



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

IBC Case Law Capsule

Number 271

(April 13, 2026)

Q Top Fab Engineering Pvt. Ltd. Vs. Punjab National Bank and Anr.

C.P.(IB)No. 47/(AHM)/2023

Date of NCLT's Judgement: 06th April 2026

Facts of the Case: -

The present Company Petition before the Adjudicating Authority/NCLT, Ahmedabad Bench, arose from an application filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 ("IBC/the Code") by Q Top Fab Engineering Pvt. Ltd. ("Corporate Applicant/CD"), seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against itself. The Corporate Applicant, engaged in the business of manufacturing fabricated metal products, asserted that it had been facing acute financial distress and liquidity constraints, resulting in its inability to service outstanding debts and consequent default in repayment of its financial obligations.

The Corporate Applicant submitted that it had availed various credit facilities from Punjab National Bank and other lenders ("Financial Creditors"), and due to continued financial stress, it defaulted in repayment of dues. It further stated that recovery actions had been initiated by financial creditors, including issuance of demand notices and proceedings under the SARFAESI Act and before the Debts Recovery Tribunal. The existence of financial debt and occurrence of default were not seriously disputed, and the material on record indicated subsisting liabilities owed by the Corporate Applicant.

The financial creditors opposed the petition, contending that the application was defective and lacks essential particulars such as a specific and verifiable date of default. It was further argued that the petition had been filed after initiation of recovery proceedings under SARFAESI and DRT with the ulterior motive of stalling such proceedings, and that the Corporate Applicant had failed to furnish complete financial statements, records, and other material documents as mandated under the Code.

The Corporate Applicant, in response, maintained that pendency of SARFAESI and DRT proceedings does not bar initiation of CIRP and asserted substantial compliance with the requirements under Section 10(3) of the Code. It contended that the application was filed bona fide in view of financial distress caused due to business downturn including Covid-19 impact. The Applicant also submitted that the objective of the petition was resolution of insolvency and revival of the company as a going concern.



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NCLT's Observations:

The Adjudicating Authority examined the maintainability of the application filed under Section 10 of crucial question that arises for consideration is whether the present Petition has been filed as a genuine attempt to resolve insolvency or as a tactical device to stall the recovery proceedings initiated by the financial creditors. The Tribunal noted that such requirements are mandatory in nature and go to the root of the maintainability of the application.

On facts, the Adjudicating Authority recorded that the Corporate Applicant had failed to disclose a clear and specific date of default and had not placed complete and proper financial documents on record. It observed that the documents submitted were not sufficient to establish the existence of default in the manner contemplated under the Code. The Tribunal further noted that there were inconsistencies and deficiencies in the financial disclosures, thereby raising serious concerns regarding the accuracy and completeness of the petition.

The Adjudicating Authority also took note of the financial position and operational status of the Corporate Applicant and observed that the company did not have any substantial inventory and had ceased its business activities for a considerable period prior to filing of the application. It recorded that there was no material to indicate ongoing operations, thereby casting doubt on the viability of the Corporate Applicant as a going concern. These factors were considered relevant in assessing the bona fides of the application.

Further, the Tribunal considered the contention that the application had been filed after initiation of recovery proceedings under SARFAESI and before the Debts Recovery Tribunal. While observing that pendency of such proceedings is not a bar to initiation of CIRP, it held that the timing and surrounding circumstances indicated that the present application was filed to stall recovery actions rather than for genuine resolution of insolvency.

Order/Judgement: Considering the facts and circumstances of the case as highlighted above, the Adjudicating Authority held that the Corporate Applicant had not complied with the mandatory requirements of Section 10 and was filed with the dominant intent to stall the SARFAESI and DRT proceedings.

Case Review: *CIRP Application dismissed.*