on 20.11.2023. After reserving for orders the applicant filed this application,

furnishing the Diary number stating that miscellaneous application has been filed before the Supreme Court of India for clarification and prayed to keep passing an order in abeyance I.A.No.262/CB/2023 during the pendency of clarification application filed before the Apex court.

3. In this application both side submissions were heard on 02.01.2024. After finally heard any matter, the order should be pronounced within thirty days as per Rule 150 of NCLT Rule 2016. Unless there is stay by higher forum the matter cannot be kept in abeyance till the disposal of clarification application filed by the applicant. When this application was heard on 02.01.2024 the counsel for applicant sought two weeks breathing time enabling to get orders from the Apex court, the said two weeks' time expired with 16.01.2024. No order has been produced on the applicant side. In the circumstances there is no need or valid reason shown to indefinitely postpone the pronouncement of order, in consequence, this application is liable to be dismissed.

4. In fine this application is **dismissed**.

5. 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.

6. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

**KAUSHALENDRA  
A KUMAR SINGH** Digitally signed by  
KAUSHALENDRA KUMAR SINGH  
Date: 2024.01.23 15:40:41  
+05'30'

**Kaushalendra Kumar Singh**  
Member (Technical)

**PANDIAN  
MOHAN RAJ**

**P. Mohan Raj**  
Member (Judicial)

Digitally signed by PANDIAN  
MOHAN RAJ  
Date: 2024.01.23 16:11:53 +05'30'

Signed on this, the 23<sup>rd</sup> day of January, 2024.

*Supriya \_P.S.*