

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 1055 of 2022

IN THE MATTER OF:

**Kulin Kishore Danani
Suspended Director of
Danco Enterprises India Pvt. Ltd.**

...Appellant

Versus

Technocrafts Switchgears Pvt. Ltd. & Anr.

...Respondents

Present:

For Appellant: Mr. Ravi Raghunath, Advocates.

**For Respondents: Mr. I.P.S. Oberoi and Mr. Mukesh Kumar,
Advocates for R-2.
Mr. Akhil Sarhar, Ms. Sunanda T. and Mr. Arnav
Singh, Advocates for Reliance Home Finance Ltd.**

ORDER

15.11.2022: Heard learned counsel for the parties. This Appeal has been filed against order dated 12.07.2022 by which order application under Section 9 filed by the Respondent No. 1 has been admitted. The Application was filed by the Respondent No.1 for an amount of Rs.30,12,641/- alongwith amount of Rs.4,82,022/- towards interest. The Corporate Debtor has made payments out of the Principal Amount during the pendency of the matter and when the Appeal was taken before the Adjudicating Authority request was made by the Appellant to make the payment of balance amount i.e. Rs.7,12,641/-, amount of Rs.23 Lakhs already having paid. The Adjudicating Authority refused to grant said extension of time and admitted the application under Section 9.

2. Learned counsel for the Appellant submits that Appellant was always ready to make payment of the Principal Amount and the Adjudicating Authority has imposed cost on every occasion when the Appellant seek further time for payment. Appellant has paid cost of Rs.1.5 lakhs. It is

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submitted that in pursuance to the order of this Appellate Tribunal dated 15.11.2022, Demand Draft of Rs.8,11,000/- has already been deposited in the Court.

3. Learned counsel appearing for the Respondent submits that the Appellant was liable to make payment of the Principal Amount as well as interest also having not paid the amount within the time. It is further submitted that the Appellant should pay at least 50% of the interest.

4. Learned counsel appearing for the IRP submits that in pursuance of the public notice several claims have been received from the Financial Creditors.

5. We have considered submissions of learned counsel for the parties and perused the record.

6. Present is a case where Section 9 application was filed claiming an amount of principal debt of Rs.30,12,641/- alongwith interest of Rs.4,82,022/-. As on date, according to the Appellant, he has already paid Rs.31,11,000/- including the deposit made in the Court in addition to the cost. In the facts of the present case, we are of the view that ends of justice be served in directing the Appellant to make payment of principal amount as was claimed in the Section 9 application with some amount towards interest. The amount deposited in this Court of Rs.8,11,000/- be refunded to the Respondent-Operational Creditor and Rs.2 Lakhs towards the balance amount of interest be paid by way of Bank Draft to the Respondent within six weeks. Appellant shall also make payment of Rs.2 Lakhs to the IRP to cover his expenses and fee, within six weeks.

7. Learned counsel for the Respondent submits that he was entitled to interest of 50% interest at least of Rs.27 Lakhs as per his calculation. We are of the view that insolvency proceedings cannot be converted into a recovery proceeding for recovery of interest. When the Appellant has paid substantial amount towards his dues, it is not a case for directing insolvency

proceeding against the Appellant for recovery of interest. This entire matter needs to be closed as per the direction issued above.

8. With regard to the claims which have been referred to by the IRP, it is always open to the Financial Creditors to initiate their own proceeding in accordance with law.

9. Learned counsel for the Respondent further prays that Appellant be directed to make payment of 50% of interest as per his calculation and also the litigation cost. We are not inclined to issue any such direction as insolvency proceedings are not proceedings for recovery of interest nor this proceeding can be utilized for any such cause, therefore, we do not accept the prayer of the Respondent.

10. Appeal is disposed of accordingly.

Justice Ashok Bhushan]
Chairperson

[Dr. Alok Srivastava]
Member (Technical)

[Barun Mitra]
Member (Technical)

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