



WP(C) NO. 25401 OF 2026

2026:KER:55642

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

FRIDAY, THE 24TH DAY OF JULY 2026 / 2ND SRAVANA, 1948

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PETITIONER:

**UNION BANK OF INDIA
239, VIDHAN BHAVAN MARG NARIMAN POINT,
MUMBAI - 400 021 AND ALSO AT UNION BANK OF INDIA
TC 38/438-2, GOURI PLAZA NEAR CHENTHITTA
JUNCTION CHALAI P.O.,
THIRUVANANTHAPURAM - 695 036
REPRESENTED BY ITS CHIEF MANAGER/AUTHORISED
OFFICER BIMAL SUKUMAR A,
ASSET RECOVERY BRANCH GROUND FLOOR,
VETTEEL CHAMBERS, RAVIPURAM M.G. ROAD,
ERNAKULAM, PIN - 682016**

**BY ADVS.
SHRI.ASP.KURUP
SRI.SADCHITH.P.KURUP**

RESPONDENT:

**M/S. AIR TRAVEL ENTERPRISES INDIA LIMITED
1 ST FLOOR,
NEW CORPORATION BUILDING,
PALAYAM, THIRUVANANTHAPURAM,
REP. BY ITS RESOLUTION PROFESSIONAL
SRI. R RAJMOHAN, PIN - 695033**

CNR : KLHC010551962026

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OTHER PRESENT:

SRI. VENUGOPAL FOR R1

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 24.07.2026, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

**JUDGMENT**

The petitioner is a nationalized bank. It extended credit facilities to a company. Since the company defaulted payment of the arrears to the petitioner bank, petitioner instituted proceedings under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for short 'the IBC') against the corporate guarantor respondent herein. Subsequently, a settlement was arrived at between the petitioner bank and the Corporate debtor/guarantor. The liabilities payable to the petitioner have been settled also under OTS. This is not in dispute. In view of the settlement as above, the petitioner sought for withdrawing the petition filed before the National Company Law Tribunal, Kochi Bench (Tribunal) by submitting Ext.P3 application. It may straight away be noticed that Ext.P3 is an application presented under the provisions of Rule 11 of the National Company Law Tribunal Rules, 2016 (for short 'NCLT Rules').

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2. The application filed as above numbered as I.A. (IBC)/313/KOB/2026 was posted for hearing before the Tribunal. The Tribunal noticed that in the application seeking for withdrawal filed – Ext.P3 - there were various mistakes even in the cause title. The respondent, who was not a party to the application at Ext.P3 also had to appear before the Tribunal. The Tribunal further noticed that the application ought to have been presented with reference to the specific provisions under Section 12A of the IBC and not with reference to the general provisions under the NCLT Rules. The Tribunal again noticed that the application has been presented for seeking to withdraw the petition, without placing the afore proposal before the COC (Committee of Creditors), as provided under the provisions of IBC. Essentially on account of afore three errors/mistakes, the Tribunal thought it fit to reject the application at Ext.P3, by Ext.P4 order dated 21.07.2026. It



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is seeking to challenge Ext.P4 order that the captioned writ petition has been presented by the petitioner.

3. Sri.Sadchith P. Kurup, the learned counsel for the petitioner would fairly point out that the challenge in this writ petition though styled as a challenge against Ext.P4, is limited only to certain observations made in paragraphs 5, 14 to 17, including the levy of a cost of Rs.1 lakh, on account of the mistakes pointed out as above.

4. I have also heard Sri.A.C.Venugopal, learned counsel for the respondent herein.

5. As already noticed, the challenge in this writ petition is only limited to the observations contained in paragraphs 5 and 14 to 17 in Ext.P4 order. For ease of reference, the afore paragraphs are extracted hereunder;

“ 5. We have carefully considered the pleadings and the documents placed on record. At the very outset, this Adjudicating Authority is constrained to observe that the present Application has been drafted in a wholly casual, contradictory and careless manner. The Application has been preferred under Rule 11 of

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the National Company Law Tribunal Rules, 2016, seeking withdrawal of the proceedings, without disclosing the correct statutory provision governing such withdrawal or the factual foundation necessary for invoking the jurisdiction of this Adjudicating Authority.

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14. It is also a matter of serious concern that the Application has been filed by a nationalised bank, which is expected to act with due diligence and to ensure that pleadings placed before a judicial forum are accurate, complete and legally sustainable. Financial institutions maintain dedicated legal departments and engage legal professionals for conducting litigation. In such circumstances, the filing of such applications reflects a disturbing lack of diligence and responsibility. Such a casual approach unnecessarily consumes judicial time and cannot be countenanced.

15. Judicial proceedings under the Insolvency and Bankruptcy Code are intended to be conducted in a time-bound and disciplined manner. Applications filed without due care, containing material inconsistencies and omitting essential statutory particulars, impede the effective administration of justice. This Adjudicating Authority expects all litigants, particularly institutional creditors, to exercise a far higher degree of diligence while invoking the jurisdiction of this Adjudicating Authority.

16. In view of the foregoing discussion, IN CP(IB)/33/KOB/2023 is dismissed with costs of Rs. (Rupees One Lakh only), payable by the Applicant to the National Defence Fund within five (5) days from the date of this Order. The Applicant shall place on



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record, in the main Company Petition, a compliance memo along with proof of payment within five (5) days thereafter.

17. It is further clarified that the aforesaid costs are imposed personally upon the Applicant/FinancialCreditor for filing the present Application in a wholly casual and legally unsustainable manner. Under no circumstances shall the said amount be recovered, directly or indirectly, from the Corporate Debtor, any Personal Guarantor, or any other stakeholder connected with the orate Insolvency Resolution Process. The Applicant shall bear the said costs from its own funds without passing on the burden to any other person or entity."

6. As noticed earlier, the petitioner has submitted Ext.P3 application seeking for withdrawal of the proceedings before the Tribunal. True, the petitioner ought to have presented the application with reference to the specific provisions under Section 12A of IBC and the application was presented under the general powers of the Tribunal under the NCLT Rules. It is further true that the afore matter was not placed before the COC. It is also to be noticed that there was certain clerical errors with respect



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to the application filed, on account of which a person against whom there was no prayer was also shown as a respondent. The said person also had to appear before the Tribunal on account of it.

7. However, in my opinion, the Tribunal ought to have noticed that if there were errors or mistakes in an application being filed before it, it was incumbent on the part of the Registry of the NCLT to have noticed the same, and informed the applicant. Even the Bench had a duty to point out this and seek for rectification of mistakes / errors in the filing as well as the presentation of the application. Without proceeding on that basis, the NCLT has proceeded to reject the petition filed at Ext.P3. Though I do not find any illegality as regards the rejection of the application at Ext.P3 for the reasons highlighted in Ext.P4, I notice that certain observations as regards filing of the application, on account of the mistakes as above, have been made in

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paragraphs 14 to 17 of Ext.P4. The Tribunal has also went to the extent of imposing an exemplary cost of Rs.1 lakh on the applicant before it - the petitioner. The fact that the petitioner is a nationalized bank is not in dispute. The Tribunal ought to have taken that into consideration.

In view of the afore, I am of the opinion that this writ petition requires to be allowed. Therefore, this writ petition would stand allowed, by expunging the observations contained in paragraphs 5 and 14 to 17. It is also made clear that the petitioner would not be required to make deposit of the cost of Rs.1 lakh, imposed by the Tribunal.

Sd/-**HARISANKAR V. MENON
JUDGE**

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APPENDIX OF WP(C) NO. 25401 OF 2026

PETITIONER EXHIBITS :

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|-------------------|---|
| EXHIBIT P1 | A TRUE COPY OF THE APPLICATION NO. CP(IBC)/33/KOB/2023 DATED 18.7.2023 FILED BY THE PETITIONER BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, KOCHI BENCH WITHOUT ANNEXURES |
| EXHIBIT P2 | A TRUE COPY OF THE ORDER DATED 22.12.2023 PASSED BY THE NATIONAL COMPANY LAW TRIBUNAL, KOCHI BENCH IN CP(IBC)/33/KOB/2023 |
| EXHIBIT P3 | A TRUE COPY OF THE IA(IBC)/313/KOB/2026 DATED 14.7.2026 FILED BY THE PETITIONER IN CP(IB)/33/KOB/2023 |
| EXHIBIT P4 | A TRUE COPY OF THE ORDER DATED 21.7.2026 PASSED BY THE NATIONAL COMPANY LAW TRIBUNAL IN IA(IBC)/313/KOB/2026 IN CP(IB)/33/KOB/2023 |

// True Copy // PA To Judge