

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

**IA (IB) No. 36/CB/2024**

**In**

**C.P (IB) No. 36/CB/2022**

***In the matter of:***

An application filed under Rule 55 of the National Company Law Tribunal, 2016;

**-And-**

**Balasore Alloys Limited**; having its Registered Office At, Balgopalpur, District – Balasore, Odisha – 756 020;

**... Applicant/Corporate Debtor**

**-Versus-**

**MSTC Limited**, having its registered office at Plot No. CF 18/2, Street No. 175, Action Area 1C, New Town, Kolkata-700 156;

**... Respondent/Operational Creditor**

***Coram:***

Shri P. Mohan Raj : Member (Judicial)  
Shri Kaushalendra Kumar Singh : Member (Technical)

***Appearances (through Hybrid Mode)***

For Petitioner (s) Mr. Anupam Dash, Adv.

For Respondent (s) Mr. S. S. Ladda, Adv.  
Mr. Adnan Ansari, Adv.  
Mr. Pragya Nawandar, Adv.

**Order Pronounced on: 28.02.2024**

**ORDER**

1. This application is filed by applicant who is respondent/corporate debtor in C.P. No.36/CB/2022 to receive additional documents.
2. The Respondent/ operational creditor filed C.P.No.36/CB/2022 under Section 9 of IBC, 2016 against the applicant/corporate debtor for initiation of CIRP. In the main petition it is stated that the applicant committed default of

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Rs.18,69,06,540/-. It is stated that after filing of the C.P.No.36/CB/2022, applicant/corporate debtor paid a sum of Rs.13,16,00,000/-. In main C.P.No.36/CB/2022 when this applicant not filed the reply within tendays time from 26.09.2022, its right to file reply was forfeited, thereafter the applicant filed I.A.No.319/CB/2022 to recall the forfeited order which was allowed on 13.12.2022 and the reply dated 19.11.2022 was taken on record. Then respondent/operational creditor filed rejoinder on 16.01.2023, thereafter this applicant filed an application I.A.No.130/CB/2023 to receive sur-joinder along with four additional documents. Even though the application was filed to receive sur-rejoinder, it was received as additional reply by order dated 18.07.2023. Thus, pleadings are completed in this matter on 18.07.2023.

3. While C.P.No.36/CB/2022 is pending, this applicant filed an application under Section 11 of Arbitration Conciliation Act, 1996 in A.P.No.640 of 2023 before the Hon'ble High Court of Calcutta for an appointment of arbitrator. The said application was allowed on 13.09.2023 and Arbitrator was appointed. The operational creditor filed Special Leave to Appeal (C) Nos. 25781/2023 before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India by order dated 28.11.2023 dismissed the Special leave petition after observing as follows:

*"We make it clear that the impugned order and confirmation thereof will not affect the pending proceedings under the Insolvency and Bankruptcy Code 2016."*

4. This applicant filed M.A. No.107/2024 in SLP (C) No.25781/2023 for clarification. The said application was dismissed by the Supreme Court of India on 23.01. 2024.
5. The applicant filed this application on 05.01.2024 to receive the copy of Arbitration petition No. 640 of 2023 filed under Section 11 of Arbitration and Conciliation Act 1996, before the Hon'ble High Court of Calcutta and copy of order passed in the said Arbitration application dated 13.09.2023. In the application averments it is not explained by the applicant how these documents are relevant, just and necessary for the disposal of C.P.No.36/CB/2022. It is

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simply averred that for the completeness of the matter these additional documents to be received.

6. On the respondent/operational creditor side opposed the application and submitted that the applicant/corporate debtor only to drag the proceeding has filed this application in violation of the order of Supreme Court of India.
7. In general, we used to adopt liberal approach in this kind of application, because this is an Authority of first instance. It is settled principle of law that *the court should take a lenient view when an application is made for production of the documents*. However, this application is concern, it is wholly unwanted application.
8. The documents intend to be received are emerged after filing of the main C.P.No.36/CB/2022. The documents need to be received are arbitration application and order passed on the arbitration application. When the respondent preferred an appeal before the supreme court against the Arbitration order dated 13.09.2023, the Hon'ble Supreme Court of India by its order dated 28.11.2023 clearly mentioned that the impugned arbitration order will not affect this pending proceeding. In spite of specific observation made by the Apex court, the applicant preferred this application. If this request of applicant is conceded then it will go against the observation made by the Apex Court. It is also not explained by the applicant how these additional documents are just and necessary to arrive conclusion in the C.P. No. 36/CB/2022. In these circumstances, this application IA(IB) No.36/CB/2024 is **DISMISSED**. ✓
9. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

Sd

**Kaushalendra Kumar Singh**  
**Member (Technical)**

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

Signed this 28<sup>th</sup> day of February, 2024.

Kaushal\_P.S.