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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO 142/2025**
M/S BUYOUT RETAIL INDIA PVT. LTD.Appellant
Through: Ms. Kanika Singhal and Mr.
Kartik Kumar, Advs.

versus

MR. ANAL GUPTARespondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER
20.05.2025

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1. This hearing is being conducted through hybrid mode.

CM APPL. 31023/2025 – EXMP.

2. Allowed, subject to all just exceptions.

3. Application stands disposed of.

FAO 142/2025

4. The appellant/defendant is preferring this appeal under Order XLIII Rule (1) read with Section 151 of the Code of Civil Procedure, 1908 [hereinafter referred to as “CPC”] for setting aside the impugned order 03.03.2025, whereby the learned District Judge, North-West District, Rohini Courts, Delhi [hereinafter referred to as “**learned Trial Court**”], on consideration of the application under Order VII Rule 11 of CPC moved on behalf of the appellant/defendant, has adjourned the respondent’s suit *sine die* with the direction that the same may be revived after disposal of the proceedings before the National Company Law Tribunal [hereinafter referred to as “NCLT”].

5. No one is present for the respondent/plaintiff despite sending advance notice.

6. Learned counsel appearing for the appellant/defendant has alluded to the order dated 02.02.2024 passed by the NCLT in CP No.

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(IB)-704(ND)/2023, titled *M/s Nuttish Exim India Pvt. Ltd. vs. M/s Buyout Retail India Pvt. Ltd.*, whereby the appellant herein has been admitted to Corporate Insolvency Resolution Process under the Insolvency and Bankruptcy Code, 2016 [hereinafter referred to as the “Code”] and *vide* Paragraph 7(ii) of the order dated 02.02.2024, it has been specifically provided that a moratorium has been declared in terms of Section 14 of the Code.

7. It is pointed out by the learned counsel for the appellant/defendant that the suit for possession and recovery of arrears of rent, where the Corporate Debtor is in possession, was instituted on 03.06.2024 much after the moratorium had crept in *vide* order dated 02.02.2024.

8. *Ex facie*, the impugned order dated 03.03.2025 cannot be sustained in law.

9. In terms of the language of Section 14 of the Code it is crystal clear and unequivocal that no suit could have been instituted against the appellant/Company on the moratorium coming into force with effect from 02.02.2024.

10. Accordingly, the aforesaid impugned order dated 03.03.2025 is hereby set aside.

11. The plaint is liable to be rejected under Order VII Rule 11(a) of CPC for not exhibiting any cause of action at this stage.

12. The appeal is accordingly decided and disposed of. Pending applications, if any, stand disposed of.

13. A copy of this order be sent to the learned Trial Court for information and necessary compliance.

DHARMESH SHARMA, J.

This is a digitally signed order.
MAY 20, 2025/gunn/Es

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