NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 2175 of 2026

IN THE MATTER OF:

Omesh Sethi, Suspended Director of Standard Pharmaceuticals Ltd. ...Appellant(s)

Versus

JM Financial Asset Reconstruction Company Ltd. & Anr. ...Respondent(s)

Present:

For Appellant(s) : Mr. Krishnendu Datta, Sr. Advocate with Mr. Kunal Godhwani, Mr. Ankur Anand, Mr. Harsh Gurbani, Advocates.

For Respondent(s) : Mr. Chitranshul A. Sinha, Mr. Shivam Shorewala, Ms. Rakshita Bhargava, Ms. Esha Sharma, Advocates for R-1.

O R D E R
(Hybrid Mode)

06.11.2026: We have heard Learned Counsel for the Appellant and Learned Counsel for the financial creditor at some length.

2. Learned Counsel for the Appellant, at the outset, has taken us to Part IV of the application filed by the Respondent Financial Creditor under Section 7 of the Code in order to submit that the outstanding debt, so far as the Appellant is concerned, is shown as approximately 7.41 crore, which the Appellant is ready to pay to the Financial Creditor.

3. It is further submitted that the Appellant has a very strong case on merits, as the Learned Adjudicating Authority has not considered the applicability of Section 10A of the Code. It is also submitted that the invocation of the guarantee is also bad. Therefore, there was no merit in the application, which has been allowed by the Adjudicating Authority.

4. Learned Counsel for the Appellant has also drawn our attention towards paragraph number 19 of the impugned judgment in order to show that the adjudicating authority has noted in this paragraph that the recall notice dated January 27, 2021, was issued by the financial creditor through its advocate to the borrower and the guarantors, and the guarantee was invoked during Section 10(A) period. Our attention is also being drawn towards paragraph numbers 27, 28, and 29 of the impugned judgment, in order to show that the default has occurred with regard to the period provided under Section 10A of the Code. Thus, the petition filed before the Adjudicating Authority was barred.

5. Learned Counsel for the financial creditor, on the other hand, submits that in Part IV it has been specifically stated that the liability of the corporate guarantor is with regard to Rs. 7.41 crore or the market value of the mortgaged property offered as security, whichever is higher. Since the market value of the mortgaged property is much higher than Rs. 7.41 crore, there is no substance in the submissions made by the Learned Counsel for the Appellant.

6. It is further submitted that, in paragraph no. 29 of the impugned judgment, it has been evidently recorded that the petition has been filed on the basis of invocation of guarantee on 15 February 2023. This invocation letter dated 15.02.2023 was served on the corporate guarantor on 18.02.2023. Therefore, the default has occurred on 25.02.2023, and the petition has been filed on 29.01.2024, which was well within the period of limitation and was not hit by the rigors of Section 10A of the Code.

7. The perusal of Part IV of the application filed by the financial creditor before the Adjudicating Authority would reveal that it is stated therein that the corporate debtor is the guarantor for the outstanding facilities granted to the principal borrower. They were jointly and severally liable to repay the outstanding of the said facilities due to be paid to the Appellant to the extent of Rs. 7,41,22,000/- or the market value of the mortgaged property offered as security by the corporate debtor, whichever is higher.

8. We have also considered the reasoning given by the Adjudicating Authority in paragraph number 29 of the impugned judgment, whereby the petition filed by the financial creditor was not considered to be barred by the provisions contained under Section 10(A) of the Code.

9. Having considered all the facts and circumstances of this case, in the background of the submissions made by the counsel for the parties, we, as of now, are not inclined to issue any interim directions or protection in favour of the Appellant. However, the matter requires consideration.

10. Thus issue notice in appeal as well as in stay application No. 8128 of 2026.

11. The notice on behalf of the Respondent No. 1 has been received by Shri Chitranshul A. Sinha. He prayed for, and is granted, time till 17th November 2026 to file any response to the appeal and stay application. An advance copy is to be given to Learned Counsel for the Appellant, who, in turn, if so wish, may file the rejoinder within 4 days thereafter.

12. List on **23rd November 2026** under the same caption.

[Justice Mohammad Faiz Alam Khan]
Member (Judicial)

[Naresh Salecha]
Member (Technical)

sr/kam