

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

I.A. 3683/2022

IN

C.P. 289/I&B/MB/2022

Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016

Jayprakash M. Vyas.**Applicant**

Versus

Canara Bank & Anr **Respondent**

In the matter of:

Glamour India Private Limited **Financial**

Creditor

V/s.

Shree Sai OTO Tube Mills Ltd. **Corporate**

Debtor

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Ms Madhu Sinha, Member (Technical)

Order Reserved on : 16.02.2023

Order pronounce on: 02.03.2023

Appearance:

For the Applicant: Mr. Amir Arsiwalla i/b Aniruth
Purushothaman, Advocate

For the Respondents: Mr. Nishit Dhruva a/w Meghna Arvind &
Prakash Shinde i/b MDP & Partners, Advocate

Per: Shri H.V. Subba Rao, Member (Judicial)

ORDER

Mr. Jayprakash M. Vyas, who is the member of the suspended board of the Corporate Debtor filed the above Interlocutory Application claiming the following reliefs:

- a) *Declare and quash the email dated 25.05.2022 sent by the Respondent No. 1 as null and void.*
- b) *Direct the Respondent No.2 to take appropriate legal actions against the Respondent No.1 for their arbitrary acts of withdrawing and cancelling the OTS.*

The Financial Creditor Canara Bank is arrayed as first Respondent and Mr. Vishnu Kant Kabra 'RP' arrayed as second respondent in the above application. The first respondent Canara Bank filed another application bearing I.A.1961/2022 having aggrieved and dissatisfied against the actions of the RP in restricting their claim only to the extent of OTS amount which was allowed by this tribunal on merits vide separate order today. In view of allowing the I.A. 1961/2022 the above Interlocutory Application becomes infructuous and accordingly, **stands disposed of**. Even otherwise this tribunal is not vested with any power to issue direction to the first respondent bank to restrict their claim to the OTS amount as per law as it is the sole discretion of the bank. Hence there is no merit in the above application and the same is liable to be dismissed in limine.

Accordingly, the above I.A. is **dismissed** on both counts.

Sd/-
MADHU SINHA
MEMBER (T)

Sd/-
H.V. SUBBA RAO
MEMBER (J)