

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 1404 of 2024**

**In the matter of:**

**Surender Pal Singh Mangat**

**....Appellant**

**Vs.**

**Oriental Bank of Commerce  
(Now Punjab National Bank) & Anr.**

**...Respondents**

**For Appellant**

**Mr. Abhijit Sinha, Sr. Advocate with Mr. Akash Jain, Ms. Abhipsa Sahu, Mrs. Heena George, Advocates.**

**For Respondents**

**Dr. S.S. Hooda, Advocate for Oriental Bank of Commerce  
Mr. Aayushman Aeron, Mr. Aditya Hooda, Advocates  
Mr. Anant Merathia, Mr. Anurag Goel, Advocates for IRP**

**Company Appeal (AT) (Insolvency) No. 1405 of 2024**

**In the matter of:**

**Gursimran Kaur Mann**

**....Appellant**

**Vs.**

**Oriental Bank of Commerce  
(Now Punjab National Bank) & Anr.**

**...Respondents**

**For Appellant**

**Mr. Krishnendu Datta, Sr. Advocate with Ms. Prachi Johri, Ms. Alina Mathew, Advocates.**

**For Respondents**

**Dr. S.S. Hooda, Advocate for Oriental Bank of Commerce  
Mr. Aayushman Aeron, Mr. Aditya Hooda, Advocates  
Mr. Anant Merathia, Mr. Anurag Goel, Advocates for IRP**

**ORDER****(Hybrid Mode)**

**24.07.2024:** These two Appeals have been filed against the order dated 11.07.2024 passed by the Adjudicating Authority (National Company Law Tribunal) Allahabad Bench, Prayagraj admitting Section 7 application filed by 'Oriental Bank of Commerce' against 'Simbhaoli Sugar Ltd.' (Corporate Debtor). Company Appeal (AT) (Insolvency) No. 1404 of 2024 has been filed by the Appellant who claims to be farmer who has been supplying sugarcane to the Corporate Debtor. Company Appeal (AT) (Insolvency) No. 1405 of 2024 has been filed by the promoter of the Corporate Debtor challenging the same order.

2. Counsel for the Appellant submits that before the Adjudicating Authority, there were three Section 7 applications; one filed by State Bank of India another by Punjab National Bank and third by Oriental Bank of Commerce. It is submitted that the Oriental Bank of Commerce subsequently merged into Punjab National Bank.

3. Counsel appearing in Company Appeal (AT) (Insolvency) No. 1404 of 2024 submits that before the Adjudicating Authority in the Section 7 application filed by the State Bank of India, detailed intervention application by 42 farmers have been filed giving details of operation of the Corporate Debtor and opposing the initiation of CIRP. It is submitted that the Adjudicating Authority itself noticed the request of the parties in Section 7 application filed by the State Bank of India and the Punjab National Bank that OTS proposal has been received by the Bank authorities which is under active

consideration. Counsel for the Appellant has referred to order dated 30.04.2024, which is as follows:-

*“1. Ld. Counsels representing the parties are present.*

*2. It is stated by the Ld. Counsel representing the Corporate Debtor that recently an OTS proposal has been submitted to the State Bank of India and a formal meeting has also taken place by the authorized representative of the Corporate Debtor with the officials of State Bank of India, and the OTS proposal is under consideration by the Bank.*

*3. In view of this, situation the Ld. Counsel representing the Corporate Debtor seeks two weeks' time for the same.*

*4. The Ld. Counsel representing the State Bank of India on instructions states that the OTS proposal has been received by the Bank authorities, which is under active consideration, and therefore he would have no objection to the request made by the Ld. Counsel representing the Corporate Debtor for seeking an adjournment.*

*5. In view of this, the matter is adjourned for 11<sup>th</sup> June, 2024.”*

4. It is submitted that subsequently on 03.05.2024 also joint statement was noticed by the parties to following effect:-

*“1. Ld. Counsels representing their respective parties are present through VC.*

*2. Ld. Counsel representing the Corporate Debtor at the outset states that a proposal has been sent to the Punjab National Bank, which is stated to be under active consideration of the competent authorities of the Bank.*

*3. He further states that in another matter filed U/s 7 by the State Bank of India against the same very Corporate Debtor, the similar proposal had been forwarded to the Bank authorities of the State Bank of India, which is also stated to be under active consideration of the SBI, and as per the statement made by the Ld. Counsel, now representing the Punjab National Bank that the proposal*

*being forwarded by the Corporate Debtor to the officials of the Punjab National Bank is also under active consideration.*

*4. In view of the joint statement made by the Ld. Counsel representing the Financial Creditor as well as by the Ld. Counsel for the Corporate Debtor, let the matter be adjourned for 11<sup>th</sup> June, 2024, when the other matter of State Bank of India filed U/s 7 is already listed.*

*5. The photocopy of this order be placed on record in both the connected matters.”*

5. Subsequently, on 11<sup>th</sup> June, 2024, Adjudicating Authority passed an order listing the matter on 14.06.2024.

6. Submission of the Appellant is that OTS proposal with all the Banks is under consideration which has not yet been finalized and looking to the nature of operation to the corporate debtor placing the corporate debtor in CIRP is bound to cause disruption of large number of farmers who have been supplying cane to 'Simbhaoli Sugar Ltd.' (Corporate Debtor) and the CIRP shall affect thousands of persons which shall not be in the interest of the corporate debtor. It is submitted that with regard to claim of the Bank, the proposal has been submitted which is under consideration.

7. Counsel for the Oriental Bank of Commerce opposing the submissions of the Appellants submits that before the Adjudicating Authority, several opportunities were given for settlement and for last six years, no settlement has fructified. Hence, the Adjudicating Authority has no option except to admit Section 7 application. Debt and default having been proved which is not under dispute. It is submitted that the mere fact that settlement proposal is pending cannot be a ground to refuse admission of Section 7 application.

8. Counsel for the Appellant further submits that after the order passed in Section 7 application, other two applications have already been disposed of in view of the order. Hence, as on date the Adjudicating Authority has not given opportunity to bring the settlement between the parties on record. It is further submitted that the State Government itself has also intervened in the matter and Appellant was called both by the State Bank of India as well as Punjab National Bank to meet with the Bank officials to take further action in the matter of proposal.

9. We have considered the submissions of the Counsel for the parties and perused the record.

10. There is finding that debt and default is there but looking into the nature of the operation which corporate debtor is doing where it is submitted that the production capacity is 20,000 metric tonnes per day. In view of the disruption, neither corporate debtor be benefited nor the financial creditors since there will be no amount receivable by the corporate debtor to pay. It is further submitted that 85% amount which is received are to be operated by the District Magistrate for payment of dues to the farmers and only 15% for operation charges.

11. Considering the fact of the present case, we are of the view that the ends of justice be served in giving opportunity to the financial creditors to take a decision with regard to proposal which was received and which is under active consideration as noticed by the Adjudicating Authority itself in the order as noted above. We grant opportunity to the Appellant to file an Additional

Affidavit bringing subsequent development within the period of four weeks from today.

12. Issue notice. Learned Counsels for the Respondents accepts notice. Let Reply be filed within three weeks. Rejoinder, if any, be filed within two weeks thereafter.

13. List both the Appeals on 30.08.2024.

In the meantime, no further steps shall be taken in pursuance of the impugned order. This order shall not preclude the District Magistrate to carry on disbursement of cane prices in the same manner as was being done prior to passing of the order. With regard to operation expenses, it shall be open for the authorized signatories who were operating banks shall be operating the banks with joint signature of the IRP in the manner as was done before.

**[Justice Ashok Bhushan]  
Chairperson**

**[Barun Mitra]  
Member (Technical)**

**[Arun Baroka]  
Member (Technical)**

***Anjali/nn***