

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 2176 of 2024 &
I.A. No. 8129 of 2024

IN THE MATTER OF:

Mohit Dewan **...Appellants**

Versus

Bank of Maharashtra & Anr. **...Respondents**

Present:

For Appellant : **Mr. Aditya Grover, Mr. Gautam Singh and Mr. Naman Chawla, Advocates.**

For Respondents : **Mr. Viren Sharma, Advocate for R1.**

WITH

Comp. App. (AT) (Ins) No. 2177 of 2024 &
I.A. No. 8133 of 2024

IN THE MATTER OF:

Kamal Kant Dewan **...Appellants**

Versus

Bank of Maharashtra & Anr. **...Respondents**

Present:

For Appellant : **Mr. Aditya Grover, Mr. Gautam Singh and Mr. Naman Chawla, Advocates.**

For Respondents : **Mr. Viren Sharma, Advocate for R1.**

ORDER
(Hybrid Mode)

22.11.2024: These two appeals have been filed challenging the order passed by National Company Law Tribunal, Chandigarh Bench by which Section 95 application filed by the appellant who was the personal guarantors have been admitted.

2. Ld. Counsel for the appellant challenging the order Impugned initiating CIRP against personal guarantors submits that there was an OTS proposal submitted by principal borrower which was approved by the bank for total payment of Rs. 7 crores and out of said Rs.7 crores, amount of Rs.1.75 was already paid which was recorded in the OTS entered between the parties which was subject to consent by the DRT where application was pending. He submits that however the bank has back track from the OTS due to which the OTS could not be fructified. The borrower has already filed a writ petition before the Punjab & Haryana High Court challenging the action of the bank from back tracking of the OTS which is under consideration. He submits that in view of the aforesaid facts, the personal insolvency against the appellant would not be allowed to continue.

3. We have considered submissions of counsel for the appellant and perused the records. There is no dispute to the proposition that in event bank accepts the OTS against the principal borrower and the entire amount is satisfied the liability of the guarantor shall also come to an end. However, which issue is under consideration before the High Court thus, as on date the debt is not even satisfied by the principal borrower hence the liability of the personal guarantor cannot be set to be wiped out.

4. We thus do not find any error in initiation of personal insolvency against the appellant, however, it shall always open for the appellant to place such material before the Adjudicating Authority in event any order of the High Court

favourable to the principal borrower is passed which shall be taken due consideration in the personal insolvency of the guarantors also. With these observations, we dismiss the appeal.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

harleen/NN