

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) No.22 of 2020**

**IN THE MATTER OF:**

**TDS Management Consultants Pvt. Ltd.**

**...Appellant**

**Versus**

**Sunil Kumar Bansal & Ors.**

**...Respondents**

**For Appellant:                Shri Anil Kumar Aggarwal, Advocate**

**For Respondents:         None**

**ORDER**

**11.02.2020**        Heard Counsel for the Appellant – Shri Anil Kumar Aggarwal. This Appeal has been filed against Order dated 10<sup>th</sup> December, 2019 passed by the National Company Law Tribunal (NCLT - in short), Chandigarh Bench, Chandigarh in CP No.140/Chd/Chd/2019. By the Impugned Order, learned NCLT has in the Petition filed basically under Sections 241 and 242 of the Companies Act, 2013 against four Respondents. Respondent No.1 is the Promoter/Director of Respondent No.4 and Respondent No.2 is the wife of Respondent No.1 and she is also stated to be Promoter/Director. Respondent No.3 is Punjab National Bank arrayed. The learned NCLT considered the prayers made and observed in Paragraphs – 2 to 4 of the Impugned Order, as under:-

“2. In addition to impleading respondent Nos.1, 2 and 4, the petitioner has also impleaded respondent No.3, Punjab National Bank, as one of the respondent by stating that the officials of the respondent No.3 colluded with respondent Nos.1 and 2 and enabled them to violate the law.

3. We have heard the learned counsel for the petitioner.

4. In the circumstances and at this stage, we are not inclined to issue notice to respondent No.3, as sought by the learned counsel for the petitioner.”

The learned Counsel for the Appellant is referring to Sub-Section (4) of Section 185 of the Companies Act, 2013 to say that the Respondents Directors mortgaged property of the Company not only for the purpose of Company but also for their private businesses and thus, it is necessary to implead Punjab National Bank also. Reference is made to Section 185(4)(iii) which reads as under:-

“(4) If any loan is advanced or a guarantee or security is given or provided or utilised in contravention of the provisions of this section,—

.....

(iii) the director or the other person to whom any loan is advanced or guarantee or security is given or provided in connection with any loan taken by him or the other person, shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, or with both.”

Counsel states that as per this Sub-Clause, action can be taken even against the Bank which has taken the security.

We are not convinced with this argument of the learned Counsel. The learned NCLT has already kept the issue open and Appellant can always even

at later stage, convince NCLT regarding the need to issuing Notice to Respondent No.3 – Punjab National Bank. We do not find that any case is made out to entertain the Appeal.

The Appeal is dismissed. No costs.

[Justice A.I.S. Cheema]  
Member (Judicial)

(Justice A.B. Singh)  
Member (Judicial)

[Kanthi Narahari]  
Member (Technical)

*/rs/md*