

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 03 of 2024

IN THE MATTER OF:

Vinodkumar Mahasukhbhai Thaker **...Appellant(s)**

Versus

Kurlon Limited & Anr. **...Respondent(s)**

Present:

For Appellant : Mr. Abhijeet Sinha, Mr. Nipun Singhvi, Ms. Honey Satpal, Mr. Aditya Shukla, Ina Kochar, Pragati Tiwari, Advocates

For Respondents : Advocate Garima Malhotra, Advocate Aaditya Bijay Kumar
Vinit Trehan and Bhavya Jain, For IRP

O R D E R
(Hybrid Mode)

03.01.2024: Learned Counsel for the Appellant submits that against the Loan of Rs. 52,50,000/- after filing of the petition Appellant has already paid 65 Lakhs which has been noticed by the Adjudicating Authority but the Adjudicating Authority has erred in observing that since there was no direction that it should be adjusted in the loan the amount has been adjusted in some other loan hence Section 7 Application has been admitted.

2. Learned Counsel for the Respondent submits that the amount has been adjusted in other loan with regard to which C.P.(IB) No. 196 of 2019 was filed which was dismissed as infructuous by order of the same date.

3. Learned Counsel for the Appellant submits that with regard to document which is subject matter of C.P.(IB) No. 196 of 2019 i.e. Master Lending Agreement dated 25th April, 2017, the loan has already been

conveyed to the Financial Creditor and there was no question of making payment against the said loan hence the amount was to be adjusted in the loan arising out of CP(IB) No. 195 of 2019.

4. We are *prima facie* of the view that appeal needs consideration. Learned Counsel for the Appellant has also pointed out that High Court of Gujarat has already passed an order on 26th December, 2023 granting Interim Order which is continuing and the writ petition in R/S.C.A. No. 21808 of 2023 is fixed for 05th January, 2024.

5. Issue notice. Notice is accepted by Financial Creditor through counsel who is granted two weeks time to file Reply. Rejoinder may be filed within two weeks, thereafter.

6. List this Appeal on **08th February, 2024**. In the meantime, Impugned Order dated 22nd December, 2023 shall remain stayed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

Basant/nn