IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.304

IA/997(AHM)2023 in CP(IB) 38 of 2020

Proceedings under Section 60(5) IBC,2016 r.w Rule 11 of NCLT rules,2016

IN THE MATTER OF:

Oldenburgische Landesbank AG **.....Applicant**
V/s
Satyendra P Khorania RP of Sumeet Industries Ltd **.....Respondent**

Order delivered on: 18/11/2026

Coram:
Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet

-SD-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

-SD-

CHITRA HANKARE
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL

AHMEDABAD (COURT - II)

IA No. 997 of 2023
In
CP(IB) No. 38 of 2020

(An Application filed under Section 60(5) readwith Rule 11 of the National Company Law Tribunal Rules 2016)

IN THE MATTER OF:

Oldenburgische Landesbank AG
(with which Bremer Kreditbank AG,
formerly known as KBC Bank Deutschland AG, merged),
a company incorporated under German laws
having its registered office
at Stau 15/17, 26122 Oldenburg, Germany

... Applicant

Versus

Mr. Satyendra P.Khorania
Resolution Profession of
Sumeet Industries Limited
402, 4th Floor, OK Plus DP Metro,
Opp. Pillar No. 94, New Sanganer Road,
Jaipur, Rajasthan, 302042 **.... Respondent No.1**

Bank of Baroda
Baroda House, Mandvi,
Baroda-390001. **... Respondent No. 2**

Canara Bank
Head Office No. 112, JC Road,
Bangalore, Karnataka, 560002. **... Respondent No. 3**

Central Bank of India

Chander Mukhi, Nariman Point,
Mumbai 400 021. **...Respondent No. 4**

IDBI Bank Limited
IDBI Tower, WTC Complex, Cuffe Parade,
Colaba, Mumbai 400005. **...Respondent No. 5**

Union Bank of India
Union Bank Bhavan, 239,
Vidhan Bhavan Marg,
Nariman Point, Mumbai-400 021,
Maharashtra, India **... Respondent No. 6**

Order pronounced on 18.11.2026

Coram:

MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)

MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)

Present:

For the Applicant : Ms. Megha Jani, Sr. Adv,
Mr. Siddharth Sinha, Adv,
Mr. Bijal Chhatrapati, Adv,
Mr. Varghese Thomas, Adv,
Ms. Fatema Kachwalla, Adv,
Mr. Arvind Parikh, Adv and
Mr. Dishay Chitalia, Adv.

For the Respondent : Mr. Anmol Vyas, Adv,
Mr. Abhishek Purohit, Adv and
Mr. Bajrang Singh, Adv. (for R-1)
Mr. Jaimin Dave, Adv. (for R-2)

JUDGEMENT

1. The present matter was adjudicated and rejected by this Tribunal vide order dated 05.04.2024. However appeal was filed before Hon'ble NCLAT and it was remanded back to this Tribunal vide order dated 04.12.2025. The present application filed by Applicant, Oldenburgische Landesbank AG under Section 60(5) of the Code, read with Rule 11 of the National Company Law Tribunal Rules, 2016 challenging Resolution Professional's decision partly rejecting the claim of the Applicant submitted under Claim Form C for a sum of EUR 8,284,427.15/Rs. 68,58,67,724/-. Relief sought by the applicant is as follow:

   a) Set aside the decision of the Respondent, rejecting the claimed filed by the Applicant in Form C dated January 6, 2023 under Regulation 8 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016;

   b) Order and direct the Respondent Resolution Professional of the Corporate Debtor, to admit the entire claim as per proof of claim dated January 6, 2023, filed by the Applicant;

2. The averments made by the Applicant in the petition is as follows:

(i) The Applicant, Oldenburgische Landesbank AG, a financial institution based in Germany and engaged in banking activities, submitted that it is a member of the Committee of Creditors of the Corporate Debtor i.e., M/s. Sumeet Industries Limited, holding a voting share of 1.66%. It was further submitted that this Tribunal, vide order dated 20.12.2022, passed in CP (IB) No. 38 of 2020, admitted the application under Section 7 of the IBC for initiation of CIRP against the Corporate Debtor.

(ii) The Applicant submitted that it had entered into Credit Agreement No. 1 dated May 28, 2011/June 1, 2011, with the Corporate Debtor for a term loan facility of up to EUR 10,444,450, repayable in 17 equal and consecutive semi-annual instalments. It is submitted that the Applicant disbursed the facility in seven tranches between 22.09.2011 to 04.05.2012. It is contended that in terms of Article 6 read with Appendix I of the Agreement, the Corporate Debtor was required to adhere to the agreed repayment schedule. However, it committed defaults in repayment from February 9, 2015, onwards.

(iii) The Applicant submitted that it issued a legal notice dated 15.02.2018, demanding payment of EUR 1,346,783.82 due as on 05.05.2017, failing which it would initiate proceedings under the IBC. It is further submitted that vide letter dated 11.04.2019, the Applicant terminated the Credit Agreement, suspended further drawdowns and demanded repayment of the entire outstanding amount of as on 11.04.2019, EUR 7,292,864.04, on or before 26.04.2019. It is submitted that the Corporate Debtor neither responded nor discharged its liability. Applicant filed a Section 7 application, being CP (IB) No. 822/NCLT/AHM/2019, which was dismissed as infructuous upon admission of the Corporate Debtor into CIRP, with liberty to lodge its claim.

(iv) It is submitted that pursuant to the admission of CIRP, the Applicant filed its claim in Form C under CIRP Regulations on 06.01.2023, for EUR 8,284,427.15, along with supporting documents. The Applicant submitted that, during the Fourth CoC meeting held on 12.04.2023, it was informed that only part of its claim, amounting to Rs. 11,14,28,564/-, had been admitted, while the remaining portion was rejected on the ground that the Applicant had already received partial

payment under an insurance scheme prior to commencement of CIRP. It is submitted that the Applicant, through its lawyers, issued letters dated 02.05.2023 and 18.05.2023, calling upon the Respondent to reconsider the partial rejection and admit the entire Claim Amount. It is contended that despite service of the aforesaid letters by email and subsequent re-forwarding upon the Respondent's request, no response was received.

(v) The Applicant submitted that the partial indemnification received under the Buyer Credit Guarantee Scheme does not extinguish or finally settle the contractual claims against the Corporate Debtor, as the Applicant is contractually bound to recover the outstanding amount and transfer any subsequent recoveries, less 5% representing the uninsured portion, to the Federal Republic of Germany, thereby eliminating any possibility of double enrichment. It was further submitted that the state cover provided by the Federal Republic of Germany is a confidential German instrument in favour of German exporters/banks, intended solely to promote trade between India and Germany by enabling banks to grant loans, and neither to discharge the Corporate Debtor from its debt

obligations nor to prevent recovery proceedings against it. Reliance was placed on the letter dated February 19, 2021, issued by Euler Hermes Aktiengesellschaft, clarifying the Applicant's obligation to recover the outstanding amount.

(vi) The Applicant further contended that the Corporate Debtor, being a third party to the bilateral arrangement between the Applicant and the Federal Republic of Germany, cannot derive any rights or privileges therefrom. It is submitted that the debt owed by the Corporate Debtor constitutes a financial debt under Section 5(8) of the IBC, and the Applicant qualifies as a financial creditor under Section 5(7). The Applicant further contended that the Resolution Professional is not an adjudicating authority and is only required to verify the authenticity and accuracy of the claim, without adjudicating upon the rights and liabilities of the parties. It was also submitted that the partial admission of the claim adversely affects the Applicant's voting share in the Committee of Creditors and its entitlement to distributions under the resolution plan.

3. The contentions made by Respondent no. 1 in its reply is as follows:

(i) The Respondent No. 1 contends that the present Application has become infructuous and is not maintainable, as the Resolution Plan of the Corporate Debtor, Sumeet Industries Limited, has already been approved by this Tribunal vide order dated 16.07.2024 in IA No. 1394 of 2023 in CP (IB) No. 38 of 2020. It submits that, under Section 31 of the IBC, the approved Resolution Plan is binding on all stakeholders and all claims not forming part of the Plan or not admitted in full stand extinguished. The Applicant, having been aware of the partial admission of its claim, ought to have challenged the approval order before the Hon'ble NCLAT but failed to do so within the prescribed limitation period.

(ii) The Respondent submits that the Applicant had disclosed in Company Petition (IB) No. 822/2019 that it had received partial indemnification of EUR 6,596,335.89 under the Export Guarantee Insurance Scheme of the Federal Republic of Germany, leaving an outstanding amount of EUR 1,269,899.08. It further contends that the admitted amount and reasons for partial rejection were communicated to the Applicant during the Committee of Creditors meeting held on 12.04.2023. It is submitted that the Applicant was also called

upon to furnish additional documents to substantiate its claim but failed to do so. Respondent maintains that the Applicant was required to submit its claim only for the outstanding amount, and the partial rejection was justified on account of the indemnification already received.

(iii) Relying on the principle of subrogation and Articles 10 of the Buyer's Credit Guarantee Scheme, the Respondent contends that upon payment of indemnification, the right to recover the indemnified amount, together with applicable interest and related rights, passes to the Federal Government of Germany to the extent of the indemnification paid. It submits that Article 11 merely permits the Applicant to initiate legal proceedings on behalf of the Federal Government and does not confer upon it an independent right to file a claim before the Resolution Professional for the indemnified amount. The Respondent further relies on the Sanction Letter dated 03.05.2011, under which the Corporate Debtor was required to provide a Comprehensive Buyer's Credit Cover issued by Euler Hermes Kreditversicherungs AG, as the Official Export Credit Agency of the Federal Republic of Germany, as security for the financial facility. It also contends that when a security

has been enforced by the Financial Creditor, a claim in respect thereof cannot be now made by the Appellant Bank.

(iv) It is further submitted that the Resolution Professional was duty-bound to verify the claims and account for amounts already received by the Applicant through indemnification, and such verification does not amount to adjudication of the claim. It further contends that the reduction in the Applicant's voting share was merely consequential and that admitting the entire claim would adversely affect the voting rights and distribution of amounts amongst other creditors under the approved Resolution Plan.

4. Respondent No. 2, Bank of Baroda has taken a similar stand to Respondent No. 1, opposing the Applicant's claim on the grounds of the approval of the Resolution Plan, receipt of indemnification and the principle of subrogation. In addition, it contends that no specific relief has been sought against Respondent No. 2. It further submits that the Successful Resolution Applicant has not been impleaded as a party, despite being a necessary and proper party, as the Corporate Debtor is now under its management and control pursuant to approval of the Resolution Plan.

5. It is further relies upon Article 10 of the General Conditions of the Buyer's Credit Guarantee Scheme and submits that after receiving indemnification/payment from the Federal Republic of Germany, no claim herein lies against Corporate Debtor. It further contends that the Applicant has failed to establish any provision under the Buyer's Credit Guarantee Scheme entitling it to file a claim for the indemnified amount against the Corporate Debtor, and that mere issuance of a letter does not confer such a right. It is contended that the Applicant has already received partial indemnification from the Federal Republic of Germany and the balance admitted claim under the approved Resolution Plan, and therefore, no amount remains due or legally enforceable against the Corporate Debtor.

6. In rejoinder, the Applicant, while reiterating its earlier submissions, further contended that it had challenged the order dated 05.04.2024, rejecting IA No. 997/2023, before the Hon'ble NCLAT and had also filed IA No. 5201/2024 upon approval of the Resolution Plan. It submitted that the Hon'ble NCLAT, vide order dated 30.07.2024, directed that any distribution under the approved Resolution Plan would abide

by the outcome of the pending appeal, and that Respondent No. 2, being a party to the said proceedings, was aware of the aforesaid direction. With regard to the objection regarding non-joinder of the Successful Resolution Applicant, the Applicant relied upon Clauses 4.1.1 and 4.1.17 of the Resolution Plan to contend that any additional claim admitted pursuant to an order of a court or tribunal could be accommodated through redistribution of the Total Resolution Amount, without any additional payment obligation on the Successful Resolution Applicant, and that no relief had been sought against the latter. The Applicant further relied upon Articles 10 and 11 of the Buyer Credit Guarantee Scheme to contend that the subrogation of the right to receive the indemnified amount in favour of the Federal Republic of Germany did not absolve the Applicant of its obligation to pursue recovery of the outstanding amount, including the indemnified portion. In this regard, reliance was also placed upon letters dated 19.02.2021 and 14.02.2024 issued by Euler Hermes Aktiengesellschaft, which confirmed the Applicant's authority and obligation to enforce the outstanding claims against the Corporate Debtor, including the indemnified and uninsured portions.

7. Applicant has relied upon the judgement of - *Beg Raj Singh vs State of UP and Ors.- (2003) 1 SCC 726*

8. Respondent no. 1 has relied upon following judgements:

   a) *Shri Krishan and Anr. v. H.S. Oberoi Buildtech Pvt. Ltd. and Ors. Company Appeal (AT) (Insolvency) No. 128 of 2025 with Company Appeal (AT) (Insolvency) No. 129, 130 and 131 of 2025*
   b) *Shubhkamna Buildtech Pvt. Ltd. & Anr. Company Appeal (AT)(Insolvency) No. 665 of 2021*
   c) *Ghanashyam Mishra and Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Company Ltd. and Ors. (2021) ibclaw.in 54 SC*

9. Respondent no. 2 to 6, CoC members were impleaded as party vide order dated 12.01.2026. However, Respondent no 3 to 6 has not filed any reply. It is also recorded vide order dated 07.10.2026 that only Respondent no. 2 Bank of Baroda, from the CoC has appeared in the matter, while other creditors are not present even though directed.

10. Observations:

a) The applicant is financial entity from Germany who has granted a Buyers Credit Facility to the respondent CD who is admitted in to CIRP and had entered into Credit Agreement No. 1 dated May 28, 2011/June 1, 2011, with the Corporate Debtor for a term loan facility of up to EUR 10,444,450,

repayable in 17 equal and consecutive semi-annual instalments. It is submitted that the Applicant disbursed the facility in seven tranches between 22.09.2011 to 04.05.2012. In terms of Article 6 read with Appendix I of the Agreement, the Corporate Debtor was required to adhere to the agreed repayment schedule. However, it committed defaults in repayment from February 9, 2015, onwards.

b) On admission of the CD in to CIRP, the applicant filed his claim before the respondent RP on 06.01.2023, for EUR 8,284,427.15, along with supporting documents. It was informed by respondent that only part of its claim, amounting to Rs. 11,14,28,564/-, had been admitted, while the remaining portion was rejected on the ground that the Applicant had already received partial payment under an insurance scheme prior to commencement of CIRP. The applicant himself was a member of the COC who has also approved the resolution plan and has not filed any application for rejection of the resolution plan/opposed the same.

c) The respondent RP has submitted that the CD had provided security as per the sanction letter stipulation by issuance of a Comprehensive Buyers Credit Cover issued by Euler Hermes

Kreditversicheruns AG acting as Official Export Credit Agency of the Federal Republic of Germany by paying the requisite insurance premium. This security was enforced by the applicant, hence the applicant cannot claim the same amount as it is a third party and hence the full amount of claim submitted was reduced to the admissible amount(reducing the enforced value of security by the RP) rejecting the full amount claimed by the applicant as per the contention of the RP and the FC who appear as respondents in the matter. It is submitted that a claim to the tune of Rs.11,14,28,564 was admitted as against a claim of Euro 82,84,427.15. This also resulted in the eligible voting rights of the applicant who has not protested but remained a member of COC with voting share of 1.66%.

d) For the realised insurance amount, the contention is whether the insurer (Export credit Guarantor being the federal government) or the applicant bank can make a claim before the RP for consideration or enforcement of his subrogation rights having met the insured value. The respondent has cited Article 10 of the General Conditions of the Buyers Credit Cover for private buyer risk. The respondent has further relied on

the original application CP IB 822/2019 filed by the applicant wherein the claim amount was only Euro 12,69,899.08 from the CD as Euro 65,96,335.89 was part of the indemnity under Export Guarantee Insurance Scheme. Further, the contention of the respondent is that legally the rights are transferred to the Federal Government of Germany and the applicant cannot seek the claim amount from the RP.

e) The applicant further contends that irrespective of whether the Federal Republic of Germany has partly indemnified the applicant under the Buyer Credit Guarantee does not imply that the contractual claims for payment against the CD be extinguished or finally settled. Any payments or other financial benefits received by the applicant from the CD or any other party after indemnification is paid under the Buyer Credit Guarantee, less 5% representing the uninsured percentage of the policy holder or the applicant will be passed on to the Federal Government in order to hold the latter harmless. The applicant further submits that the applicant is obliged to notify the Federal Republic of Germany immediately upon receipt of any such recoveries and shall transfer any such monies to the Federal Republic of Germany without undue delay and hence

there is no question of double enrichment on the part of the applicant as per the terms of Buyer Credit Guarantee. Further the said instrument in favour of German Exporters/Banks financed through monies of the Federal Republic of Germany ensures that the trade between India and the Federal Republic of Germany to enable banks to grant loans which otherwise would not have been rendered by the applicant.

f) The applicant has further relied upon a letter issued by the Euler Hermes Aktiengesellschaft to the applicant vide letter dated 19.02.2021. In this letter it is clearly stated that the Federal Republic of Germany represented by the Ministry of Economic Affairs and Energy (BMWi) has entrusted the entity with the management of Export Credit Guarantee Scheme German Exports. The letter further authorises the applicant to appear in the legal matter of the applicant vs Sumeet Industries (CD) (since resolved) and further has rights to enforce the outstanding claims against the CD irrespective of whether it has been indemnified by the Federal Republic of Germany. It is inferred from the letter as it would be in case of any trade protocol between India and Germany through any such Export Credit Guarantee Scheme that the lender is

indemnified subject to recovery of the rights of the indemnifier on any such amount recovered. This would be similar to a bridge finance through an export credit guarantee mechanism and the stated 4 th meeting of the COC (dated April 12, 2023) should have considered and allowed the entire claim without discounting the amount recovered through the export credit guarantee process as even if the exporter had insured as per terms of sanction it was not a security/acquiring certain rights to get indemnified which was offered as security for availing of the said facility. The COC members are public sector banks and also facilitate similar transactions of trade between India and other countries where similar export guarantee cover is made available. One cannot expect the Ministry of External Affairs/Finance to file such claim on the indemnified amount.

g) The contention of the RP as Chairman of Monitoring Committee that by way of technical issue stating that German Government or the Agency has to submit the claim is unwarranted, given the basic document including the letter to the lender that “subrogation rights” are administered through the applicant by the Federal Republic of Germany. Based on the said letter dated 19.02.2021, even if ignoring the fact that

the applicant had voted the resolution plan, this IA was filed on 29.08.2023 which raises objection to the claim value settled has been unresolved. The question of filing the claim before the RP thereby is to be allowed irrespective of whether the Federal German Agency has to file or limitation period as the claim has been partially allowed by the RP. Hence this application is liable to be allowed.

h) The Monitoring Committee has again erred in the matter in the defence provided as it both ignored the status of the applicant and also that the said resolution plan was filed in IA 1394 OF 2023 on 6.12.2023.

11. Hence we pass the following Order:

ORDER

I. This application is allowed.

II. Decision of Respondent dated 06.01.2023 rejecting partial claim of the applicant is set aside.

III. We hereby direct the monitoring committee to hold the distribution of the resolution plan value to the creditors and accord the status of admission of full claim of the applicant. In case the amount has been disbursed the

proportional recredit back to the applicant is directed to be effected within 1 month of this order.

IV. The applicant is also eligible to benefit from all the other claims that would be realised, including PUFE Transactions if any adjudicated by this Tribunal.

-SD-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

-SD-

CHITRA HANKARE
MEMBER (JUDICIAL)