NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No.1638 of 2023

IN THE MATTER OF:

Pawan Sethi
Shareholder Of PCL Oil and Solvents Ltd. & Ors.   **...Appellant**

Versus

Union Bank of India & Anr.   **...Respondents**

Present:

For Appellant:	**Mr. Krishnendu Datta, Sr. Advocate with Mr. Rajat Sinha, Ms. Arveena Sharma, Ms. Komal Abrol and Ms. Pooja Mahajan, Advocates.**
For Respondents:	**Mr. Sanjay Bajaj and Mr. Shivam Thakkar, Advocates.**

O R D E R

15.12.2023:   This Appeal arises out of order dated 04.12.2023 which has been passed by the Adjudicating Authority admitting Section 7 application filed by the Union Bank of India. The Bank has filed the application alleging debt and default. The Adjudicating Authority heard the parties and reserved the order on 15.09.2023. After the order was reserved, an OTS was sanctioned by the Bank on 04.10.2023, which letter has been brought on the record at page 76, where Bank has sanctioned the OTS. The said letter was brought to the notice of the Adjudicating Authority by I.A. No. 5018 of 2023, by other shareholder of the Corporate Debtor where the deferment was sought of the pronouncement. However, the Adjudicating Authority by the impugned order pronounced the order admitting Section 7 application.

2.   We have heard learned counsel for the Appellant as well as learned counsel appearing for the Bank.

3.   It is not disputed by learned counsel for the Bank that Bank has sanctioned the OTS on 04.10.2023. In view of the sanction of OTS it cannot be said that there was any debt or default enabling the Financial Creditor to proceed under Section 7.   We, thus, are of the view that order dated 04.12.2023 is unsustainable. Order dated 04.12.2023 is set aside and Section 7 application filed by the Bank is dismissed. Liberty is granted to the Bank to revive this appeal as and when any occasion arises. Appeal is disposed of accordingly.

[Justice Ashok Bhushan]
Chairperson

[Arun Baroka]
Member (Technical)

Archana/nn

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