



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
COURT-IV

I.A. 206/ND/2025
in
C.P. (IB) 2/ND/2024

Under Rule 11 of National Company Law Tribunal Rules, 2016

IN THE MATTER OF:

Tollman International Private Limited

...Applicant

Versus

Capstech Network Private Limited

...Respondent

AND IN THE MAIN MATTER OF:

Capstech Network Private Limited

...Operational Creditor

Versus

Tollman International Private Limited

...Corporate Debtor

CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM
HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

Order delivered on: 01.06.2026

PRESENT:

For the Applicant : Mr. Ayush Gupta, Mr. Anand Varma, Ms. Apoorva
Pandey, Advocates

For the Respondent : Mr. Prince Mohan Sinha, Mr. Aniket Krishnatray,
Mr. Vikrant Chauhan, Advocates



ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. The present application I.A. No. 206/ND/2025 in C.P. (IB) No. 2/ND/2024 is filed on 09.01.2025 by the Applicant under Rule 11 of National Company Law Tribunal Rules, 2016 read with Section 227 & 229 of Bharatiya Nyaya Sanhita, 2023 read with Section 215 & 379 Of Bharatiya Nagrik Suraksha Sanhita, 2023 seeking an inquiry into Perjury committed by the Respondent.

2. The Applicant has made the following prayers in the application:

- a) *“Allow the present Application, and conduct preliminary inquiry into the offence of perjury committed by the Petitioner in the proceedings in the present matter under the provisions of Bharatiya Nyaya Sanhita, 2023 and Bharatiya Nagrik Suraksha Sanhita, 2023 and submit a complaint to the concerned ld. Magistrate to take cognizance of the said offence;*
- b) *Pass any other or further order(s) as may be deemed fit and proper in the interests of justice.”*

3. Contentions of the Applicant

Brief facts of the case and the contentions of the applicant as mentioned in the instant application are as follows:

- i. Applicant and the Respondent had entered into a contract whereby the Respondent had agreed to supply computers/laptops and its



parts to the Applicant upon issuance of invoices. The Applicant submits that it made timely payments against the goods supplied.

- ii. On 18.08.2023, the Respondent issued a demand notice to the Applicant for a payment of Rs. 1,04,74,992/-. After several meetings between the Applicant and the Respondent to determine outstanding dues, the Applicant made part payment of Rs. 10,00,000/- which was duly received by the Respondent.
- iii. However, despite regular payments, the Respondent filed a petition under Section 9 of IBC, 2016 bearing CP (IB) No. 2/ND/2024, seeking initiation of Corporate Insolvency Resolution Process ('CIRP') against the Applicant for a purported default in payment of INR 1,04,74,992.89/- (inclusive of interest) on 04.10.2023. The petition was initially filed on 04.10.2023 and then refiled and registered after curing defects only on 18.12.2023.
- iv. The Applicant submits that it had made another part payment of Rs. 10,00,000/- on 11.10.2023 which was duly received and acknowledged by the Respondent.
- v. These part-payments of Rs. 20,00,000/- made by the Applicant were not acknowledged by the Respondent in the petition. This fact was neither disclosed nor adjusted by the Respondent during the course of the proceedings or in the additional submissions made by



it. It was submitted by the Respondent that the total amount due and payable by the Applicant was Rs. 1,00,61,134/-.

- vi. The Applicant submits that the Respondent has grossly abused the law and has committed perjury before this Hon'ble Tribunal. It is further submitted that the Respondent has maliciously withheld material facts despite having multiple occasions to apprise this Hon'ble Tribunal regarding part-payments of total outstanding by the Applicant, despite having knowledge of the said part-payments.
- vii. The Applicant states that the Respondent chose to make incorrect and false statements at the following instances in the pleadings filed by it, which it knows to be entirely false:
 - a) The petition filed with an affidavit of the Managing Director (filed on 04.10.2024) whereby the Petitioner claimed the outstanding debt to be a total of INR 1,04,74,992.89/- (inclusive of interest). The part-payment made by the Respondent on 30.09.2023 finds no mention in either the List of Dates or the chart of payments @ Annexure C of the petition.
 - b) The petition with an affidavit of the Managing Director was re-filed and registered after curing defects only on 18.12.2023. The part-payments made by the Respondent on 30.09.2023



and 11.10.2023 find no mention in the re-filed petition as well.

- c) Petitioner filed additional submissions pursuant to order dated 03.01.2024 through its Managing Director, stating the total amount due as Rs. 1,00,61,134/- without either disclosing or adjusting the payments of Rs. 20 lakhs.
- d) Brief Submissions filed pursuant to order dated 10.05.2024, without either disclosing or adjusting the payments of Rs. 20 lakhs.
- e) During arguments advanced in the hearings before this Hon'ble Court on 03.01.2024, 19.01.2024, 26.02.2024, 20.03.2024, 22.04.2024, 10.05.2024, 30.05.2024 and 04.07.2024, the Petitioner maliciously chose to withhold such material information from this Hon'ble Tribunal and proceeded to make false statements regarding the total outstanding amount.

- viii. This Hon'ble Tribunal has the jurisdiction to conduct a preliminary inquiry into the offence of providing false statements and evidence under Section 227 of BNS, 2023 punishable under Section 229 of BNS, 2023 and pass necessary directions for prosecution under Section 215 r/w Section 379 of the BNSS, 2023. Reference is also made to Section 424 of the Companies Act, 2013.



- ix. It is submitted that as per Section 424(4) of the Companies Act, 2013 (as amended in 2016), proceedings before this Hon'ble Tribunal have been deemed to be judicial proceedings under Section 193 of the Indian Penal Code, 1860 (and its corresponding provision under Section 229 of BNS, 2023). Further, for the purposes of sub-clause (1)(b)(i) and sub-clause (3) of Section 215 r/w Section 379(4) of BNSS, 2023, this Hon'ble Tribunal is deemed to be a "court/tribunal" as constituted under Section 408 of the Companies Act, 2013.

4. **Contentions of the Respondent**

- i. The Corporate Debtor/Applicant frequently delayed payments by 60—70 days after the issuance of invoices, which were always accompanied by terms and conditions.
- ii. The Insolvency Petition was duly filed and listed for admission on 03.01.2024. On the said date, it was instructed that a fresh calculation of the applicable interest be made. Pursuant to the order dated 03.01.2024, the Operational Creditor recalculated the due amount by excluding interest on interest. The recalculated amount as of 18.08.2023 was Rs. 1,00,61,134.72/-.
- iii. On 07.01.2025 final order was pronounced where the insolvency application was dismissed on the ground that the CP No.: IB



02(ND)/2024 doesn't cross the threshold of Rs. 1 crore after adjusting the part-payments of Rs. 20 lakhs.

- iv. The interlocutory application filed by the corporate debtor/applicant is itself non—maintainable on the ground that it violates the principle of Natural Justice as the principal application / matter has been disposed of. It is settled principle of law that once the main proceeding is disposed off, all applications linked to it, such interlocutory applications, miscellaneous applications, etc. are also considered disposed off. Hence, the application in its present form is not maintainable
- v. The Respondent submits that although, admittedly the present application was filed in September 2024, however, the applicant has very cleverly kept the application in objection at the registry and bid time till the final disposal of the main application. Once the main application was finally disposed off on 07.01.2025, they quickly undertook all the corrections and removed the objections and the application was then listed on 09.01.2025.
- vi. The payment of Rs. 20 lakhs by the Applicant was made to avert the threshold limit of pecuniary jurisdiction of this Hon'ble Tribunal, which is also mentioned in the brief submission filed by the Applicant dated 07.07.2024.



Judgments quoted by Applicant and Respondent

5. Ld. Counsel for the Applicant has relied upon a judgement of the Hon'ble Supreme Court in **James Kunjwal v. State of Uttarakhand., [2024 INSC 601 (para 16)]**, wherein essential factors to prove whether an offence of perjury has been committed, have been enumerated:

“What we may conclude from a perusal of the above-noticed judicial pronouncements is that:-

- (i) The Court should be of the prima facie opinion that there exists sufficient and reasonable ground to initiate proceedings against the person who has allegedly made a false statement(s);*
- (ii) Such proceedings should be initiated when doing the same is “expedient in the interests of justice to punish the delinquent” and not merely because of inaccuracy in statements that may be innocent/immaterial;*
- (iii) There should be “deliberate falsehood on a matter of substance”;*
- (iv) The Court should be satisfied that there is a reasonable foundation for the charge, with distinct evidence and not mere suspicion;*
- (v) Proceedings should be initiated in exceptional circumstances, for instance, when a party has perjured themselves to beneficial orders from the Court.”*

6. Ld. Counsel for the Applicant has also relied upon **KVR Industries Pvt Ltd. v. PP Bafna Ventures Pvt Ltd., [CA(AT)(INS) No. 626/2020]** where the Hon'ble NCLAT has affirmed that the Hon'ble Tribunal has the jurisdiction to conduct a preliminary inquiry into the offence of providing false statements and evidence under Section 227 of BNS, 2023 punishable



under Section 229 of BNS, 2023 and pass necessary directions for prosecution under Section 215 r/w Section 379 of the BNSS, 2023.

7. Ld. Counsel for the Applicant has submitted that while the present application was filed on 09.09.2024, the defects in the application were marked by the registry only on 25.11.2024, which were promptly cured on 29.11.2024. Even thereafter, the case status reflected that the application was under scrutiny. It was only upon the Applicant's email to the ld. Registrar dated 05.12.2024, was the application scrutinised and another defect regarding memo of parties was marked. In the interim, the time for re-filing the application expired and the Applicant had to move an application before the ld. Registrar vide email dated 04.01.2025 to condone the said delay. Soon after the delay was condoned, the Applicant re-filed the application on 09.01.2025. Thus, the listing of the present application after disposal of the Section 9 petition was not deliberate or intentional, as has been falsely alleged by the Respondent.

8. Ld. Counsel for the Respondent has relied upon the judgment of the Hon'ble Supreme Court ***Ajay Kumar Jain v. State of Uttar Pradesh [2024 INSC 958]*** which addressed the non-maintainability of miscellaneous applications after the main proceedings have been disposed off. Further, reliance was placed where Hon'ble Punjab & Haryana High Court has made observation in ***Nachhattar Singh vs Rai Singh And Anr. [(2022) CRM-M-I771-2018]*** that:



"As per the settled proposition of law as enumerated hereinabove, proceedings under Section 340 Cr. P. C. are not to be initiated in every case where offences are purportedly made out. In fact, the said proceedings are to be initiated only in a situation, where the Court considers it expedient in the interest of justice to make a complaint."

Our Findings

9. We have gone through the documents on record filed by the Applicant as well as heard the arguments advanced by counsels of the Applicant and the Respondents.

10. In the present case, the foundation of the Applicant's allegations is that the Respondent did not disclose two part-payments against the operational debt aggregating to Rs. 20,00,000/- in the pleadings filed and during the Section 9 proceedings in C.P. (IB) 2/ND/2024. Hence, such allegations relate to only computation and adjustment of the claim amount.

11. Further, it is evident that the alleged omission did not result in any beneficial order being obtained by the Respondent, as the underlying insolvency petition under section 9 IBC bearing C.P. (IB) 2/ND/2024 itself stood dismissed on the ground that the threshold of Rs. 1 crore is not satisfied after due consideration of the financial adjustments including these part payments. Thus, the essential test of expediency in the interests of justice, which is sine qua non for invoking perjury jurisdiction, remains



unsatisfied. Perjury jurisdiction cannot be invoked to penalize every pleading defect or omission, particularly where the matter has already been examined in the substantive proceedings and the Tribunal has adjudicated upon the correct financial position. The alleged suppression stood cured during adjudication, and the final decision in the main petition was rendered with due consideration of the part-payments.

12. The present application also suffers from maintainability concerns. The principal insolvency proceedings in CP (IB) No. 2/ND/2024 already stood finally disposed of on 07.01.2025. Once the substantive proceedings attain finality, the Tribunal becomes *functus officio* in relation to collateral issues, save in narrowly circumscribed situations such as clerical correction or implementation of executory directions. The Hon'ble Supreme Court in ***Ajay Kumar Jain v. State of Uttar Pradesh [2024 INSC 958]*** has reaffirmed that miscellaneous applications in disposed proceedings are generally not maintainable where they seek to agitate fresh causes of action or revive concluded matters.

13. This Tribunal is also not persuaded that the present case falls within the exceptional category warranting exercise of such extraordinary powers. Proceedings for perjury cannot be permitted to become an instrument for collateral attack or retaliatory litigation arising out of adversarial disputes already adjudicated upon.



Order

14. Accordingly, this Interlocutory Application bearing **IA No. 206/ND/2025 in C.P. (IB) 2/ND/2024** filed under Rule 11 of the National Company Law Tribunal Rules, 2016 read with Sections 227 and 229 of the Bharatiya Nyaya Sanhita, 2023 and Sections 215 and 379 of the Bharatiya Nagrik Suraksha Sanhita, 2023, stands **dismissed**.

Sd/-

(ATUL CHATURVEDI)

MEMBER (TECHNICAL)

Sd/-

(MANNI SANKARIAH SHANMUGA SUNDARAM)

MEMBER (JUDICIAL)