

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Comp. App. (AT) (Insolvency) No. 780 of 2020

IN THE MATTER OF:

Mukesh N. Desai

...Appellant

Versus

Piyush Patel & Ors.

...Respondents

Present:

For Appellant :

Mr. Rajendra Beniwal, Mr. Kuman Sumit, Mr. Chirag Gupta, Advocates

For Respondents:

**Mr. Dhiren R. Dave, PCS for R-1 and R-2 & R-4
Mr. Sumit Kansal and Mr. Pratik Thakkar, Advocate for R-3**

O R D E R
(Through Virtual Mode)

15.09.2020

I.A. No. 2091 of 2020

Appellant seeks 18 days condonation of delay in filing of instant appeal which has been filed on 28th August, 2020. Having regard to the fact that in suo moto proceedings, this Appellate Tribunal has exempted the period of limitation with effect from 25th March, 2020 due to imposition of lockdown on account of outbreak of Covid-19 pandemic, the period of 18 days is condoned.

I.A. No. 2091 of 2020 stands disposed of.

Apart from issue of limitation, one of the questions raised in this appeal is that as per clause 6 of 'Memorandum of Understanding', the Appellant advanced loan to the 'Corporate Debtor' and was entitled to 25% amount towards the profit

which clearly evidenced that the money was disbursed against the time value of money thereby bringing it within the purview of 'Financial Debt'.

Issue Notice upon the Respondents.

Mr. Dhiren R. Dave, Advocate waived and accepted notice on behalf of Respondent Nos. 1, 2 and 4. Mr. Sumit Kansal, Advocate waived and accepted notice on behalf of Respondent No. 3. Service is complete. No further notice needs to be served upon these Respondents. Reply-affidavit on behalf of Respondents may be filed within 20 days. Rejoinder thereto, if any, may be filed within 10 days thereof. Learned counsels for the parties may also file their short written submissions, not exceeding three pages, along with their pleadings.

List the appeal 'for Admission (After Notice)' on **16th October, 2020**.

**[Justice Bansi Lal Bhat]
Acting Chairperson**

**[Justice Jarat Kumar Jain]
Member (Judicial)**

**[V.P. Singh]
Member (Technical)**

/ns/gc/