

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**AT CHENNAI**

**(APPELLATE JURISDICTION)**

**Company Appeal (AT) (CH) (Ins) No.220/2024**  
**(IA Nos.588, 589, 974 & 1047/2024)**

**In the matter of:**

**Abhijit Bhattacharjee Suspended Director of  
the Corporate Debtor M/s. Lumiford Private Ltd. ...Appellant**  
**V**  
**M/s. COSR Ventures & Anr. ...Respondents**

**Present :**

**For Appellant** : Ms. Arvind Nayar, Senior Advocate  
For Ms. Priyanka Das, Mr. Shubham Pandey,  
Mr. Akshay Joshi & Mr. Manasi Jha, Advocates  
**For Respondents** : Mr. Srinath Sridevan, Senior Advocate  
For Mr. Surya Teja Nalla, Advocate, For R1  
Mr. Mumaneni Varza Lazmi, Advocate, For R2

**ORDER**  
**(Hybrid Mode)**

**24.10.2024:**

We are recording our anguish, the manner in which the proceedings of this Appellate Tribunal, have been portrayed before the Hon'ble Apex Court, which runs apparently contrary to the proceedings which has been taken by the NCLAT and which are reflected from the order sheet of various dates. Ever since 28.06.2024, the matter has been consistently argued on various applications preferred by the parties and they were adjudicated upon till, it was fixed in the presence of the appellant for 29.11.2024.

Owing to an exigency, as the appellant had felt that, they are likely to face because of the initiation of the CIRP proceedings and as a consequence of

admission of Section 9 application under I & B Code. They approached the Hon'ble Apex Court and the Hon'ble Apex court while considering the facts as it was portrayed by the appellant that there had been 8 adjournments in the matter and the same has not been taken up, had issued directions to the Tribunal, granting liberty to the appellant to file an application for the grant of stay.

In compliance of the direction of the Hon'ble Apex court, as made by the judgment of 18.10.2024, the Appellant has preferred the stay application only on 21.10.2024 which has been numbered as IA No. 1047/2024. The said application has been addressed by the parties on its merits. The respondents have vehemently opposed the application on the ground that, the copy of the stay application has not been served upon them, but owing to the directions issued by the Hon'ble Apex Court, we proceed to hear the application IA.1047/2024, on its merit.

The Ld. Counsel for the Appellant/Applicant to the Interlocutory Application, IA No.1047/2024, has particularly drawn the attention of this Tribunal, to the grounds which he has taken in the application, for the purposes of considering the Interim Application in the proceedings of this nature which had been foundationed on the wider principles for the grant of injunction as contemplated under Order 39 Rule 1 and 2 of CPC, is to be taken into consideration.

On the contrary, it has been argued by the Respondents Counsel, that there is no equity which lies in favour of the appellant for the grant of Interim Order, owing to the fact that, there has been a consistent betrayal by the appellant, to the various agreements and the conditions of agreement, which has been executed by them and owing to the observation made in the Impugned Order, with regards to the admission of the default and the amount which was due to be paid and as regards the violation of the terms and conditions, of the agreements as referred to therein particularly that, as dealt in Para 42 of the impugned judgment. The Ld. Tribunal after considering the rival contentions had dealt with the two moot questions, which have engaged consideration, as to whether there was an Operational Debt and whether there was a pre-existing dispute between the Operational Creditor and the Corporate Debtor. Ultimately the Tribunal had recorded its findings in Para 42 of the Judgment, that the contents of the agreement itself would be an admission of the amount of default due to be paid and prima facie the tribunal while adjudicating upon the application under Section 9, didn't find merits in the arguments extended by the appellant and allowed application under Section 9 of I & B Code, and consequently CIRP Proceedings stood initiated against the appellant.

The appellant contends that in case if the appellant is placed to face the CIRP Proceedings, ultimately the proceedings of this appeal would lead to be an

exercise in futility and hence he would be entitled to be tested under the balance of equity for the grant of Interim protection.

After hearing the counsel for the parties, though the grant of stay has been vehemently opposed by the Respondents Counsel by taking this tribunal to the various covenants of the agreement, which was executed inter-se between the parties, where the appellant had admitted the default amount, which was due to be paid under the terms of the agreement and the settlement which has been arrived at between the parties, at this stage, without making any detailed analysis of the agreements because it may have a bearing on final adjudication of this Appeal, and in the interest of the justice so that, the lis may not be rendered infructuous, we direct that till the next date fixed i.e., **29.11.2024** only, the proceedings as a consequence of the impugned order would be kept in abeyance. Further, since in pursuance to the order Impugned the COC had already been constituted, COC is refrained to proceed further. List on the date already fixed.

**[Justice Sharad Kumar Sharma]**  
**Member (Judicial)**

**[Jatindranath Swain]**  
**Member (Technical)**

GL/TM/MS