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

**I.A. No. 2832 of 2025 in**
**Company Appeal (AT) (Ins.) No. 03 of 2024**

**IN THE MATTER OF:**

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

**Versus**

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

**Present:**

| | | |
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| **For Appellant** | **:** | **Mr. Santosh Paul, Sr. Adv., with Ms. Ekta Mehta, Mr. Antarik Chakroborti, Ms. Aditi Rai & Mr. Aditya Sonawane, Advocates.** |
| **For Respondents** | **:** | **Mr. Gaurav Mitra, Sr. Advocate, Ms. Honey Satpal, Mr. Nipun Singhvi, Mr. Akash Agarwalla & Mr. Aman, Advocates.** |

**O R D E R**
**(Hybrid Mode)**

**INDEVAR PANDEY, MEMBER (T)**

This Interlocutory Application No. 2832 of 2025 has been filed by **M/s. Kurlon Limited, presently known as M/s. Kanara Consumer Products Limited/Respondent No.1 in CA (AT) (Ins.) No. 03 of 2024,** being the **Financial Creditor**, invoking Rule 11 of the National Company Law Appellate Tribunal Rules, 2016, pursuant to the liberty granted by the Hon'ble Supreme Court vide its order dated 07.04.2025 in Civil Appeal No. 4338 of 2025.

2. A Company appeal, CA (AT) (Ins.) No. 03 of 2024 preferred by **Mr. Vinodkumar Mahasukhbhai Thaker, Member of the Suspended Board of Directors of India Green Reality Limited** was disposed of by this Appellate

Tribunal on 31.01.2025, whereby the order of the Adjudicating Authority admitting the Corporate Debtor into the Corporate Insolvency Resolution Process was set aside. While allowing the appeal, this Tribunal directed the Appellant to pay the balance financial debt, after adjustment of Rs.65,00,000/-, together with interest payable on it @ 9% per annum. Aggrieved by the aforesaid order, the Respondent No.1/Financial Creditor approached the Hon'ble Supreme Court, which dismissed the Civil Appeal, with liberty reserved to Applicant to seek modification of the interest component before this Tribunal. In pursuance thereof, the present Interlocutory Application has been preferred seeking modification of the rate of interest awarded in the judgment dated 31.01.2025.

**Brief Facts of the case**

3. The facts of the case relevant to deciding this Application are given below:

i. M/s. Kurlon Limited, presently known as M/s. Kanara Consumer Products Limited (Respondent No.1/Applicant herein) had advanced a financial facility of Rs.52,50,000/- to India Green Reality Limited (Corporate Debtor). The transaction was governed by the Loan Agreement dated 25.04.2017, under which the facility was to remain outstanding for the period from 24.04.2017 to 23.04.2019 and carried interest at 1.75% per month.

ii. The Loan Agreement further provided that, in case of delay in repayment, the borrowers would be liable to pay interest at 2% per month on a pro-rata basis together with additional interest of 1% per month on a pro-rata basis, resulting in a contractual default interest of 3% per month. Respondent No.1/Financial Creditor relies upon these contractual terms for seeking modification of the rate of interest awarded by this Tribunal.

iii. The underlying insolvency proceedings arose from the default in repayment of the aforesaid financial debt, pursuant to which proceedings under Section 7 of The Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'Code') were initiated by the Financial Creditor. The CP (IB) No. 195 of 2019 was admitted by the Adjudicating Authority on 22.12.2023 for a claimed amount of Rs. 71,61,091/-. The said order was challenged by Mr. Vinodkumar Mahasukhbhai Thaker, the suspended member of Board of Directors of Corporate Debtor in Company Appeal (AT) (Insolvency) No. 03 of 2024.

iv. During the pendency of the insolvency proceedings, an amount of Rs. 65,00,000/- was paid by the Appellant/corporate Debtor, and the dispute before this Tribunal was ultimately concerned, inter alia, the adjustment of the said payment against the debt forming the subject matter of CP (IB) No. 195 of 2019. This Appellate Tribunal set aside the order admitting the Corporate Debtor into CIRP and directed that the amount remaining after deduction of Rs.65,00,000/- from Rs. 71,61,091/- be paid by the Appellant/Corporate Debtor to Respondent No.1/Financial Creditor, together with interest payable on it @ 9% per annum from the date the amount became due to be paid until the actual payment, within two months from the date of the order.

v. Respondent No.1/Financial Creditor, being aggrieved by the determination of interest @ 9% per annum, preferred Civil Appeal No. 4338 of 2025, before the Hon'ble Supreme Court, contending that the contractual rate of interest stipulated in the Loan Agreement had not been given effect to.

vi. The Hon'ble Supreme Court, by order dated 07.04.2025, declined to interfere with the matter and dismissed Civil Appeal No. 4338 of 2025, while specifically reserving liberty in favour of the Financial Creditor who is the Applicant in the present IA, to seek modification of the rate of interest determined by the NCLAT. The order of Hon'ble SC is extracted below :-

***"O R D E R***

*We have heard learned senior counsel for the appellant and learned senior counsel for the respondents- Caveators.*

*2. We are not inclined to interefer in the matter.*

*3. The appeal is hence dismissed.*

*4. However, liberty is reserved to the appellant herein to seek modification of the rate of interest that has been determined by the National Company Law Appellate Tribunal.*

*Pending application(s), if any, shall stand disposed of.*

*New Delhi*
*April 07, 2025"*

vii. Pursuant to the aforesaid order, Applicant/ Financial Creditor has preferred the present Interlocutory Application in IA No. 2832 of 2025 invoking Rule 11 of the NCLAT Rules, 2016, seeking modification of the interest component in the judgment dated 31.01.2025. It is contended that, since the Loan Agreement provides for 3% interest per month upon default, the award of interest at 9% per annum is contrary to the agreed contractual terms and that the contractual stipulation ought not to be ignored or rewritten.

viii. Applicant/Financial Creditor has further stated that the direction dated 31.01.2025 requiring payment within two months has not been complied with. After adjustment of the payment of Rs.65,00,000/- against the debt in CP (IB) No. 195 of 2019, Respondent No.1 claims that Rs.1,31,84,877/- remains payable, calculated on the basis of the contractual rate of 3% interest per month.

ix. The present IA accordingly seeks modification of the order dated 31.01.2025 to the extent of interest component as granted in accordance with the terms of the Loan Agreement at 3% per month, along with a direction to the Appellant to pay the outstanding amount expeditiously.

**Submissions of Applicant/Financial Creditor**

4. The Ld. Counsel for the Applicant/Financial Creditor submitted that while this Tribunal directed payment of the outstanding amount with interest at 9% per annum, the parties had expressly agreed under the Loan Agreement

dated 25.04.2017, that in an event of default, interest would be payable at the contractual rate of 3% per month on a pro-rata basis. It was submitted that the Tribunal ought to enforce the contractual terms agreed between the parties and modify the rate of interest accordingly.

5. He submitted that the Loan Agreement dated 25.04.2017 had expressly provided for payment of interest @ 1.75% per month during the currency of the loan and, in the event of default, interest at 2% per month together with additional interest at 1% per month, thereby making the contractual rate of default interest 3% per month on a pro-rata basis. The Appellant voluntarily entered into the agreement and accepted all its terms and conditions. At no stage during the ensuing proceedings under Section 7 of the Code did the Appellant dispute either the execution of the Loan Agreement or the contractual rate of interest stipulated therein.

6. Ld. Counsel further submitted that a contract freely entered into between parties cannot be rewritten by a judicial forum upon its judicial interference, merely because one party subsequently considers its terms to be onerous. Where the contractual terms are clear, unambiguous and mutually accepted particularly when exhausted its binding effect, the Court is bound to give effect to the agreed intention of the parties as per contract. He placed reliance on ***Rajasthan State Industrial Development and Investment Corporation & Anr. v. Diamond and Gem Development Corporation Ltd. & Anr., (2013) 5 SCC 470***, wherein the Hon'ble SC held that courts cannot rewrite the terms of a commercial contract. By reducing the contractual rate

of interest to 9% per annum, this Tribunal effectively altered the bargain between the parties, which is contrary to settled principles of contract law.

7. He submitted that this very issue formed one of the principal grounds before the Hon'ble SC in the Civil Appeal, which ultimately had resulted in the matter, being remanded for reconsideration of the rate of interest. The Corporate Debtor's (CD) contention in the present proceedings had been that the contractual rate is exorbitant, unfair or unreasonable this plea is an afterthought, as no such objection was ever raised, when the Section 7 application was adjudicated. Having accepted the Loan Agreement and after having defaulted in repayment, the CD remains bound to honour the agreed contractual rate of interest of 3% per month on the outstanding dues.

8. The Ld. Counsel submitted that the amount of Rs.71,61,091/- claimed in the application under Section 7 of the Insolvency and Bankruptcy Code, 2016 represented the outstanding dues only up to the date of filing of the application i.e. till February 2019. The said amount was never intended to be the final liability of the Appellant, as the debt continued to remain unpaid throughout the pendency of the proceedings. Since the Appellant failed to discharge its repayment obligations despite the admitted default, interest continued to accrue on the outstanding amount in accordance with the terms of the Loan Agreement until actual payment.

9. It was submitted that there was a considerable gap of nearly six years between the filing of the Section 7 application and the judgment of this Appellate Tribunal dated 31.01.2025. During this entire period, the Appellant remained in continuous default and consequently became liable to pay

contractual interest for the entire duration of such default. The Applicant/Financial Creditor, therefore, cannot be deprived of the benefit of the agreed contractual interest merely because adjudication of the proceedings consumed considerable time, for a fault which was not attributable to applicant i.e; Financial Creditor.

10. The Ld. Counsel further submitted that, it is a settled principle governing financial transactions that any payments received from a borrower are first to be appropriated towards the interest component before being adjusted against the principal amount. After giving due credit to all payments made by the Appellant, in terms of the judgment dated 31.01.2025, the outstanding liability as on 31.07.2025 works out to Rs.1,30,64,877/-. The said amount represents the dues payable after adjustment of all payments and is computed strictly in accordance with the contractual terms agreed between the parties.

11. Accordingly, he submitted that the Respondent is legally entitled to recover the outstanding amount together with interest at the contractual rate, as the continued accrual of interest is solely attributable to the Appellant's prolonged default in repayment of the loan and not to any overt act or omission on the part of the Respondent.

12. The Ld. Counsel submitted that the CD's objection that the present application amounts to a fresh recovery proceeding or constitutes a separate *lis* is wholly misconceived and devoid of merit. The present application neither seeks recovery of any new claim nor raises any issue requiring fresh adjudication. It has been filed only for modification of the rate of interest

awarded by this Appellate Tribunal from 9% per annum to the contractual rate agreed between the parties.

13. It was submitted that the entitlement of the Applicant/Financial Creditor to receive interest on the outstanding dues was an issue which already stands adjudicated by this Tribunal in its judgment dated 31.01.2025. The Appellant did not challenge the aspect of grant of interest before any higher forum. The only issue requiring consideration is whether such interest ought to be awarded at the contractual rate, instead of the reduced rate fixed by this Tribunal. Therefore, the present application is confined to modification of an existing direction and does not involve adjudication of any fresh dispute between the parties.

14. Ld. Counsel submitted that Hon'ble SC gave liberty to Respondent, to approach this Tribunal for modification of the rate of interest, and no objection regarding maintainability was raised by the Appellant before the Hon'ble Supreme Court. Consequently, the Appellant cannot now at this matured stage of proceedings contend that the present proceedings are not maintainable, as the application is fully supported by the order of the Hon'ble Supreme Court and is confined to the limited issue for which liberty was granted, as regards to payability of interest and at what rate.

15. He further submitted that the present application is a legitimate invocation of the inherent powers of this Tribunal under Rule 11 of the National Company Law Appellate Tribunal Rules, 2016. The application does not seek recovery of any independent contractual claim or initiation of a fresh

proceeding, but is confined to securing complete justice by seeking modification of the rate of interest awarded in the judgment dated 31.01.2025, in accordance with the contractual terms which was inter-se binding upon the parties.

16. It was submitted that where the statutory framework by itself does not expressly provide a procedural mechanism to address a particular situation, this Appellate Tribunal is empowered to exercise its inherent jurisdiction to secure the ends of justice and prevent miscarriage of justice. The Respondent has approached this Tribunal only after obtaining express liberty from the Hon'ble SC and, therefore, the present application squarely falls within the scope of Rule 11. Reliance was placed on ***Glass Trust Co. LLC v. Byju Raveendran, (2025) 3 SCC 625***, wherein the Hon'ble SC recognised that the inherent powers of the Tribunal may be exercised where no express provision exists to meet the ends of justice. Accordingly, he prayed that the present application be allowed and the rate of interest awarded in the judgment dated 31.01.2025 be modified to the contractual rate stipulated in the Loan Agreement.

**Submissions of Appellant / Corporate Debtor**

17. Ld. Counsel for Corporate Debtor submitted that the present Application is liable to be dismissed as it is, in substance, an attempt to seek review of the judgment dated 31.01.2025, a jurisdiction which this Tribunal does not possess under the realms of the Code. It was submitted that while deciding the appeal, this Tribunal had consciously exercised its judicial discretion in directing payment of the remaining amount with interest at 9%

per annum after taking note of the fact that the entire principal amount and a substantial portion of the interest had already been repaid by the Corporate Debtor. The Applicant now seeks to substitute the said rate with the contractual default rate of 3% per month (36% per annum), thereby converting an outstanding amount of Rs.6,61,091/- into an alleged liability of Rs.1,31,84,877/-. Such a prayer is, in effect, a re-hearing of a concluded issue under the guise of modification. It was further submitted that Rule 11 of the National Company Law Appellate Tribunal Rules, 2016 does not confer any power of review and merely preserves the inherent powers of this Tribunal any provision of law vesting inherent power will not be inclusive of power of review, which has to be otherwise independently conferred to the Tribunal under a statute. The liberty granted by the Hon'ble SC only permitted the Applicant to approach this Tribunal and did not direct or warrant modification of the interest awarded.

18. He submitted that the Applicant's claim for interest at the rate of 3% per month is wholly exorbitant, arbitrary and contrary to settled law. In this regard, reliance was placed upon the Constitution Bench judgment of the Hon'ble SC in ***Central Bank of India v. Ravindra & Ors., (2002) 1 SCC 367***, wherein it was held that the award of pendente lite and post-decree interest is a matter of judicial discretion and not a mechanical enforcement of the contractual rate. The Hon'ble SC further held that penal interest cannot be capitalised or compounded and that charging interest upon penal interest is opposed to public policy.

19. It was submitted that although the Corporate Debtor has already repaid the entire principal amount of Rs.52,50,000/-, and that the Applicant has compounded penal interest year after year and inflated its claim to Rs.1,31,84,877/-. Such a claim is directly contrary to the principles laid down in Central Bank of India v. Ravindra & Ors (supra) and is also inconsistent with Sections 50 and 51 of the Code, which empower the Adjudicating Authority to avoid extortionate credit transactions. Accordingly, the direction of this Tribunal awarding interest @ 9% per annum constitutes a fair and proper exercise of judicial discretion.

20. Ld. Counsel submitted that no subsisting financial debt survives for adjudication under the Code, as even though the Applicant had filed Company Petition (IB) No. 195 of 2019 claiming an amount of Rs.71,61,091/, during the pendency of the proceedings, the Corporate Debtor had repaid Rs.65,00,000/-, thereby discharging the entire principal amount of Rs.52,50,000/- along with a substantial portion of the interest. It was precisely on account of this substantial repayment that this Tribunal, by its judgment dated 31.01.2025, held the admission of the Section 7 application to be a patent error and consequently set aside the admission order. Therefore, the Applicant cannot continue to repeatedly invoke the insolvency jurisdiction merely for recovery of an alleged differential amount of penal or contractual interest after the principal debt itself stands fully discharged.

21. Ld. Counsel further submitted that the Applicant has taken contradictory stand before different judicial forums regarding the amount allegedly due to be payable towards interest. It was pointed out that in the

proceedings pending before the **Court of Small Causes (C.C. No. 0050156 of 2019)**, the Applicant's own counsel recorded on 20.06.2025 that, after adjustment of the amounts already paid, only approximately Rs.11,00,000/- remained payable towards interest. However, in the present Interlocutory Application, the Applicant seeks to recover an exorbitant amount of Rs.1,31,84,877/- allegedly payable towards interest in respect of the very same loan transaction. Such inconsistent stands clearly demonstrate that the Applicant is blowing hot and cold before different judicial forums and has not approached this Tribunal with clean hands. Consequently, the Applicant is not entitled to any relief.

22. It was further submitted that the Applicant cannot attribute any delay in payment to the Corporate Debtor, since instead of accepting the benefit of the judgment dated 31.01.2025 and permitting the compliance to be ensured, within the period granted by this Tribunal to expire, the Applicant itself preferred Civil Appeal No. 4338 of 2025 before the Hon'ble SC on 10.03.2025, even before expiry of the two-month period granted for compliance. Having itself challenged the judgment before the Hon'ble SC, the Applicant cannot subsequently allege non-compliance by the Corporate Debtor.

23. Ld. Counsel submitted that the Code is intended to facilitate insolvency resolution and not to serve as a mechanism for recovery of disputed contractual dues. In support of this submission, reliance was placed upon the judgment of the Hon'ble SC in ***Transmission Corporation of Andhra Pradesh Limited v. Equipment Conductors and Cables Limited & Anr., (2019) 12 SCC 697***, wherein it was categorically held that the Code is not a

substitute for debt recovery proceedings. Reliance was also placed upon the decision of this Appellate Tribunal in ***Ranjeet Singh v. Karan Motors Private Limited, Company Appeal (AT) (Insolvency) No. 693 of 2020***, wherein it was observed that if a creditor seeks recovery of interest for delayed payment, the appropriate remedy is before a competent civil court and not by initiating or continuing insolvency proceedings. Similar reliance was placed upon ***Amier Hamsa Ali Abbas Rawther (Liquidator) v. Chairman-cum-Managing Director, NLC India Limited, Company Appeal (AT) (CH) (Insolvency) No. 213 of 2025***, wherein this Tribunal reiterated that proceedings under the Code cannot be utilised as recovery proceedings for disputed contractual claims. It was therefore the case of Appellant that any residual claim regarding enhanced contractual interest can only be adjudicated before the competent civil court or through arbitration, particularly when the Loan Agreement dated 25.04.2017 itself contains an arbitration clause.

24. It was submitted that during the hearing of the present Application, the Appellant relied only upon those judgments, which had already been cited in the reply and served upon the Applicant well in advance. Consequently, the Applicant's request to file further written submissions on the ground that it had no opportunity to examine those judgments is wholly untenable and deserves to be rejected.

25. Ld. Counsel finally submitted that once the application under Section 7, admission had been set aside on account of substantial repayment, the Applicant cannot indirectly convert the insolvency proceedings into a debt

recovery mechanism by seeking enhancement of the rate of interest through the present Application. The judgment dated 31.01.2025 conclusively determined the issue by directing payment of the balance amount along with interest at 9% per annum, and the present Application is nothing but an attempt to reopen a concluded adjudication under the guise of modification. It was case of the Appellant, that if the Applicant is genuinely aggrieved by the contractual rate of interest, its remedy lies before the competent civil court or in arbitration in accordance with the Loan Agreement and not before this Tribunal exercising jurisdiction under the Code. Summing up his arguments, Ld. Counsel prayed that this Appellate Tribunal may be pleased to dismiss IA No. 2832 of 2025 with costs and maintain the rate of interest at 9% per annum, as awarded by this Tribunal vide judgment dated 31.01.2025.

**Analysis and Findings**

26. We have gone through the documents available on record and heard the parties.

27. The present Application has been filed pursuant to the liberty granted by the Hon'ble Supreme Court while dismissing the Civil Appeal preferred against the Judgment dated 31.01.2025. The only question which restrictively arises for our consideration is whether the direction contained in the said judgment awarding interest at the rate of 9% per annum deserves to be modified and substituted with the contractual rate of interest provided under the Loan Agreement.

28. The Loan Agreement dated 25.04.2017 clearly provides that in case of default, the borrower is liable to pay interest at the rate of 2% per month

together with an additional 1% per month, amounting to 3% per month. The Appellant never disputed this contractual stipulation at any stage of the proceedings. It is the case that once the parties had consciously agreed to such rate of interest, the same ought to have been given effect to and the award of interest at 9% per annum amounts to rewriting the contract. It is further submitted that the amount claimed in the Section 7 Application represented the dues only up to February 2019 and that interest continued to accrue thereafter until payment. The Applicant also argues that the present Application is not in the nature of a review, but merely seeks modification of the rate of interest in terms of the liberty granted by the Hon'ble Supreme Court.

29. The Corporate Debtor, on the other hand, submits that the present Application seeks to reopen a final judgment under the guise of modification. It is argued that while deciding the appeal on 31.01.2025, all the facts, including the terms of the Loan Agreement, were before this Tribunal. After considering those facts, interest at 9% per annum was consciously awarded as part of the final relief. It is further submitted that during the pendency of the insolvency proceedings, the Corporate Debtor had already repaid the entire principal amount of Rs.52.50 lakh along with a substantial part of the interest by paying Rs.65 lakh, and it was primarily on account of these repayments that the admission of the Corporate Debtor into CIRP was set aside. According to the Corporate Debtor, permitting contractual default interest at 3% per month at this stage would enlarge the liability to more than Rs.1.31 crore, despite the principal having already been discharged, which

would be wholly disproportionate. It is also contended that Rule 11 does not confer any power to review a final judgment and that proceedings under the Insolvency and Bankruptcy Code cannot be converted into proceedings for recovery of penal contractual interest.

30. Having noticed the rival submissions, we shall now examine whether the Applicant has been able to show any legal or factual ground which would justify modification of the judgment dated 31.01.2025.

31. At the outset, it is necessary to examine the nature of the Judgment sought to be modified. The Judgment dated 31.01.2025 was not an interim order passed during the pendency of the proceedings. It was rather a final adjudication by which the appeal itself was finally disposed of after considering the pleadings, documents and submissions advanced by both sides. While deciding the appeal, this Tribunal took note of the fact that during the pendency of the insolvency proceedings, the Corporate Debtor had already repaid Rs.65 lakh, thereby clearing the entire principal amount of Rs.52.50 lakh and also paying a substantial portion of the interest claimed by the Financial Creditor. Keeping these facts in view, the admission of the Corporate Debtor into Corporate Insolvency Resolution Process was held to be unsustainable and was accordingly set aside. However, at the same time, this Tribunal directed the Corporate Debtor to pay the remaining balance together with interest at 9% per annum from the date the amount became due till its payment. Thus, the rate of interest was not fixed casually or without consideration. It formed part of the final relief granted after

appreciating the overall facts and circumstances of the case, founded upon the factual rationality.

32. The principal submission of the Applicant is that since the Loan Agreement specifically provides for payment of interest at the rate of 3% per month in the event of default, this Tribunal ought to have awarded interest strictly in accordance with the contract. According to the Applicant, once the parties had voluntarily agreed to such terms, there was no occasion for this Tribunal to substitute the agreed rate with interest at 9% per annum.

33. We are unable to accept this submission in the manner canvassed by the Applicant for the reasons which have been discussed in subsequent paras.

34. There can be no dispute that parties are ordinarily bound by the terms of the contract voluntarily entered into between them. Equally, Courts and Tribunals do not ordinarily rewrite commercial contracts merely because one party subsequently finds the terms to be onerous. However, that principle cannot be applied in isolation without considering the nature of the proceedings before the Court and the relief that is ultimately granted. Once a dispute reaches a judicial forum, the Court is required not merely to read the contract, but also to mould the relief in accordance with law after considering the conduct of the parties, the surrounding facts and to ensure justice within the framework of law. The framework here being the Insolvency and Bankruptcy Code. Therefore, while contractual terms undoubtedly constitute an important factor, they are not the only factor governing the relief to be granted by the Court.

35. In the present case, the direction awarding interest at 9% per annum did not arise because this Tribunal ignored the terms of the Loan Agreement. Rather, it was passed after taking into consideration the subsequent developments which had taken place during the pendency of the proceedings. By the time the appeal was finally decided, the Corporate Debtor had already discharged the entire principal amount and had also paid a substantial amount towards interest. It was precisely because of these subsequent payments that this Tribunal found the continuation of CIRP to be unjustified. Therefore, the award of interest at 9% per annum was a conscious exercise of judicial discretion while balancing the equities between the parties after the principal liability had been discharged.

36. The Applicant has also argued that interest continued to accrue after filing of the Section 7 Application and, therefore, the contractual rate ought to be applied till the date of actual payment. It is true that the loan transaction and the contractual obligations between the parties continued to subsist. However, it is equally important to notice that the present proceedings arise under the Code. The object of the Code is to determine whether insolvency proceedings deserve to continue against the Corporate Debtor. It is not intended to function as a forum for recovery of every contractual claim or for enforcing every term of a commercial agreement irrespective of the stage of the dispute.

37. The facts of the present case demonstrate this distinction. The Section 7 Application was originally filed on the basis of an alleged financial debt of Rs.71,61,091/-. During the pendency of the proceedings, however, the

Corporate Debtor paid Rs.65 lakh, thereby wiping out the entire principal amount and substantially reducing the outstanding liability. It was these very repayments which persuaded this Tribunal to hold that the admission of the Corporate Debtor into insolvency proceedings was a patent error. Once the insolvency proceedings themselves were found to be unsustainable because of substantial repayment, the remaining dispute essentially became one relating to the quantum of interest payable between the parties.

38. At this stage, the Applicant seeks to substitute the judicially awarded rate of 9% per annum with contractual default interest of 3% per month, which, according to its own calculations, would increase the outstanding claim to more than Rs.1.31 crore. We find that such relief cannot be examined merely by looking at the contractual clause in isolation. The consequence of granting such prayer must also be kept in view. The principal amount of the loan already stands repaid. The insolvency proceedings have already been set aside. What survives is only a dispute regarding the extent of interest payable. If, despite these circumstances, contractual default interest at the rate of 36% per annum is permitted to be enforced through modification of the earlier judgment, the liability would increase manifold solely on account of penal interest. Such a consequence would substantially alter the very basis on which the appeal had earlier been decided which could not be done under the garb of modification by even partially revisiting the judgments on merits. The objective of the Code is the resolution of corporate insolvency and not the recovery of claimed amount. Once it was held that CIRP proceedings against the CD would not survive and it’s also a going concern, awarding such

usurious rates of interest, would lead to corporate debtor actually slipping into insolvency, which would be against the objectives of the Code.

39. We also find considerable force in the submission of the Corporate Debtor that the liberty granted by the Hon'ble Supreme Court cannot, by itself, be read as an approval of the Applicant's claim. The order of the Hon'ble Supreme Court merely granted liberty to approach this Tribunal for seeking modification of the rate of interest. Therefore, the burden still lies upon the Applicant to establish that modification of the final judgment was at all warranted on legal as well as factual grounds. Mere grant of liberty cannot automatically entitle the Applicant to the relief sought.

40. We also cannot lose sight of the fact that while passing the Judgment dated 31.01.2025, this Tribunal had already exercised its discretion after considering the complete factual matrix before it. The Applicant has not pointed out any factual error, inadvertent omission or circumstance which was not within the knowledge of this Tribunal while deciding the appeal. The terms of the Loan Agreement were already part of the record. The repayments made by the Corporate Debtor were also fully known. After considering all these facts, this Tribunal consciously awarded interest at 9% per annum. The present Application, therefore, substantially seeks a different conclusion on the very same set of facts.

41. We further take note of the terms and conditions of the Loan Agreement in case of default. The last para of the Loan Agreement dated 25.04.2017 provides for arbitration and the same is extracted below:

*"In the event of any claim(s), dispute(s) or difference(s) arising directly or indirectly out of this Agreement, or the interpretation thereof or anything done or omitted to be done pursuant thereto or the performance or non-performance, defaults, breaches, of this Agreement ("Dispute(s)"), such Dispute(s) shall be referred to the sole arbitrator appointed by the Lender. The seat of arbitration shall be at Mumbai, India and the arbitration shall be governed by the provisions of the Arbitration and Conciliation Act, 1996 or any statutory amendments thereof or any statute enacted for the replacement therefore. The language of the arbitration proceedings shall be English. The expenses of the arbitration shall be borne in such manner as the arbitrator or arbitral tribunal, as the case may be, may determine. The award including interim award(s) of the arbitral tribunal shall be final, conclusive and binding on all the parties concerned. The arbitral tribunal may, from time to time, lay down the procedure to be followed in conducting the arbitration proceedings and shall conduct the arbitration proceedings in such manner as it considers appropriate."*

42. The Applicant has relied upon ***Rajasthan State Industrial Development and Investment Corporation & Anr. v. Diamond and Gem Development Corporation Ltd. & Anr., (2013) 5 SCC 470***, particularly paragraph 23, to submit that the terms of a contract must be given their actual meaning and that a Court cannot make a new contract for the parties. There is no dispute with this general principle. However, in the present case, we are not changing, rewriting or re-interpreting the Loan Agreement. The clause providing for 2% interest per month plus an additional 1% per month in case of default, making it 3% per month, is clear and its existence is not in dispute. The question before us is different: whether, after considering the facts of the case, we should modify the 9% per annum interest already awarded by us in our final Judgment dated 31.01.2025. At the time of passing

that judgment, the entire principal amount of Rs.52.50 lakh had already been paid, and the Corporate Debtor had paid Rs.65 lakh, which included the entire principal and a substantial part of the interest. These payments were taken into account while setting aside the admission of the Corporate Debtor into CIRP and while directing payment of the remaining amount with interest at 9% per annum. The matter before us was for adjudication under the Insolvency and Bankruptcy Code for corporate insolvency resolution. The objective of the Code is to keep the corporate debtor as a going concern. The interest rate allowed was keeping in mind this objective of the Code. The code could not be used as recovery forum as a separate mechanism for recovery of its claims was available to the lender.

43. In ***Central Bank of India v. Ravindra, (2002) 1 SCC 367***, the Constitution Bench of the Hon'ble Supreme Court held that grant of interest after a matter reaches the Court is not automatic and need not always follow the contractual rate. The Court can award a lower rate where, considering the facts of the case, the contractual interest is disproportionate to the principal amount. Such discretion, however, has to be exercised fairly and for proper reasons. The Hon'ble Supreme Court also held that penal interest cannot be capitalised, and further interest cannot be charged upon the penal interest. In these proceedings, the Corporate Debtor had paid Rs.65 lakh, which covered the entire principal and a substantial part of the interest. Despite this, the Applicant's computation results in a claim of about Rs.1.31 crore by continuing to apply the contractual default rate. Therefore, the issue before us is not whether the contractual clause exists, but whether that rate should

be applied in the present circumstances. Having regard to the substantial payment already made, the repayment of the entire principal and the fact that this Tribunal had already awarded interest at 9% per annum. The principle laid down in *Ravindra* supports the exercise of judicial discretion rather than mechanically applying the contractual rate of 36% per annum.

44. The decisions in ***Transmission Corporation of A.P. Ltd. v. Equipment Conductors & Cables Ltd., (2019) 12 SCC 697***, ***Ranjeet Singh v. Karan Motors Pvt. Ltd.***, and ***Amier Hamsa Ali Abbas Rawther (Liquidator) v. CMD, NLC India Ltd., Company Appeal (AT)(CH)(Ins.) No. 213 of 2025***, also help us understand the limited purpose of proceedings under the Insolvency and Bankruptcy Code. The Hon'ble Supreme Court has made it clear that the IBC is not a substitute for an ordinary recovery proceeding. The same principle has been followed by this Tribunal, including in cases where the dispute essentially concerns delayed payment or a contractual claim for interest. What remains between the parties is essentially a dispute regarding the amount of interest payable under the Loan Agreement. The Applicant now seeks to apply the contractual default rate of 3% per month or 36% per annum to this remaining liability. In these circumstances, permitting the present insolvency proceedings to be used for recovery of enhanced contractual interest would, in substance, turn the proceedings into a recovery proceeding. We are therefore of the view that while the Applicant may pursue such contractual claim before a forum competent to decide it, as provided in the Loan Agreement, the same cannot be used as

a basis to reopen the final judgment passed in the insolvency proceedings and substitute the rate of interest already fixed by us.

45. Viewed from this perspective, we find that the direction awarding interest at 9% per annum strikes a fair balance between the competing rights of the parties. It ensures that the Financial Creditor is compensated for the delayed payment, while at the same time recognising the undisputed fact that the Corporate Debtor had already repaid the entire principal amount together with a substantial portion of the interest even before the appeal was finally decided. Replacing that rate with contractual default interest of 3% per month would convert the corporate insolvency resolution proceedings which have been closed by this Tribunal, into a recovery proceeding, which would be contrary to the objectives of the Code.

46. Accordingly, we do not find any rationale to modify the interest rate which was fixed at 9% per annum on the balance amount in the Judgment dated 31.01.2025. The IA No. 2832 of 2025 is dismissed. No order as to costs.

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

**[Arun Baroka]**
**Member (Technical)**

**[Indevar Pandey]**
**Member (Technical)**

**Place: New Delhi**
**Dated: 24.08.2026**

*Harleen*
*Pragya (LRA)*