

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

C.O. 2696 of 2025

SONEKO MARKETING PVT. LTD.

Vs.

**THE COMMITTEE OF CREDITORS OF HINDUSTAN NATIONAL
GLASS & INDUSTRIES LTD and ANOTHER**

For the Petitioner : Mr. Joy Saha, Sr. Advocate
Mr. Aniruddha Chatterjee, Sr. Advocate
Mr. Biswaroop Bhattacharya
Mr. Arik Banerjee
Mr. Rahul Karmakar
Mr. Shaunak Mitra
Mr. Aman Agarwal
Mr. Tanish Ganeriwala
Mr. Victor Chatterjee advocates

For the Respondent no.1 : Mr. Sakya Sen, Sr. Advocate
Mr. Soummo Biswas
Mr. Deepanjan Dutta Roy
Mr. Yugal Jain
Ms. Sanjana Jha
Mr. Chetan Kumar Kabra
Ms. Ritika Sharma ...advocates

For the Respondent no.2 : Mr. Jishnu Chowdhury, Sr. Advocate
Mr. Vikram Wadehra
Ms. Sakshi Tiwari ...advocates

For Independent Sugar
Corporation Ltd.

: Mr. Krishnaraj Thakker,
Sr. Advocate
Mr. Rishav Banerjee
Ms. Pooja Chakraborty
Ms. Kiran Sharma
Mr. Sagnick Aditya ...advocates

For the Intervener

: Mr. Yadunath Bhargavan
Mr. S. R. Kakrania
Mr. T. Kakrania
Mr. S. Mukherjee ...advocates

Reserved on : 25.07.2025

Judgment on : 29.07.2025

Hiranmay Bhattacharyya, J.:-

1. This application under Article 227 of the Constitution of India is at the instance of the objector to the Plan Approval Application No. 1A (IBC) Plan/16/KB/2025 seeking a direction upon the Learned Special Bench, National Company Law Tribunal, Kolkata Bench to hear out an application being IVN. P (IBC) 25/KB/2025 and for stay of pronouncement of judgment.
2. On a petition being filed by DBS Bank Ltd., a financial creditor, Hindusthan National Glass and Industries Limited (hereinafter referred to as Corporate Debtor) was admitted to Corporate Insolvency Resolution Process (for short CIRP) vide order dated October 21, 2021 passed by the National Company Law Tribunal (for short NCLT), Kolkata Bench in CP(IB) No. 369/KB/2020. The opposite party no. 2 was appointed as Resolution Professional (for short "RP"). A Committee of Creditors (for short "CoC") was constituted in accordance with the provisions of Insolvency and Bankruptcy Code, 2016 (for short "IBC") and has been impleaded as the opposite party no. 1 herein. Pursuant to the initiation of the CIRP, the CoC issued invitations for

submission of resolution plans from prospective resolution applicants for resolution of the Corporate Debtor as a going concern.

3. Independent Sugar Corporation Ltd. (for short “INSCO”) submitted a resolution plan for taking over the Corporate Debtor. Petitioner filed an intervention application bearing IVN.P (IBC) 21/KB/2025 objecting to the resolution plan submitted by INSCO.
4. The Hon’ble Supreme Court of India in Review Petition No. 657 of 2025 arising out of Civil Appeal No. 6071 of 2023 passed an order dated May 16, 2025 directing the CoC and the Adjudicating Authority to complete the CIRP both under Sections 30(4) and 31 of IBC, 2016 within a period of six weeks from the date of passing the said order.
5. The CP (IB) No. 369/KB/2020 along with all connected IAs were pending before the NCLT, Kolkata Bench, Court No. II and the Hon’ble Judicial Member recused from hearing the said matter. Accordingly the Hon’ble President NCLT constituted a Special Bench of the NCLT, Kolkata as per Section 419(3) of the Companies Act, 2013 and the Hon’ble Members were requested to sit physically at NCLT, Kolkata (New Premises) from 03.07.2025 regularly to complete the hearing.
6. After conclusion of hearing, IVN.P (IBC)/21(KB)/2025 was reserved for orders on July 10, 2025. Other connected applications were also heard on July 10, 2025 and July 11, 2025 and the entire matter was reserved for orders on July 11, 2025. Subsequent thereto, the petitioner filed an application being IVN.P (IBC) 25/KB/2025 for bringing on record the letter dated June 30, 2025 issued by INSCO and addressed to CoC and RP.
7. The grievance of the petitioner is that the Hon’ble Members of the Special Bench of NCLT, Kolkata Bench declined to entertain the plea of the petitioner to take up the hearing of IVN.P (IBC) 25/KB/2025 on the ground that the matter has been reserved for orders.
8. Mr. Joy Saha, learned Senior advocate appearing in support of the application under Article 227 of the Constitution of India contended that after the matter was reserved for orders, petitioner could discover the letter dated June 30, 2025 issued by INSCO and addressed to CoC and RP, which was discussed in the 42nd CoC meeting held on July 14, 2025 i.e., after the matter was reserved for orders. He further contended that the RP and CoC deliberately suppressed the letter dated June 30, 2025 issued by INSCO. He submitted that from the said letter it would be evident that the Resolution Plan of INSCO dated June 8, 2025 is conditional and contingent and would

render the Resolution Plan financially unfeasible and unviable. He contended that in order to meet the ends of justice, the NCLT ought to have heard the application filed by the petitioner as there is no embargo in that regard after the matter is reserved for orders. In support of such contention he placed reliance upon the decision of the Hon'ble Supreme Court in **K.K.Velusamy vs. N. Palanisamy** reported at **(2011) 11 SCC 275**.

9. Mr. Saha also placed reliance upon a judgement of the Hon'ble High Court of Karnataka at Bengaluru dated March 14, 2018 in **W.P.No. 28749 /2015 (GM-CPC)** in the case of **Sri B.P.Virupakshamurthy vs. Smt. Anitha** in support such contention. Mr. Saha submitted that a party to a proceeding has a right to get an application heard at any time prior to pronouncement of judgment and in support of such contention he placed reliance upon a decision of the Hon'ble Delhi High Court in the case of **BDR Developers Pvt. Ltd. vs. Narsingh Shah** reported at **2021 SCC Online Del 3889**. He further contended that Rule 11 of the National Company Law Tribunal Rules, 2016 vests the NCLT with inherent powers for meeting the ends of justice. Mr. Saha concluded by submitting that a representation was made by the petitioner before the Hon'ble President NCLT praying for constitution of the Special Bench for hearing of the application filed by the petitioner but till date no steps have been taken in that regard.
10. Mr. Jishnu Chowdhury, learned Senior advocate appeared for the opposite party no. 2. He seriously disputed the submissions advanced by Mr. Saha. Mr. Chowdhury contended that the Hon'ble Supreme Court passed an order directing completion of CIRP within a period of 6 weeks. He submitted that the Hon'ble President NCLT constituted a special bench for hearing of this matter. He further submitted that the hearing commenced on and from July 3, 2025 and several interlocutory applications as well as the main matter were heard and ultimately the interlocutory applications and the main matter were reserved for orders vide order dated July 10 and 11, 2025. He contended that the petitioner filed written notes of argument annexing the said letter dated June 30, 2025. He further submitted that in the written notes of argument the petitioner has raised the issue of the letter dated June 30, 2025 and, therefore, the petitioner is not entitled to another opportunity of being heard after the matter has been reserved for orders. He contended that a party cannot claim a right to be heard after the matter has been reserved for orders. In support of such contention he placed reliance upon the decision of the Hon'ble Supreme Court in the case of **Arjun Singh vs. Mohindra Kumar & Ors.** reported at **AIR 1964 SC 993**. By referring to the provisions of Section 424 of the Companies Act, 2013, Mr. Choudhury contended that the NCLT shall not be bound by the procedure laid down in

the Code of Civil Procedure but shall be guided by the principles of natural justice.

11. Mr. Thakkar appeared for INSCO and placed reliance upon the decision of the Hon'ble Supreme Court in the case of ***The Chairman, Board of Mining Examination and Chief Inspector of Mines & Anr. Vs. Ramjee*** reported at **(1977) 2 SCC 256** in support of his contention that principles of natural justice cannot be said to have been violated in the instant case as the petitioner was heard and thereafter the matter was reserved for orders. Mr. Thakkar placed reliance upon the judgment passed by the National Company Law Appellate Tribunal in the case of ***Loramitra Rath vs. JM Financial Asset Reconstruction Co. Ltd.*** reported at **2023 SCC Online NCLAT 2168** in support of his contention that subsequent pleadings after the judgement is reserved should not be entertained.
12. Mr. Sakya Sen, learned Senior Advocate appeared for the opposite party no. 1. He contended that the petitioner was afforded adequate opportunity of hearing. He contended that the petitioner in their Written Notes of Argument has raised the issues relating to the letter dated June 30, 2025 and the petitioner cannot claim a right of hearing of the application filed after the matter is reserved for order.
13. Heard Mr. Bhargavan learned advocate for the Intervenor.
14. Heard the learned advocates for the parties and perused the materials placed.
15. The Hon'ble Special Bench constituted by the Hon'ble President NCLT started the hearing of the main matter and the interlocutory applications on July 3, 2025. The hearing of the application filed by the petitioner being IVN.P (IBC) 21/KB/2025 along with other interlocutory applications were heard and reserved for orders on July 10 and 11, 2025. After the matter was reserved for orders, petitioner filed an application being IVN.P (IBC) 25/KB/2025 for bringing on record the letter dated June 30, 2025 issued by INSCO and addressed to CoC and RP.
16. The issue that arises for consideration is whether denial of an opportunity to get an application, filed after the main matter has been reserved for orders, heard, caused any serious miscarriage of justice to the petitioner.
17. In exercise of the powers conferred by Section 469 of the Companies Act, 2016, the Central Government made the National Company Law Tribunal Rules, 2016. (for short "the 2016 Rules")

18. Part XIX of the 2016 Rules deals with disposal of cases and pronouncement of orders. Part XIX starts with Rule 146 which deals with disposal of cases. It states that on receipt of an application, petition appeal etc. the Tribunal, after giving the parties a reasonable opportunity of being heard, pass such orders thereon as it thinks fit.
19. Proviso thereto states that the Tribunal, after considering an appeal, may summarily dismiss the same, for reasons to be recorded, if the Tribunal is of the opinion that there are no sufficient grounds for proceeding therewith.
20. Therefore, Rule 146 casts an obligation upon the NCLT to pass such orders as it thinks fit after giving the parties a reasonable opportunity of being heard. Tribunal also has been vested with the power to dismiss the appeal summarily.
21. Rule 150 deals with pronouncement of order. Sub-rule (1) of Rule 150 lays down that the Tribunal after hearing the applicant and respondent, shall make and pronounce an order either at once or as soon as thereafter as may be practicable but not later than thirty days from the final hearing.
22. Rule 150(1) enables the Tribunal to make and pronounce an order at once or after an interval after conclusion of hearing.
23. Section 424 of the Companies Act, 2013 lays down the procedure to be followed by the Tribunal and the Appellate Tribunal. Section 424(1) lays down that the Tribunal shall not, while disposing of any proceeding before it, be bound by the procedure laid down in the Code of Civil Procedure but shall be guided by the principles of natural justice and subject to the other provisions of the Companies Act or IBC, 2016 and of any rules made thereunder and the Tribunal shall have power to regulate their own procedure.
24. However, with regard to the matters falling under Clauses (a) to (h) of Section 424(2), the Tribunal shall have the same powers as are vested in a civil court.
25. When once the final hearing starts, if the same cannot be concluded on that date, the hearing is adjourned to a future date. The next stage is that the hearing is completed. Upon conclusion of hearing it is only for the convenience of the Tribunal that Rule 150(1) permits making and pronouncement of order after an interval after the conclusion of hearing.
26. Three Hon'ble Judges of the Supreme Court of India in **Arjun Singh (supra)** observed that once the hearing starts the Civil Procedure Code contemplates

only two stages in the trial of the suit: (1) where the hearing is adjourned or (2) where the hearing is completed.

27. The Hon'ble Supreme Court thereafter held that where the hearing is completed, the parties have no further rights or privileges in the matter and it is only for the convenience of the Court that Order XX Rule 1 permits judgment to be delivered after interval after the hearing is completed.
28. This Court has already observed that Rule 150(1) also permits the Tribunal to make and pronounce order at an interval after conclusion of hearing. Thus, by applying the proposition of law laid down in **Arjun Singh (supra)**, this Court holds that a party cannot claim any right to have an application, filed after the matter is reserved for order, heard by the Tribunal (NCLT).
29. An issue fell for consideration before the Hon'ble Rajasthan High Court in the case of **Rajasthan Financial Corporation vs. Pukhraj Jain and Others** reported at **AIR 2001 Raj 71** whether a party could move an application after the final arguments in the case were heard and the case was reserved for judgment. It was held that the parties cannot move any application as there is no stage in between closure of the case for pronouncement of judgment and actual pronouncement of judgment.
30. In **Loramitra Rath (supra)**, the NCLAT applied the proposition of law laid down in **Arjun Singh (supra)** and **Rajasthan Financial Corporation (supra)** and held that when a matter is reserved for orders there is no scope for entertaining application from parties to rehear the matter.
31. Mr. Saha placed strong reliance upon the decision in **K.K.Velusamy (supra)** more particularly paragraph 15 thereof in support of his contention that there is no strait jacket formula that no application should be entertained after the case is reserved for judgment.
32. In **K.K. Velusamy (supra)** when the arguments were in progress, two applications were filed- one under Section 151 of the Code with a prayer to reopen the evidence for cross examination of PW-1 and PW-2 and the other under Order 18 Rule 17 of the Code for recalling PW1 and PW2 for further cross examination.
33. The issue that fell for consideration in **K.K.Velusamy (supra)** was whether once the arguments are commenced, there could be reopening of evidence or recalling of any witness.
34. While deciding such issue the Hon'ble Supreme Court after noticing that the provision in Order 18 Rule 17A stood deleted with effect from 01.07.2002

held that if there is a time gap between completion of evidence and hearing of arguments and if in the interregnum, a party comes across some evidence which he could not lay his hands on earlier or some evidence in regard to the conduct or action of the other party comes into existence, the Court may in exercise of its inherent power under Section 151 of the Code, permit the production of such evidence if it is relevant and necessary in the interest of justice, subject to such terms as the Court may deem fit to impose.

35. The said decision is distinguishable on facts as in the case on hand the application for bringing on record a document was filed after the matter was reserved for orders and not when the arguments were in progress.
36. In ***Bagai Construction vs. Gupta Building Material Store*** reported at **(2013) 14 SCC 1**, after the arguments were concluded and the matter was adjourned for judgment, two applications one under Order 7 Rule 14 read with Section 151 of the Code for placing on record certain documents and the other under Order 18 Rule 17 read with Section 151 of the Code seeking permission to recall a witness were filed.
37. In ***Bagai Construction (supra)***, the Hon'ble Supreme Court noticed the word of caution expressed in paragraph 19 of K.K. Velusamy case and observed that when final arguments were heard and the judgment was reserved and only thereafter, in order to improve its case, a party comes forward with such applications to avoid the final judgment against it, such course is not permissible even with the aid of Section 151 of the Code of Civil Procedure.
38. The Hon'ble Supreme Court further observed that after change of various provisions by way of amendment in the Code of Civil Procedure, it is desirable that the recording of evidence should be continuous and followed by arguments and decisions thereon within a reasonable time and the Courts should constantly endeavor to follow such a time schedule.
39. ***Bagai Construction (supra)*** laid down a proposition of law that even in aid of Section 151 of the Code, it is not permissible to file an application for bringing on record certain documents.
40. At this stage it would be relevant to note that Rule 11 of the 2016 Rules also recognizes the inherent powers of the Tribunal to make such orders as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Tribunal. Such power is akin to the inherent powers of the Court under Section 151 of the Code.

41. By applying the proposition of law laid down in ***Bagai Construction*** (supra), this Court is of the considered view that Rule 11 of the 2016 Rules cannot come to the aid of the petitioner to file and have an application for bringing on record certain documents heard by the NCLT after the matter is reserved as for orders.
42. Turning back to the facts of the case on hand, this Court finds that the petitioner filed its Written Notes of Argument on 09.07.2025 as well as Additional Notes of Argument. It is evident from the materials on record that the letter dated 30.06.2025 has been annexed to the Written Notes of Argument filed by the petitioner.
43. The Hon'ble Supreme Court by an order dated May 16, 2025, directed the Adjudicating Authority to complete CIRP within six weeks from the date of such order. The Special Bench of NCLT, Kolkata Bench was constituted for deciding the instant matter and hearing was conducted on and from July 3, 2025 and ultimately the matter was reserved for orders on July 10 and 11, 2025. Rule 150(1) also casts an obligation upon the Tribunal to make and pronounce the order not later than 30 days from the final hearing.
44. In view of the aforesaid discussion, to the mind of this Court, the Tribunal has to follow a time schedule. That apart, the Tribunal is guided by the principles of natural justice.
45. In ***Ramjee (supra)*** it has been held that natural justice is no unruly horse, no lurking land mine nor a judicial cure-all. From the facts and circumstances of the case on hand no breach of natural justice can be complained of.
46. The question that fell for consideration ***in BDR Developers Pvt. Ltd. (supra)*** was whether the application under Order VI Rule 17 of the Code of Civil Procedure could have been filed after the learned Trial Court had heard arguments on the application under Order XII Rule 6 of the Code.
47. The Hon'ble Delhi High Court observed that given the nature of the powers vested in the Court under Order XII Rule 6 while a decision thereon may be treated as a "judgment" for the purpose of entertaining an appeal under the Letter Patent, at the stage when the case is reserved for orders, it is still at a stage that would be at best intermediate. It could lead to the conclusion of the suit on account of complete determination of the rights of the parties on the basis of admission and decree would follow. It could equally result in the continuation of the suit wholly or in part on account of rejection of the application seeking judgment on the basis of admission. Therefore, it was

held that there was nothing to preclude the learned Trial Court from hearing the application under Order VI Rule 17 of the Code which was filed even after hearing of the application under Order XII Rule 6 of the Code was concluded.

48. In the case on hand, the stage when the matter was reserved for order cannot be said to be an intermediate stage. For such reason, the decision in the case of BDR Developers Pvt. Limited cannot be applicable to the case on hand.
49. In **B.P. Virupakshamurthy** (supra) an application for appointment of Court Commissioner was filed when the suit was fully heard, reserved for judgment and later listed for clarification. Thus, it appears that the matter was again listed for clarification when the application for appointment of Commissioner was filed. The said decision being distinguishable on facts cannot come to the aid of the petitioner in the case on hand.
50. In view of the aforesaid discussion, this Court is of the considered view that the decision in the case of **Arjun Singh (supra)** shall squarely apply to the case on hand wherein it has been held that there is no hiatus between the two stages of reservation of judgment and pronouncement of judgment.
51. This Court, therefore, holds that the petitioner cannot claim any right to have the application for bringing on record the letter dated June 30, 2025, filed after the matter was reserved for orders, heard prior to making and pronouncing the order by NCLT. To the mind of this Court no miscarriage of justice can be said to have been caused to the petitioner.
52. At this stage it would be beneficial to take note of the observations of the Hon'ble Supreme Court of India in **Mohammed Enterprises (Tanzania) Ltd. (supra)** that IBC is a complete code in itself, having sufficient checks and balances, remedial avenues and appeals and unjustified interference with proceedings initiated under IBC, 2016 in exercise of the supervisory and judicial review powers vested in the High Courts breaches the discipline in law.
53. It, therefore, follows that the High Courts should be slow in interfering with the proceeding under IBC, 2016 and only in exceptional cases the High Courts can interfere. The petitioner herein failed to make out any case that interference is necessary for meeting the ends of justice.
54. For all the reasons as aforesaid, this Court is not inclined to grant any relief to the petitioner.

55. Accordingly, CO 2696 of 2025 stands dismissed without, however, any order as to costs.
56. Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)