

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1  
VC AND PHYSICAL (HYBRID) MODE  
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON  
05-07-2024 AT 10:30 AM**

**CP(IB) No.299/7/HDB/2018  
AND  
IA (IBC) 308/2024 & IA (IBC) 1394/2024 in IA (IBC) 308/2024 in  
CP(IB) No.299/7/HDB/2018  
u/s. 7 of IBC, 2016**

**IN THE MATTER OF:**

Punjab National Bank  
(erstwhile Oriental Bank of Commerce)

**...Financial Creditor**

**AND**

NCS Sugars Ltd

**...Corporate Debtor**

**C O R A M:-**

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)  
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

**ORDER**

**IA (IBC) 308/2024**

Learned Counsel Mr. Y.Suryanarayana for the Applicant, Learned Senior Counsel Mr.Srinivas Iyngar for Respondent No.3 and Learned Sr Counsel Mr. Dammapati Srinivas and Ms. G.Sri Ranga Pujitha for Respondent No.5 present. Ld. Sr. Counsels at the outset have invited our attention to the order of the Hon'ble Supreme Court of India dated 02.04.2024 in the matter of *National Spot Exchange Limited Vs. Union of India*, more particularly to the legal issues framed by the Hon'ble Supreme Court and particularly focused on issue No.2 which is as below:

“ ...

*(ii) whether the properties of the Judgment Debtors and Garnishees attached under the provisions of MPID Act, 1999 would be available for the execution of the decrees against Judgment Debtors in view of the Provision of Moratorium under Section 14 of the IBC, 2016; (In view of the Order dated 08.01.2024 passed by the Committee)”*

Having thus brought to our attention to the above legal issues framed by Hon’ble Supreme Court, learned Senior Counsels in chorus have submitted that in the issue framed by the Hon’ble Supreme Court squarely takes in its fold the contention raised by the Applicant herein as regards the enforcement of moratorium imposed under section 14 of the Insolvency and Bankruptcy Code, as against the order of attachment passed under MPID Act and affected during the moratorium besides the contention that the provisions of Insolvency and Bankruptcy Code, 2016 would prevail over the MPID Act.

Therefore, according to the Learned Senior Counsels when Hon’ble Supreme Court of India, is seized of the very same issue it would not be proper for this Tribunal to embark upon the enquiry relating to the very same issue through the present proceedings.

Learned Counsels also submitted that this Applicant despite being a party to the proceedings before the Hon’ble Supreme Court, supra, have suppressed the same and the copy of which is now filed by the Respondents. Thus, contending Learned Sr Counsels prayed for vacating the order restraining alienation by the Respondents passed by this Tribunal.

However, Learned Counsel Mr.Y.Suryanarayana for the Applicant at the outset contended that the issues framed by the Hon’ble Supreme Court has no bearing on the issue involved in the present proceedings. According to the Ld. Counsel, the issues framed by the Hon’ble Supreme Court are in respect of remedies available for execution of the decree against the Judgment Debtor during the period of moratorium imposed under section 14 of IB Code, and not

in respect of an order of attachment made by the competent authority under the MPID Act during moratorium.

Learned Counsel further submits that even assuming that the issue before this Tribunal and the one covered by the order of the Hon'ble Supreme Court referred supra being same yet, since the issues are yet to be answered by the Hon'ble Supreme Court, there is no bar for this Tribunal to proceed with. Learned Counsel also submits that the cause of action for this application and the one relating to the proceedings before Hon'ble Supreme Court being different, this Tribunal can still make enquiry on the aspect whether or not Section 14 of Insolvency and Bankruptcy Code, 2016 applies to the order of attachment made by the competent authority MPID Act. Let both sides file brief submissions by 08.07.2024. **For orders call on maintainability 09.07.2024.**

**IA (IBC) 1394/2024 in IA (IBC) 308/2024**

Call on 09.07.2024.

**Sd/-**  
**MEMBER (T)**

**Sd/-**  
**MEMBER (J)**