

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, COURT-I**

I.A No 204/KB/2023

In

C.P No. 309/KB/2022

**An Application under Rule 11 of the National Company Law
Tribunal Rules, 2016.**

In the matter of:

Union Of India Through Serious Fraud Investigation Office

...Petitioner

Versus

MPS Greenery Developers Limited

...Respondent Company

AND

In the matter of:

MPS Greenery Developers Limited

...Applicant

Versus

Union Of India Through Serious Fraud Investigation Office

...Respondent

Coram:

Smt. Bidisha Banerjee : Member (Judicial)

Cmde Siddharth Mishra: Member (Technical)

Date of Pronouncement: 12.06.2026

Appearance (via Hybrid Mode)

Mr. Ashok Prasad, Adv.] For the Petitioner (SFIO)

Mr. Soumava Ghosh, Adv.]

Ms. Isabella Pal, Adv.]

Mr. Sourav Kumar Mukherjee, Adv.] For the Respondent No.1

Ms. Sahana Pal, Adv.]

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Mr. Bappaditya Banerjee, Adv.] For the Respondent Nos.3, 4, 6, 7, 9
and 10

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. The present Application has been filed in C.P 309/KB/2022. This interlocutory application seeks the following reliefs:
 - a) Dismiss the C.P No 309/KB/2022 in limine.
 - b) Stay all the proceeding in the C.P 309/KB/2022 till disposal of the this Application.

2. Brief Fact of C.P 309/KB/2022

2.1 The Union Of India through Serious fraud investigation office (Petitioner) has filed petition under section 271-272 of the Companies Act, 2013 against the MPS Greenery Developers Limited (Respondent Company).

3. I.A (companies act) 204/KB/2023

- 3.1 The Applicant (“MPS Greenery Developer Limited”) submitted that the respondent petition filed under section 271-272 (C.P 309/KB/2022) is not maintainable on the following grounds:
 - a) petitioner has not annexed any authority letter from central government for filing the petition under section 271-272.
 - b) The Petition is barred by limitation.
 - c) Respondent does not have the power to initiate winding up proceedings under section 271-272 of the Companies Act, 2013.

4. Submission of the Respondent

- 4.1 The Respondent denied the allegations made by the applicant and made the following submissions:
- a. The Respondent (“Union Of India through Serious Fraud Investigation Office”) submitted that it has annexed authority letter from the Central Government at page 53 of the C.P 309/KB/2022.
 - b. The Respondent further submitted that by authority letter dated 18.05.2022, the Central Government has authorised the Sr. Assistant Director serious fraud investigation office for filing winding up petition and other interlocutory application against the applicant and the present application has been filed in 21.05.2022. Hence the company Petition C.P 309/KB/2022 is within the limitation period.

5. Analysis and Finding

- 5.1 Heard Learned Counsel of the parties. From the submission of learned counsel for the parties and materials on record following issues arise for consideration:

Whether the union of India through Serious fraud investigation office can file winding up Petition under section 271-272 of the Companies Act, 2013?

- 5.2 It is admitted fact that the Respondent herein has filed winding up Petition under section 271-272 of the Companies Act, 2013 against the applicant and the said petition is numbered as C.P 309/KB/2022.

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5.3 From the perusal of the section 224(2) of the Companies Act, 2013 it is clear that the Respondent can file petition for winding up. The relevant extract of section 224(2) of the Companies Act, 2013 is incorporated herein:

“If any company or other body corporate is liable to be wound up under this Act or under the Insolvency and Bankruptcy Code, 2016 and it appears to the Central Government from any such report made under section 223 that it is expedient so to do by reason of any such circumstances as are referred to in section 213, the Central Government may, unless the company or body corporate is already being wound up by the Tribunal, cause to be presented to the Tribunal by any person authorised by the Central Government in this behalf –

- i. a petition for the winding up of the company or body corporate on the ground that it is just and equitable that it should be wound up;*
- ii. an application under section 241; or*
- iii. both.”*

5.4 It is also relevant to note that as per section 272 (1)(e) any person authorised by Central Government can file winding up petition. The relevant extract of section 272(1)(e) is incorporated herein:

“Section 272(1)

Subject to the provisions of this section, a petition to the Tribunal for the winding up of a company shall be presented by—

- (a) the company;*
- (b) any contributory or contributories;*
- (c) all or any of the persons specified in clauses (a) and (b);*
- (d) the Registrar ;*
- (e) any person authorised by the Central Government in that behalf; or*
- (f) in a case falling under clause (b) of section 271, by the Central Government or a State Government.”*

5.4 Thus, upon combined reading of section 224(2) and section 272(1)(e) of the Companies Act, 2013, it is clear that Respondent can file winding up petition against the applicant.

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- 5.5 In the present case, the central government has authorised Sr. Assistant Director serious fraud investigation office for filing winding and other necessary interlocutory Application through the authority letter dated 18.05.2022. In view of the above it is clear that the respondent can file winding up petition under section 271-272 of the Companies act, 2013 against the applicant.
- 5.6 In the aforesaid backdrop the, **I.A No. 204/KB/2023 stands dismissed.**
- 5.7 Certified copy of this order, if applied for with the Registry be supplied to the parties in compliance with all requisite formalities.

**Siddharth Mishra
Member (Technical)**

**Bidisha Banerjee
Member (Judicial)**

Signed On 12.06.2026

NKS(LRA)