

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

COURT – IV

35.

**IA 1710(MB)2024 IN
C.P. (IB)/884(MB)2023**

CORAM:

MS. ANU JAGMOHAN SINGH
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **29.04.2024**

NAME OF THE PARTIES:

Yes Bank Limited

Vs

Indrajit Power Private Limited

SECTION: 7, 60(5) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

1. Ms. Ankita Singhania, a/w Mr. Biswadeep Chakrawarty, Ld. Counsel for the Applicant present.
2. **IA 1710(MB)2024:** This is an application filed for seeking following reliefs:
 - a. This Hon'ble Tribunal be pleased to pass an order and direction restraining Respondent No.2 from encashing the Performance Bank Guarantee dated December 18, 2020;
 - b. This Hon'ble Tribunal be pleased to pass an order and direction restraining Respondent No.2 from acting on the invocation letters dated April 05, 2024, and April 10, 2024, issued by Respondent No. 1;
 - c. This Hon'ble Tribunal be pleased to pass an order quashing the invocation notices issued by Respondent No.1 for the appropriation of an amount of Rs. 7,38, 37,440/- under the PBG;
3. The Counsel for the Applicant submits that the scrutiny committee in its 20th meeting on 27 July, 2023, decided to go by its decision taken in the

earlier meeting in November, 2023 wherein they have recommended for invocation of PBG.

4. This bench is taken a view that by virtue of section 14 of the IBC code, 2016, there is no bar on encashment of PBG during moratorium. The Letter issued by Respondent No.1 (Nominated Authority) on April 05, 2024 and April 10, 2024 to Respondent No.2 calling upon them to encash the PBG is valid and in accordance with provisions of IBC. Hence, this bench is not inclined to interfere in the matter. Hence, the restraint order passed on 17.04.2024 is **vacated**. Accordingly, with the above directions Application, IA-1710(MB)2024 is hereby **allowed and disposed of**.

Sd/-
ANU JAGMOHAN SINGH
Member (Technical)

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)