

**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT-V, NEW DELHI**

**I.A. NO. 2155/2026
IN
CP IB NO. 200/(ND)/2025**

An Application 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 OF:

BANK OF INDIA

Having its branch office at
Star House, H Block, Connaught Circus, New Delhi-110001
Through its Authorized Officer

.....Financial Creditor

VERSUS

TDT COPPER LIMITED

Through the Interim Resolution Professional,
TDT House, 512-512A, Tolstoy House,
Tolstoy Marg, Connaught Place, New Delhi-110001

.....Corporate Debtor

AND IN THE MATTER OF:

LARK NON-FERROUS METALS LTD.

Through its Authorised Representative
Mr. Debojyoti Pal S/o Prabir Kumar Pal

Registered Office at:

19, R.N. Mukherji Road, Kolkata, West Bengal-700001
Email: vinodsrivastava247@gmail.com

.....Applicant

VERSUS

1. Mr. Shailesh Chandra Ojha

Interim Resolution Professional of
TDT Copper Limited
Having correspondence address at:
603A, Indra Prakash, 21, Barakhamba Road,
Connaught Place, New Delhi-110001
Email: ipscojha@gmail.com

.....Respondent No. 1

2. TDT Copper Limited

Through the Interim Resolution Professional,
TDT House, 512-512A, Tolstoy House,
Tolstoy Marg, Connaught Place, New Delhi-110001

.....Respondent No. 2

Order Delivered On: 13.08.2026

CORAM:

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

MS. REENA SINHA PURI, HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the Applicant: Mr. Jaiveer Kant, Mr. Preet Singh Oberoi, Mr. Jai Raj
Maini, Advs.

For the RP : Adv. Shivam Gautam

ORDER

1. The present Application has been filed by Lark Non-Ferrous Metals Ltd. (**Applicant**), through its authorized representative Mr. Debojyoti Pal against Mr. Shailesh Chandra Ojha, the Interim Resolution Professional (**Respondent No. 1/ IRP**) of TDT Copper Limited (**Corporate Debtor**) under Section 60(5) of the IBC¹ and Rule 11 of the NCLT Rules².
2. By way of the present Application, the Applicant seeks intervention of this Adjudicating Authority for setting aside the Public Auction Notice dated 20.04.2026, whereby the IRP proposed to sell the assets, being plant and machinery collectively available at Bawal, Rewari, Haryana, through public e-auction scheduled on 16.05.2026.
3. The reliefs sought by the Applicant in this Application are as follows:

¹ Insolvency and Bankruptcy Code, 2016

² National Company Law Tribunal Rules, 2016

- a) Pending the hearing and final disposal of the present Application, stay the effect and operation of the Public Auction Notice dated 20.04.2026;
- b) Pass an order restraining Respondent No. 1, his agents, or representatives from auctioning, selling, alienating, or creating any third-party rights over the Applicant's assets, comprising the following plant, machinery, tools, and equipment lying at the premises of the Respondent No. 2 / Corporate Debtor at Bawal, Rewari, Haryana: (i) R.B.D. Breakdown Machine; (ii) Drawing Unit with Annealer Spooler/Coiler; (iii) OFC Rod Casting Machine; (iv) Lubrication System; (v) Nitrogen Plant; (vi) Ammonia Plant; (vii) Water Circulation System; (viii) Coil Compacting Machine; (ix) Chimney and HFO Generator Auxiliaries; (x) Storage Tanks; (xi) Tools, Dies, Spools and Fixtures; (xii) Electrical installations and allied fittings; (xiii) Supporting structures and auxiliary industrial equipment; and (xiv) Spare parts, consumables, and operational components related to the aforesaid machinery;
- c) Pass an order setting aside and quashing the Public Auction Notice dated 20.04.2026, to the extent that it includes and seeks to auction the assets exclusively belonging to the Applicant, being the following plant, machinery, tools, and equipment: (i) R.B.D. Breakdown Machine; (ii) Drawing Unit with Annealer Spooler/Coiler; (iii) OFC Rod Casting Machine; (iv) Lubrication System; (v) Nitrogen Plant; (vi) Ammonia Plant; (vii) Water Circulation System; (viii) Coil Compacting Machine; (ix) Chimney and HFO Generator Auxiliaries; (x) Storage Tanks; (xi) Tools, Dies, Spools and Fixtures; (xii) Electrical installations and allied fittings; (xiii) Supporting structures and auxiliary industrial equipment; and (xiv) Spare parts, consumables, and operational components related to the aforesaid machinery;
- d) Pass an Order directing Respondent No. 1 to release the aforesaid assets and permit the Applicant to peacefully remove the assets from the premises of the Corporate Debtor; and/or
- e) Pass any such further Orders as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case.

SUBMISSIONS OF THE APPLICANT

4. The Applicant submits that both the Applicant and Corporate Debtor are engaged in a similar line of business and had shared business relations since the year 2009. According to the Applicant, various plant and machinery, tools, dies, systems and ancillary equipment belonging to it were placed at the premises of the Corporate Debtor in the ordinary course of business for carrying out manufacturing activities.
5. It is further submitted that the Corporate Debtor approached the Applicant in or around the year 2009 seeking financial assistance for expansion of business. Considering the long-standing business relationship, the Applicant agreed to extend financial assistance to the Corporate Debtor. To secure such financial assistance, the Corporate Debtor allegedly mortgaged properties, namely land measuring 6072.2 sq. metres situated in Rect. Nos. 220 and 218, Killa Nos. 4/8/12/13/25, Village Patuhera, Bawal, Haryana, in favour of the Applicant vide Memorandum of Understanding (MOU)³, dated 27.11.2009.
6. The Applicant further contends that an Agreement to Sell⁴ dated 27.11.2009 was also executed between the Applicant and the Corporate Debtor, whereby the Corporate Debtor allegedly sold the said property to the Applicant for a consideration of Rs. 5,00,00,000/-, thereby creating absolute rights in favour of the Applicant.
7. It is also submitted that, in the normal course of business, the Applicant supplied various machinery, including an HFO Generator and its accessories, in September 2010 on lease basis⁵ to the Corporate Debtor for production purposes. The said machinery was kept at the premises of the Corporate Debtor.
8. According to the Applicant, since the leased machinery had been purchased out of bank finance availed by the Applicant from State Bank of India, the

³ Copy of MOU - Annexure-A/3 at Pages 29-34

⁴ Copy of Agreement to Sale - Annexure-A/4 at Pages 35-43

⁵ Copy of Agreement of Lease and Supplementary Agreement of Lease - Annexure-A/5 at Pages 44-133

said bank wrote to the Corporate Debtor in 2012 requesting it to preserve the bank's interest in the leased machinery.

9. The Applicant states that various machinery was thereafter sent by it to the Corporate Debtor in September 2015 for repair and maintenance, and continuous casting machines along with accessories were sent in June 2017. It is contended that it was mutually agreed between the Applicant and the Corporate Debtor that the machinery could remain at the factory premises of the Corporate Debtor for production purposes.
10. The Applicant has also relied upon a Panchnama dated 03.02.2018, prepared by CGST officials during inspection of the Corporate Debtor's property, which allegedly records details of the machinery in question.
11. The Applicant submits that the mortgaged properties are held by it as security against admitted dues of the Corporate Debtor and that the Applicant holds a first charge/interest over the said properties. It is further stated that the Corporate Debtor made part payment of Rs. 4,00,000/- on 30.03.2021, thereby admitting the debt owed to the Applicant. Thereafter, a demand notice dated 01.11.2023 for a total debt of Rs. 3,56,89,019/- was issued to the Corporate Debtor.
12. The Applicant further states that Bank of Baroda, being the Financial Creditor of the Corporate Debtor, took physical possession of the property, including the property allegedly belonging to the Applicant. In this regard, the Applicant relies upon an email⁶ dated 15.11.2023, whereby the Corporate Debtor is stated to have informed the relevant banks regarding the list of articles/machinery and the portion of land allegedly belonging to the Applicant.
13. It is the Applicant's case that the machinery and movable assets leased to the Corporate Debtor continued to remain the exclusive property of the Applicant and were never transferred, assigned or conveyed in favour of the Corporate

⁶ Copy of E-mail annexed as Annexure-A/8 at Pages 148-149

Debtor. The Applicant contends that its ownership and possessory rights were consistently asserted and were always within the knowledge of the Corporate Debtor.

14. The Applicant further submits that its rights over the machinery and assets lying at the premises of the Corporate Debtor are evidenced by the Memorandum of Understanding, Agreement to Sell, Agreement to Lease, Supplementary Agreement to Lease, correspondence exchanged between the parties, and records evidencing placement and operation of the machinery at the site.
15. It is also submitted that the Applicant had filed Securitization Application No. 37 of 2023 before the Debts Recovery Tribunal, New Delhi (DRT), which was disposed of⁷. Against the said order, Appeal No. 57 of 2025 has been filed before the Debts Recovery Appellate Tribunal (DRAT) and is stated to be pending.
16. The Applicant further submits that claims⁸ in respect of lease rentals for the leased assets/articles/machinery were filed with the IRP under the IBC. However, the IRP proceeded to issue the Public Auction Notice⁹ dated 20.04.2026 in respect of the assets situated at the premises of the Corporate Debtor at Rewari, Haryana, without demarcating or excluding the assets allegedly belonging to the Applicant.
17. Through the said Public Auction Notice, the IRP proposed the sale of “Set of Assets (Plant and Machinery) available at Rewari, Haryana” for a reserve price of Rs. 20,00,000/- with e-auction scheduled on 16.05.2026 between 3:00 pm to 5:00 pm. The auction was proposed on “AS IS WHERE IS”, “AS IS WHAT IS”, “WHATEVER THERE IS” and “WITHOUT RECOURSE” basis.
18. The Applicant submits that the assets proposed to be sold under the impugned auction notice include machinery and movable assets belonging to

⁷ Para 15 of the Application

⁸ Copy of Claim Forms annexed as Annexure-A/10 at Pages 152-188

⁹ Public Auction Notice - Annexure-A/2 at Pages 27-28

the Applicant, which do not form part of the assets of the Corporate Debtor. It is therefore, contended that the impugned auction notice is arbitrary and contrary to the law, as the IRP cannot auction or deal with assets owned by a third party.

19. Accordingly, the present Application has been filed seeking setting aside of the impugned Public Auction Notice.

SUBMISSIONS OF RESOLUTION PROFESSIONAL

20. Learned Counsel for the Resolution Professional submitted that the Applicant had also approached the Hon'ble DRAT by filing an interlocutory application in Appeal No. 57 of 2025, seeking substantially similar reliefs as those sought in the present Application.
21. A copy of the application filed before the Hon'ble DRAT has been placed on record. The prayers sought before the Hon'ble DRAT are as follows:
- a. Pass an order restraining the Resolution Professional appointed in the Respondent No. 4 Company M/S TDT Copper Ltd. from auctioning, selling, transferring, alienating, taking possession of, creating third-party interest, or taking any coercive/illegal action with respect to machineries belonging to the Appellant/Applicant during the pendency of the present Appeal;
 - b. Direct the Respondents to maintain status quo with respect to the machineries in question;
 - c. Pass any other or further order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.
22. It was further submitted that vide order dated 15.05.2026, the Hon'ble DRAT granted interim relief in relation to the aforesaid prayers.
23. Learned Counsel for the Resolution Professional also referred to the Memorandum of Association and list of shareholders of the Applicant company to contend that members of the Ladha family were promoters/persons in control of both the Applicant company and the

Corporate Debtor. A family chart of the Ladha family and master data of the two companies were also placed on record in support of this contention.

ANALYSIS AND FINDINGS

24. We have heard the learned counsel for the parties and perused the material on record
25. The present Application seeks setting aside of the Public Auction Notice dated 20.04.2026, on the ground that plant and machinery allegedly belonging to the Applicant has been included in the proposed e-auction.
26. Vide order dated 15.05.2026, this Adjudicating Authority recorded that a prima-facie case had been made out that the property belongs to the Applicant and that loss would be caused to the Applicant if the property was subjected to auction. However, this Adjudicating Authority permitted the auction to be conducted on 16.05.2026, while making the final outcome thereof subject to orders passed in the present Application.
27. Thereafter, vide order dated 22.05.2026, this Adjudicating Authority recorded the submission made on behalf of the Resolution Professional that the Applicant had filed an interlocutory application in Appeal No. 57 of 2025 before the Hon'ble DRAT, seeking the same reliefs as those sought in the present Application, and had obtained an interim order dated 15.05.2026.
28. Upon perusal of the order dated 14.01.2025 passed by the DRT in SA No. 37/2023, titled M/s Lark Non-Ferrous Metal Limited v. Bank of Baroda, Bank of India, Punjab National Bank and M/s TDT Copper Limited, we find that the DRT had examined the Applicant's claim in respect of the property/machinery and recorded findings adverse to the Applicant.
29. We take note of para 9.5 to 9.8, which refer to the facts of the case and the finding of the DRT on the matter that is of utmost relevance here. The relevant paras are reproduced here for ease of reference:

9.5. It is clear from the record that respondent number 4 here had availed the loan facilities from respondent bank and Mortgage was created by

respondent number 4 qua the immovable property being industrial plot No.179 -186 measuring 48260.80 square meters, situated in Growth Center, Sector 4, Bawal, Haryana - owned by the TDT Copper Limited/ respondent number 4 herein. Since, respondent no. 4 failed to honor its commitment and defaulted in repayment of the outstanding amount, the respondent no. 1 bank (the then Dena Bank) had declared the account as NPA on 22.09.2018 and thereafter taken SARFAESI measures qua mortgaged property belonging to respondent no. 4 herein and the said measures were challenged by the TDT Copper Limited by way of filing SA No. 17 of 2023, however, same was dismissed vide order dated 17.11.2023 for want of limitation. Thereafter, the respondent bank had taken physical possession of the property-in-question on 11.10.2023 peacefully, without any objection from the TDT Copper Limited and in accordance to the provisions of SARFAESI Act. Thereafter, the respondent bank put the subject property to auction which was duly scheduled on 16.12.2023. It is admitted fact that the present SA has been filed by a third party, which is not related to the present matter. **In the present SA the S. applicant has challenged that some of the machineries available at the said property is owned by S. applicant, however, S. applicant has failed to bring on record any documentary evidence proving S. applicant's ownership on the part machinery.** It is also apparent from the record that though S. applicant had sent a Letter dated 15.11.2023, thereby claiming the alleged ownership, however, same was replied by respondent no. 1 bank through email dated 15.11.2023, thereby demanding the proof of ownership, however, **till date S. applicant has failed to provide the same and preferred present SA on a concocted story, baseless claim and proof-less ownership.** It is the case of respondent no. 1 bank that the immovable property being Industrial Plot N. 179 to 186, measuring 48260.80 square meters, situated in Growth Center, Sector-4, Bawal, Haryana is measuring 48260.80 square meters and same is mortgaged with the consortium and that only was put to auction and sold.

9.6. *It is also matter of record that the impugned auction dated 16.12.2023 [in pursuance to sale notice dated 10.11.2023] was failed as the only bidder had submitted its bid but did not participate in the bidding process. Consequently, the respondent bank had refunded the bid amount submitted. Thereafter, the said **property was again put to the auction on 16.01.2024 and the said auction was successful and the said property stands sold for an amount of Rs. 61.01 Crore.***

9.7. *It is also admitted fact that Applicant herein did not challenge the auction dated 16.01.2024, however, in the Reply it is stated by the respondent bank that in February 2024, have preferred a Suit before the Hon'ble Delhi High Court titled as "Lark Non Ferrous Metals Ltd. Vs. Bank of Baroda & Ors." [CS (OS) No. 432024] which is still pending adjudication there.*

9.8. *In the light of above, it is clear that S. applicant has failed to bring out even a single defect in the SARFAESI action of the respondent bank. So far as, MOU dated 27.11.2009 relied by S. applicant is concerned, said MOU was executed between S. applicant and respondent no. 4 herein. Thus, it appears that S. applicant has main grievance qua respondent no. 4 herein but he has not filed any complaint/suit against it till date. **Hence, this tribunal is of the view that S. applicant is hand in glove with respondent no. 4 herein and this SA has been filed just to frustrate the recovery of the bank.***

(emphasis supplied)

30. The DRT noted that TDT Copper Limited had availed loan facilities from the respondent bank and had created mortgage over immovable property being Industrial Plot Nos. 179 to 186, measuring 48260.80 sq. metres, situated at Growth Centre, Sector 4, Bawal, Haryana. Upon default, the account was declared NPA on 22.09.2018, SARFAESI measures were initiated, and physical possession of the property was taken on 11.10.2023. The said property was thereafter put to auction.

31. The DRT further observed that the Applicant before it had claimed ownership over certain machinery available at the said property, but had failed to bring on record any documentary evidence proving its ownership over the machinery. The DRT also recorded that although the Applicant had sent a letter dated 15.11.2023 claiming ownership, the bank had demanded proof of ownership on the same date, but the Applicant failed to provide the same. The DRT also recorded that the Applicant had not challenged the auction dated 16.01.2024, pursuant to which the property was sold for Rs. 61.01 crore.
32. Thus, even prior to commencement of CIRP of the Corporate Debtor on 16.10.2025, the competent DRT had already considered the Applicant's claim and recorded that the Applicant had failed to establish ownership over the machinery/property in question.
33. We also take note of the Ladha family chart and master data of the Applicant and the Corporate Debtor. From the documents placed on record, it appears that Shri Avinash Ladha is a promoter and director of the Corporate Debtor, whereas his wife, Ms. Abha Ladha, is a promoter and additional director of the Applicant company.
34. It is evident that the Applicant's claim - that the property in question was mortgaged by the Corporate Debtor in favour of the Applicant - is not borne out from the material placed on record. The said property was mortgaged by the Corporate Debtor to Bank of Baroda (earlier Dena Bank), and, following auction conducted by Bank of Baroda on 16.01.2024, stood sold for Rs. 61.01 crore.
35. The finding of the DRT, that the Applicant was "*hand in glove*" with the Corporate Debtor, also finds support from the family chart and master data placed before us, which show common family control and close association between the promoter/director group of the two companies.
36. We further find that the Applicant had made substantially identical prayers before the Hon'ble DRAT and before this Adjudicating Authority. The Applicant also obtained interim relief from the Hon'ble DRAT on 15.05.2026,

the same date on which interim orders were sought before this Adjudicating Authority. The Applicant failed to make full and candid disclosure of these relevant facts before this Adjudicating Authority.

37. The non-disclosure of the filing of an identical application before the Hon'ble DRAT, and the interim protection obtained therein, amounts to suppression of material facts. Such suppression goes to the root of the Applicant's entitlement to discretionary relief and is fatal to the maintainability of the present Application.
38. It is settled law that a party invoking the jurisdiction of a judicial forum must approach with clean hands and must disclose all material facts. As held by the Hon'ble Supreme Court in *The Auroville Foundation v. Natasha Storey*¹⁰ the "doctrine of clean hands and non-suppression of material facts" is applicable with full force to proceeding before any judicial forum. It was held:

9. It is no more res integra that the Doctrine of "Clean hands and non-suppression of material facts" is applicable with full force to every proceedings before any judicial forum. The party invoking extraordinary jurisdiction of the High Court under Article 226 of the Constitution of India must come with clean hands and disclose all correct and material facts in his Writ Petition. If it is brought to the notice of the Court that the petition has been guilty of suppression of material and relevant facts or has not come with clean hands, such conduct must be seriously viewed by the courts as the abuse of process of law and the petition must be dismissed on that ground alone without entering into the merits of the matter.

(emphasis supplied)

39. In the said judgment, the Hon'ble Supreme Court also relied upon *S.J.S. Business Enterprises (P) Ltd. v. State of Bihar & Ors.*¹¹; and *General Manager, Haryana Roadways v. Jai Bhagwan & Anr.*¹² wherein it was held that

¹⁰ *The Auroville Foundation v. Natasha Storey*, 2025 INSC 348.

¹¹ *S.J.S. Business Enterprises (P) Ltd. v. State of Bihar & Ors.*, AIR 2004 SC 2421.

¹² *General Manager, Haryana Roadways v. Jai Bhagwan & Anr.*, (2008) 4 SCC 127.

suppression of a material fact by a litigant disqualifies such litigant from obtaining relief.

40. Further, in *M/s Prestige Lights Ltd. v. State Bank of India*¹³ also, the Hon'ble Supreme Court held that where an applicant approaches the Court with suppressed or twisted facts, the Court may refuse to entertain the petition and dismiss the same without entering into the merits.
41. Applying the aforesaid principles to the present case, we are of the considered view that the Applicant has suppressed material facts concerning the filing of an identical application before the Hon'ble DRAT and the interim order obtained therein. The Applicant has also failed to candidly disclose the earlier adverse findings recorded by the DRT with respect to its claim of ownership.
42. In light of the aforesaid suppression of material facts, the adverse findings recorded by the DRT, the close association between the Applicant and the Corporate Debtor, and the pendency of substantially similar proceedings before the Hon'ble DRAT, we find that the present Application is not maintainable and is liable to be dismissed.
43. Accordingly, **IA No. 2155/2026 in CP IB No. 200/(ND)/2025** is dismissed with costs of **Rs. 2,00,000/-**, to be deposited in the **Prime Minister's National Relief Fund** within seven days from the date of this order.

SD/-
(REENA SINHA PURI)
MEMBER (TECHNICAL)

SD/-
(MANNI SANKARIAH SHANMUGA SUNDARAM)
MEMBER (JUDICIAL)

¹³ M/S Prestige Lights Ltd. v. State Bank of India, (2007) 8 SCC 449.

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT-V

ITEM No. 524
IB-200/ND/2025
IA(Liq.)- 23/2026, IA-2707/2026, IA-114/2026

IN THE MATTER OF:

Bank of India

.... Petitioner

Vs

TDT Copper Limited

.... Respondent

Order under Section 7 IBC

Order delivered on 13.08.2026
HYBRID HEARING (PHYSICAL & VC)

CORAM:

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

MS. REENA SINHA PURI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner : Mr. Shivam Gautam, Adv. for Applicant / RP

For the Respondents :

ORDER

Due to paucity of time, the matter is adjourned to **22.09.2026**.

Sd/-
(REENA SINHA PURI)
MEMBER (T)