

**NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT-II)**

**Contempt Petition No. 10/2022**  
**IN**  
**Company Petition No. (IB)-194(ND)/2017**

**IN THE MATTER OF:**

**State Bank of India** ... **Petitioner/Financial Creditor**

**Versus**

**Garg Inox Limited** ... **Respondent /Corporate Debtor**

**AND IN THE MATTER OF Contempt Petition No. 10/2022:**

**Mr. Suresh Garg**

S/o Sh. Dyal Chand Garg  
R/o 3/29, East Punjabi Bagh,  
New Delhi

... **Petitioner**

**VERSUS**

**1. State Bank of India**

Through its Managing Director  
Stressed Assets Management Branch,  
1<sup>st</sup> Floor, Local Head Office,  
Sector 17-A, Chandigarh - 160017

... **Respondent No. 1**

**2. Bansal High Carbons Private Limited**

Successful Resolution Applicant

... **Respondent No. 2**

**3. Mr. Sanjay Gupta**

Chairman Monitoring Agency  
M/s. Garg Inox Limited,  
Also, the Erstwhile Resolution Professional  
M/s. Garg Inox Limited

Office at:

AAA Insolvency LLP  
E-10A, Kailash Colony  
New Delhi – 110048

... **Respondent No. 3**

**Order Delivered on: 14.03.2023**

**SECTION: Rule 11 of NCLT, 2016 r/w Section 425 of Companies Act**

**CORAM:**

**SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)**

**SH. L. N. GUPTA, HON'BLE MEMBER (T)**

**PRESENT:**

**For the Applicant** : Adv. Aditya Gauri, Adv. Shalya Agarwal  
**For the Liquidator** : Adv. PBA Srinivasan, Adv. V Aravind,  
Adv. Prerna Sabharwal, Adv. Sumit Swami

**ORDER**

**PER: SHRI. ASHOK KUMAR BHARDWAJ, MEMBER (J)**

The salient contention espoused in the captioned petition is, "When in terms of the order dated 04.12.2018, this Tribunal approved a Resolution Plan, accepted by the Respondent No.1, discharging the Guarantors including Petitioners herein, whether the invocation of personal guarantee by the said Respondent against the Petitioner amounts to wilful disobedience of the order dated 04.12.2018 and constitute Contempt of Court." To buttress the plea (ibid), the Ld. Counsel for the Petitioner referred to para 4 and 39 of the aforementioned order. Apparently, in para 4 of the purported copy of the order, there is a mention that the One Time Settlement (OTS) proposal given by the Personal Guarantor was accepted by the Respondent No.1 in discharging the guarantors of their obligation, but as could be seen from the copy of the original order, available in the record of this Tribunal, the proposal to discharge the guarantors of their obligation was not accepted by the Respondent No.1. Indubitably, there was a clerical mistake in para 4 of the

order, of which the disobedience has been alleged by the Petitioner, but subsequently in terms of the order dated 01.02.2019 passed in CA-64/2019, the mistake was rectified and the word, “not” was inserted after the word same, in the sixth line of para 4 of the order. After the order dated 04.12.2018 was passed, the Respondent No.1 i.e., State Bank of India preferred CA No. 64(ND)/2018, stating therein, “the OTS of INR 1.5 crore proposed by the Personal Guarantors of the Corporate Debtor to be paid in lump sum to the State Bank of India in full discharge of their liability due as Guarantors for the loan availed by the Corporate Debtor was not accepted by the State Bank of India”. Having submitted so, the Respondent No.1 sought rectification of the clerical error in the order dated 04.12.2018 (ibid). The CA was allowed in terms of the order dated 01.02.2019 and the error was rectified. As can be seen from para 20-23 of the Contempt Petition the foundation of the plea espoused by the Petitioner is that while passing the order dated 01.02.2019, this Tribunal had not made any change in Clause 4 (e) of the Resolution Plan, in terms of which the property of both the Personal Guarantor and Corporate Debtor were released. We are afraid that the plea advanced by the Ld. Counsel for the Petitioner is acceptable. The order dated 01.02.2019 does not indicate that any of the plea raised by the Respondent No.1 regarding rectification of error was nixed in any manner. A careful perusal of the Clause (e) of para 4 of the plan reveals that on receipt of the offer amount, all collateral/primary security and guarantee with State Bank of India or AFBL were to be released. As it may, the approval of the Resolution Plan creates rights and privileges in favour of the Resolution Applicant which in the present case is, “Bansal High Carbons Pvt. Ltd. (BHCPL)”. The expression in Clause 4 (e) of the Plan is

general and not specific qua the Petitioner in the Contempt Petition. Moreover, it is not so that this Tribunal issued any specific direction to the Respondents directing them not to invoke personal guarantee against the Petitioner, rather when it came to clarification, this Tribunal unequivocally clarified that the proposal by the Personal Guarantors was not accepted by the State Bank of India i.e. the Respondent No.1. It is *stare-decisis* that it is only a wilful disobedience of a court order, which constitutes Contempt of Court. In the present case, we do not find any direction issued by this Tribunal to either of the Respondents, not to invoke the personal guarantee against the Petitioner. Making roving inquiry and resorting to interpretation to determine and find out the right of any individual/party is not the scope of contempt proceedings. One can be said to have disobeyed an order, wilfully, only when there is an unambiguous direction given by the Court/Tribunal, flouted by him. As has been analysed hereinabove, there is no such case espoused before us in the present proceedings. Thus, the present Contempt Petition is found devoid of merits and is accordingly dismissed. **No order as to cost.**

**Sd/-**

**(L. N. GUPTA)  
MEMBER (T)**

**Sd/-**

**(ASHOK KUMAR BHARDWAJ)  
MEMBER (J)**