

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.304

IA/1001(AHM)2025 in CP(IB) 271 of 2019

Proceedings under Section 60(5) r/w 18(2)(F) of the IBC,2016 r/w Rule 11 of the NCLT Rules,2016

IN THE MATTER OF:

Mr.Naren Sheth RP of K.G.Corporation Ltd
V/s
Punjab National Bank

.....Applicant

.....Respondent

Order delivered on: 17/06/2026

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet.

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DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

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CHITRA HANKARE
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)**

IA NO. 1001 OF 2025

IN

COMPANY PETITION (IB) 271 (AHM) 2019

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

IN THE MATTER BETWEEN:

Mr. Naren Sheth

Resolution Profession of
K.G. Corporation Ltd.
1014-1015, Prasad Chamber
TATA Road No. 2
Opera House (East)
Mumbai – 400004
Email: cirp.kgc@gmail.com

...Applicant

Versus

Punjab National Bank

Through its Deputy General Manager
Market Tower 'E Wing"
Ground Floor, Cuffe Parade
Mumbai – 400005
Email: zs8356@pnb.co.in

...Respondent

Order pronounced on 17.06.2026

Coram:

**MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)**

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Present:

For the Applicant : Mr. Pavan Godiawala, Adv
For the Respondent : Mr. Jaimin Dave (for Respondent Bank)
Mr. Pratik Thakkar (for Unsecured
Financial Creditors -CoC)

JUDGEMENT

1. The present application has been filed under Section 60(5) and read with section 18(2)(f) read with under Rules 11 of the NCLT Rules, 2016 seeking inter alia prayer to direct the respondent bank to forthwith release and transfer the amount of Rs. 1,00,00,000/- along with the accrued interest thereon lying in the 'no lien account' of the corporate debtor maintained with the respondent bank into the CIRP account of the corporate debtor bearing account no. 02701111000004, having branch at Jalgaon Peoples Co-Op. Bank Ltd. Kalyan Branch.
2. The averments made by the Applicant in the application are as follows:
 - i. The applicant submits that the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor i.e., K.G.

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Corporation Ltd. was initiated by this Tribunal vide order dated 09.11.2020 wherein the applicant herein was appointed as Interim Resolution Professional (IRP) for the Corporate Debtor. The Applicant submits that upon commencement of CIRP of the Corporate Debtor, claims were invited from creditors, which were duly verified and admitted. It is submitted that during the 1st CoC meeting held on 10.12.2020, the suspended directors informed the Applicant regarding an amount of Rs. 1 Crore lying in a "No Lien Account" of the Corporate Debtor maintained with the Respondent Bank, pursuant to which the applicant sought details concerning the same from suspended directors. It is submitted that the Applicant's appointment as Resolution Professional was approved by the CoC and subsequently confirmed by this Tribunal.

- ii. The Applicant further submits that upon taking control and custody of the records of the Corporate Debtor and examining the same, it came to light that vide letter dated 15.07.2017, the Corporate Debtor had deposited an amount of Rs. 1 Crore with the Respondent Bank in a "No Lien

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Account” in the course of discussions pertaining to a proposed One Time Settlement (“OTS”). Applicant contends that to demonstrate bona fides towards the proposed OTS submitted a cheque bearing dated 16.07.2017 bearing no: 645932 for an amount Rs. 1 Crore with respondent bank on 15.07.2017 which was kept in “No lien Account” and the said amount was intended to be adjusted/utilized only upon approval of the OTS/resolution proposal, and not towards principal, interest or other charges prior thereto.

- iii. It is the contention of the Applicant that the proposed OTS between the Corporate Debtor and the Respondent Bank did not materialize and, consequently, the amount of Rs. 1 Crore continued to remain in the said “No Lien Account” of the Corporate Debtor and has neither been realized by the respondent bank till date nor has the same being released by the respondent bank in the account of CD. The Applicant submits that repeated requests and communications, including emails dated 18.06.2025 and 11.07.2025, were addressed to the Respondent Bank seeking release of the

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said amount, however, no action was taken by the Respondent Bank.

- iv. The Applicant further contends that after the failure of the OTS proposed by the corporate debtor in 2017, the amount of Rs. 1 Crore kept lying in the 'No Lien Account of the corporate debtor maintained with the respondent bank, which was not realized by the bank prior to the initiation of the CIRP of the corporate debtor, as such, once the moratorium has been initiated, the respondent bank cannot claim any right over the said amount.
- v. The Applicant submits that the Respondent Bank is a member of the CoC with 11.66% voting share and, while filing its claim in the CIRP, the Respondent Bank neither adjusted nor accounted for the said amount of Rs. 1 Crore in its claim, thereby evidencing that the amount was intended to be realized or appropriate only in the event of resolution/OTS being materialized with the respondent bank. The Applicant contends that as the proposed OTS failed to materialize, the Respondent Bank cannot retain the interest accrued on the amount deposited in the 'No Lien

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Account', and therefore the said amount together with accrued interest is liable to be refunded.

- vi. The Applicant contends that once moratorium under Section 14 of the IBC came into effect, the Respondent Bank could not assert any right over the said amount, which constitutes an asset of the Corporate Debtor within the meaning of the Code. The Applicant submits that, in terms of Section 18(1)(f) of the IBC, the Resolution Professional is duty bound to take control and custody of all assets of the Corporate Debtor and, therefore, seeks release of the said amount of Rs. 1 Crore lying in the "No Lien Account" into the CIRP account of the Corporate Debtor.

3. The averments made by the Respondent Bank in its reply are as follows:

- i. The Respondent raises a preliminary objection regarding the maintainability of the present application and contends that the Applicant lacks locus standi to prosecute the same as, according to the Respondent, the Applicant does not possess a valid registration with the Insolvency and Bankruptcy Board of India as the same has not been

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renewed after 07.02.2025. It is also contended that the application has been instituted without approval or sanction of the Committee of Creditors.

- ii. The Respondent disputes the Applicant's case regarding deposit of Rs. 1 Crore in a "No Lien Account" to be adjusted only upon approval of the OTS/Resolution Plan and contends, firstly, that the cheque for Rs. 1 Crore was not issued by the Corporate Debtor but by a third party, namely Bridge Infra Pvt. Ltd., secondly, that the amount stood adjusted, appropriated and credited to the loan account of the Corporate Debtor on 28.06.2019, much prior to initiation of CIRP on 09.11.2020 and lastly, that as on the date of commencement of CIRP no amount remained in the "No Lien Account". On this basis, the Respondent contends that the Applicant's request for release of funds into the CIRP account is wholly baseless.
- iii. The Respondent denies that the cheque of Rs.1 Crore dated 16.07.2017 bearing no. 645932 was required to be adjusted or utilized only upon approval of the OTS or resolution proposal. It is contended that the letter dated 15.07.2017

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does not record any such understanding/arrangement between the parties. The Respondent further disputes receipt of the alleged letter dated 12.07.2017 relied upon by the Applicant and asserts that the same is a subsequently created, back-dated document and after-thought, whereas only the letter dated 15.07.2017 was received by the Respondent.

- iv. The Respondent contends that the allegation regarding non-release of the amount into the CIRP designated account despite repeated request of applicant is wholly misconceived, since the amount lying in the 'No Lien Account' had already been adjusted, appropriated and credited to the Corporate Debtor's loan account on 28.06.2019, prior to the Applicant's appointment on 09.11.2020.
- v. The Respondent further contends that the Applicant, despite allegedly becoming aware of the issue during the first CoC meeting on 10.12.2020, remained inactive for several years and only addressed it through e-mail dated 18.06.2025 to the respondent to refund the amount. It is

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further submitted that the letter dated 11.07.2025 was an after-thought since the said amount has already been adjusted, appropriated and credited to the loan account of Corporate Debtor on 28.06.2019 and respondent contends that it has duly responded to e-mails received from the applicant.

- vi. The Respondent contends that the Applicant's claim that the amount was not realized prior to initiation of CIRP is factually incorrect, as the amount lying in the 'No Lien Account' had already been adjusted, appropriated and credited to the Corporate Debtor's loan account on 28.06.2019. The Respondent further denies the Applicant's contention that the amount of Rs. 1 Crore was not adjusted while filing its claim and submits that credit of the said amount was given while lodging its claim which is evidenced at page 51 of the application. Respondent denies any liability to refund the amount or any accrued interest thereon and contends that, since appropriation took place before imposition of moratorium under Section 14 of the Code, no question of reversal arises. It is further contended

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that the Applicant cannot invoke Section 18(1)(f) of the Code to claim custody or control over an amount which had already been adjusted prior to CIRP. The Respondent accordingly denies the allegation of illegal retention of funds in violation of the moratorium provisions. Reliance has been placed on the judgement of Indian Overseas Bank v. Consortium of GSEC Ltd., reported in [2025] 177 taxmann.com 675.

4. The Applicant has filed an affidavit contending that the objections raised by Punjab National Bank regarding the authority and continuance of the Applicant as Resolution Professional. It is submitted that pursuant to the order dated 07.01.2025 in No. IBBI/DC/261/2025 passed by the Disciplinary Committee of the Insolvency and Bankruptcy Board of India (IBBI), the Committee of Creditors (CoC) was empowered to decide whether the Applicant should continue as Resolution Professional and that, in the Sixth CoC Meeting held on 27.02.2025, the CoC resolved with 75.42% voting share to continue the Applicant as Resolution Professional of the Corporate Debtor. It is further submitted that, despite the

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liberty granted by the IBBI order, no member of the CoC has filed any application before this Tribunal seeking discontinuation of the Applicant's services and, therefore, the Applicant continues to function as Resolution Professional of the Corporate Debtor. The Applicant has also relied upon an order passed by the Hon'ble NCLAT in Bank of India vs Mr. Naren Sheth, RP of Jaybharat Textiles & Real Estate Ltd., a similarly situated matter wherein refund of the amount was directed to be made.

5. The Unsecured Financial Creditor (CoC members), in its reply filed pursuant to the order dated 11.05.2026 passed by this Tribunal, submits that the IBBI, by a reasoned order, considering that the CIRP was at an advanced stage and to avoid delay in completion of the resolution process, left the issue to the commercial wisdom of the CoC, whereupon the majority CoC members resolved to continue Mr. Naren Sheth as Resolution Professional. It is contended that the said decision is in consonance with the IBBI order. It is further contended that this Tribunal would neither sit in appeal over the reasoned order passed by the IBBI nor interfere with the

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commercial decision taken by the CoC. The Applicant further submits that the dissenting financial creditors have accepted the IBBI's order and that one of such dissenting creditors also participated in the CoC proceedings. It is alleged that despite the finality attained by the IBBI's order, Punjab National Bank has unlawfully withheld an amount of Rs. 1 crore along with accrued interest and is liable to refund the same to the account of the Corporate Debtor, such withholding being contrary to the decisions of the CoC and judicial orders passed in similar matters. It is contended that no indulgence be given to such defaulting COC member PNB who despite decision of COC members withholding the amount and further submitted that the prayers as prayed by RP is on consonance with decision of COC. It is submitted that the core issue is withholding of the amount of CD by the PNB and such amount could not be retained and such one member who chose not to participate in the sixth COC could not misled this Tribunal and amount to an abuse of the process of law. Reliance has been placed on following judgements:

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- a) Girish Sriram Juneja(RP) Vs. Soneko Marketing Pvt. Ltd.
& Ors. (2025) ibclaw.in 482 NCLAT
- b) Bank of India v. Mr. Vinod Kumar P. Ambavat (RP) of
Actif Corporation Ltd., (2022) ibclaw.in 750 NCLAT
- c) Bank of India v. Mr. Naren Sheth (RP), (2024) ibclaw.in
832 NCLAT

6. We have heard the counsel for the applicant and the Respondent and have perused and considered the material placed before us.

7. Observations

- a) It is submitted with record by the respondent FC that the cheque issued was of a third party and the amount was appropriated and credited to the loan account of CD on 28.06.2019. The CD was admitted to CIRP on 9.11.2020. Further, it is to be noted that even if a cheque was submitted on 16.07.2017, it loses its validity in six months as per NI Act provisions. The basis for asking the credit of the amount to be applicant appears baseless and hence the application needs to be rejected.





- b) If the FC has adjusted any such amount in to account, which was when the CD was not under CIRP and the same would be reflected in the net claim he prefers/preferred as outstanding due with the applicant.
- c) It is observed that the amount in question is stated to have been appropriated by the Respondent on 28.06.2019, whereas the Corporate Debtor was admitted into CIRP on 09.11.2020. Therefore, the transaction in question pertains to a period prior to commencement of CIRP. In the facts of the present case, the Applicant has not been able to establish that the amount sought to be released was available in the alleged "No Lien Account" as on the Insolvency Commencement Date. Consequently, no direction as prayed for can be issued.
- d) It is further observed that the alleged appropriation of the amount, if any grievance subsisted against the same, arose in the year 2019. The Applicant admittedly became aware of the issue during the first CoC meeting held on 10.12.2020. Despite such knowledge, no steps were taken for several years and the present application has been filed only in the

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year 2025. No satisfactory explanation has been furnished for such inordinate delay.

ORDER

IA No. 1001 of 2025 in CP(IB) no. 271 of 2019 is rejected and disposed of.

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**DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)**

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**CHITRA HANKARE
MEMBER (JUDICIAL)**

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