CBI No. 30/2024 (CNR DLCT11-000071-2024)

CBI Vs. M/s Indian Technometal Co. Ltd & Ors.

RC 050 2021A 0004
CBI SC-II, New Delhi
U/s 120B r/w 420/468 & 471 IPC & 13 (2) r/w 13 (I) (d)
of P.C Act 1988

06.05.2024

Present : Sh. Rajesh Kumar, Ld. Public Prosecutor for CBI.
IO/DSP Vinod Kumar CBI.

Further heard on the point of cognizance.

<u>O R D E R</u>

1. The facts of the case are that the present case/FIR was registered on the written complaint dated 15.03.2021 of Shri Sanjay Manocha, DGM, SAMV, Union Bank, New Delhi under Section 120-B/406/420/468/471 IPC and Sections 13 (2) r/w 13 (I) (d) of Prevention of Corruption Act 1988 against M/s Indian Tehnometal Company Ltd., its directors and unknown public servants and private persons.

1.2 It is alleged that in the year 2011 M/s Indian Tehnometal Company Ltd. engaged in manufacturing and selling of Noble Alloys, Minor Metals, High Carbon/ Low Carbon Products, obtained the credit facilities to the tune of Rs. 347 crores from Consortium of 9 banks led by Corporation Bank (Now merged with Union Bank). Subsequently, in the year 2012 the credit facilities were enhanced to Rs.542 crores. But the accused company in conspiracy with its directors and unknown public servants and other private persons with dishonest intention to cheat the banks by causing wrongful loss and corresponding gains to themselves prepared and submitted false bills of purchase of raw material from its shell companies, did not route the sale proceeds through consortium of banks in violation of the loan agreement and mis-utilized the credit facilities by diverting the funds to its sister concern. Thus, a total loss of Rs. 555.67 crores has been caused to the Consortium of Banks.

1.3 The loan application process was initiated by M/s Indian Technometal Company Ltd. on 27.01.2011 with erstwhile Corporation Bank, CBB Branch, New Delhi for cash credit of Rs.24 crores, term loan of Rs.25 crores and non fund based import inland LC cum BG Rs. 73 crores to set up new plant of the company at Vizag, Andhra Pradesh. The total cost of the project was Rs.137 crores. The loan proposal also supplied the details of supplier companies of raw material and likewise the details of 17 companies to whom, the supply of finished goods was to be made by the borrower. The said request was approved by Corporation Bank on 28.03.2011 sanctioning term loan of Rs.25 crores, cash credit f Rs. 24 crores import/inland LC cum BG Rs.73 crores. Necessary documents were executed by the Directors of the Company Rakesh Kumar Sharma (A-2) and Vinay Sharma (A-3). The representatives of other six lender banks also sanctioned the loan and accordingly a total loan of Rs. 347 crores was sanctioned. The equitable mortgage of immovable properties, factory land was got secured apart from first pari passu charge and joint and several guarantee of director Rakesh Kumar Sharma (A-2) and Vinay Sharma (A-3).

1.4 The investigation was got conducted qua one of consortium banks i.e Punjab National Bank (PNB), ECE Branch, Connaught Place, New Delhi. It revealed the role of AGM Mukesh Kumar Dave (A-5) and the Chief Manager Sita Ram Gupta (A-6). The investigation also revealed that they were the part of criminal conspiracy with M/s Indian Tehnometal Company Ltd (A-1) and in furtherance of the said criminal conspiracy disbursed Rs.14.35 crores against the term loan on the basis of bogus bills issued by M/s RT Research Pvt Ltd (A-17). They failed to comply with the major condition of contribution by the borrower (A-1) as upfront contribution and instead relied upon a false C.A Certificate of Shailendra Nath (A-16) dated 02.05.2011. Thus, due to the said criminal conspiracy and wrongful acts on the part of A-5 and A-6, a loss has been caused to the PNB.

1.5 The investigation further revealed that M/s RT Research Pvt Ltd (A-17) in whose account Rs. 14.35 crore was disbursed against the term loan sanctioned by M/s Indian Tehnometal Company Ltd further laundered the money and finally the said amount came in the account of beneficiary M/s Indian Technomac (A-11) Co. Ltd which is subsidiary of M/s Indian Tehnometal Company Ltd (A-1).

1.6 The investigation also revealed the misconduct and role of U. Madhusudan Rao (A-4), AGM, Corporation Bank, Corporate Banking Branch, Delhi, he too acted in conspiracy with Directors of M/s Indian Tehnometal Company Ltd and extended credit facilities on the basis of forged and incomplete documents. The Corporation Bank acted as lead bank for the Consortium. His role was also there in getting the FDR to the tune of Rs.10 crores which was lying with the bank's lender as security released in their favour without getting the alternative collateral securities to the tune of Rs. 23.19 crore. He did not also ensure proper insurance of full value of primary security and collateral securities offered by borrower firm. The comprehensive report dated 11.03.2015 also revealed that the accused company and its directors in order to cheat the consortium of banks and corresponding wrongful gain to themselves in violation of the terms of the loan sanctioned removed the plant and machinery installed at the site of M/s Indian Technolime Company at village Guna, Saharanpur, U.P.

1.7 The investigation further revealed that the directors of M/s Indian Tehnometal Company Ltd were involved in laundering of the credit facilities sanctioned to them by the consortium of banks on the basis of forged and fake bills, fake letters of credits, names of various firms as well as fake transportation receipts showing transportation of goods from Delhi to the plant of the firm at Auto Nagar Vishakapatnam. The transport receipts were found to have been issued against non-existing vehicles or non-commercial vehicles as detailed in para 19.2 of the chargesheet.

1.8 The money trail with respect to the use of credit facilities is detailed from page no. 59 to 72 of the chargesheet. The said money trail reflects that the ultimate beneficiary is M/s Indian Technomac Co. Ltd. (A-9) which is the parent company of M/s Indian Tehnometal Company Ltd (A-1) and its directors. The total loss to the Consortium of Bank is Rs. 496,10,72,281.21 due to non payment of dues and devolvement of L.C's. During the investigation, efforts were made to locate A-2, Director of M/s Indian Tehnometal Company Ltd (A-1) but he was found not traceable and is stated to have fled to Dubai UAE. Already extradition proceedings have been initiated by CID Shimla (H.P). Coercive proceedings are also going in the present case against him.

1.9 The other director namely Vinay Sharma (A-3) though joined in the proceedings and is stated to be arrested in FIR No.92/2016 of P.S Barakhamba Road, by POW, Delhi Police.

2. As far as the public servants are concerned, the prosecution sanction under Section 19 of PC Act has only been accorded against U.Madhusudan Rao (A-4), the then AGM, Corporation Bank, Corporate Banking Branch, New Delhi. **The prosecution sanction has been declined for Mukesh Kumar Dave (A-5) and Sita Ram Gupta (A-6), both the officers of PNB, ESE House Branch, New Delhi.**

3. Ld. Public Prosecutor for CBI argued that there is sufficient material on record to summon the accused persons to face trial for the offences alleged in the chargesheet. It is further

argued that the material on record also discloses criminal conspiracy hatched by the directors of M/s Indian Technometal Co. Ltd, with the officers of the bank as named herein. The prosecution sanction has though been declined for Mukesh Kumar Dave (A-5), the then AGM, PNB and Sita Ram Gupta (A-6), the then Chief Manager, PNB, but they have been chargesheeted for the offences punishable under Section 120-B IPC read with Section 420/468/471 IPC. No prosecution sanction is warranted qua them under Section 197 of Cr.P.C and in this regard, the reliance is placed by the CBI upon the following judgments:

- **(i) K. Ch. Prasad V. J. Vanalatha Devi & Ors 1987 SCR (2) 216**
- **(ii) Sreenivasa Reddy V. Rakesh Sharma & Ors 2023 (251) AIC 111**
- **(iii) Rabindra Nath Srivastava V. The State of Bihar & Ors. IV (2007) BC 23**
- **(iv) S.K. Miglani V. State of NCT of Delhi 2021 (1) ACR 230**

4. **Heard and considered.**

5. The contents of the chargesheet are perused which at this stage, *prima facie* discloses sufficient material on record to take the cognizance for the offence punishable under Section 13 (2) r/w 13 (1)(d) of PC Act, 1988, 120B r/w 420/468/471 IPC and substantive offences thereof. Accordingly, I take cognizance of the offences as stated-herein-above.

5.1 As far as Mukesh Kumar Dave (A-5) and Sita Ram Gupta (A-6) are concerned who are the officials from PNB, Connaught Place, the prosecution sanction under Section 19 of the P.C Act has been denied. But, they have also been chargesheeted for the offences punishable under Indian Penal Code (IPC). The judgments relied upon by the Ld. Public Prosecutor for CBI squarely covers their case against the said two bank officials. They are not entitled for protection of Sanction under Section 197 Cr.P.C. **Accordingly, issue summons to Mukesh Kumar Dave (A-5) and Sita Ram Gupta (A-6) for the offence punishable under Section 120-B IPC read with Section 420/468/471 IPC for NDOH.**

5.2 As far as other public servant is concerned i.e **U.Madhusudan Rao (A-4)**, **he be summoned for the offence punishable under Section 13 (2) read with Section 13 (1) (d) and 120B r/w Section 420/468/471 IPC for NDOH.**

5.3 Also issue summons to remaining accused persons i.e, M/s Indian Technometal Co Ltd. **(A-1)**, Rakesh Kumar Sharma **(A-2)**, Vinay Sharma **(A-3)**, Anil Kumar Jain **(A-7)**, Vishal Jain **(A-8)**, M/s BMT Chrome Alloys Pvt Ltd **(A-10)**, M/s Indian Technolime Co. Ltd **(A-11)**, Dayanand **(A-12)**, Vikas Gupta **(A-13)**, Roshan Lal **(A-14)**, Pawan Kumar Gupta **(A-15)**, Shailendra Nath **(A-16)**, M/s RT Research Pvt Ltd **(A-17)** M/s Kalinga Iron Crusher Pvt Ltd **(A-18)**, alok Baliyar Singh **(A-19)** and Shakti Ranjan Dash **(A-20)**.

5.4 As far as A-9 M/s Indian Technomac Co. Ltd is concerned, in per para 9.50 of the chargesheet, it has been reported that the said company has been wound up by the order of Hon'ble High

Court of Himachal Pradesh vide order its dated 21st of September, 2015. The present status of the company is stated to be "liquidated". Therefore, clarification is required with respect to culpability of the said company as on date. **Accordingly, A-9 is not summoned at this stage and CBI is directed to clarify on the said aspect on the next date of hearing. A-2 is also absconding and proceedings against him under Section 82 Cr.P.C are fixed for 03.07.2024.**

Accordingly, issue summons to aforesaid accused persons **except A-9** & **A-2** for next date of hearing i.e **28th May 2024.**

(GAGANDEEP SINGH)
Special Judge, PC Act, CBI-04
Rouse Avenue Courts, New Delhi
06.05.2024