Registered money lender under the Gujarat Money Lenders Act, 2011, who arranges financing for the purpose of enabling a corporate debtor to repay an existing bank loan, does not qualify as a "financial creditor" and the amount advanced does not qualify as "financial debt"

The **Ahmedabad Bench of the National Company Law Tribunal (NCLT)** in the case of **Mangaldas Finance vs Milano Papers Private Limited [C.P.(IB)/38(AHM)2026] dated July 15, 2026**, has held that a registered money lender under the Gujarat Money Lenders Act, 2011, who arranges financing for the purpose of enabling a corporate debtor to repay an existing bank loan, does not qualify as a "financial creditor" and the amount advanced does not qualify as "financial debt" within the meaning of Section 5(7) and Section 5(8) of the Insolvency and Bankruptcy Code, 2016. The Tribunal emphasised that transfer of funds from the applicant's own loan account with a cooperative bank to the corporate debtor's Yes Bank account cannot be construed as a loan disbursement to the corporate debtor.

A money lender regulated under a state enactment, subject to the prohibitions on mode of recovery under Section 39 of the Gujarat Money Lenders Act, 2011, is ineligible to maintain a petition under Section 7 of the IBC. The petition, appearing collusive in nature, with no properly ascertainable date of default and no compliance with the terms of the money lender's licence, is liable to be dismissed with costs, added the Tribunal.

The Tribunal observed that the petitioner was a money lender registered under the Gujarat Money Lenders Act, 2011, which is a state-regulated statute. The licence/registration in Form 3 was submitted for the period from Feb 20, 2024 to Feb 19, 2029. However, the applicant had not submitted any income tax filing, and had only submitted the PAN card of an individual named Asit Surendrabhai Shah. The stated loan was sanctioned to repay the corporate debtor's outstanding loan to Yes Bank. The Tribunal held that a repayment arrangement made to enable the corporate debtor to repay its existing bank loan cannot be construed as the activity of a money lender, and the loan so granted by the applicant did not qualify as financial debt under Section 5(7) and Section 5(8) of the IBC, 2016.

The Tribunal further observed that the applicant could not be assigned the status of a financial creditor under the provisions of the IBC, 2016, even if it had arranged the facility. The stated amount was transferred from the Social Cooperative Bank (the applicant's loan account) to the Yes Bank account, which the Tribunal held could not be construed as a loan disbursement to the respondent corporate debtor.

The Tribunal noted that Section 39 of the Gujarat Money Lenders Act regulates the money lender's activity and imposes certain prohibitions regarding the mode of recovery, as also reflected in a Government of Gujarat Notification. The Tribunal concluded that the applicant was ineligible to file an application under Section 7 of the IBC, 2016, as the provisions of the IBC are for CIRP as defined in Chapter II, Section 6 and Section 7 of the IBC, and the applicant did not comply with the requirements for recovery of amount.