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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.6 OF 2024

Smt. Kanta Gupta,
Age : 54, House No.2249, Sector 7,
Urban Estate, Karnal,
Haryana 132001

.... Appellant
(Original Objector)

V/s.

1. The State of Maharashtra
(Through Competent Authority appointed
under the MPID Act, 1999)
3rd floor, MPID branch, Old Custom House,
Mumbai – 400001

.... Respondent No.1
(Orig. Applicant)

2. National Spot Exchange Ltd.
A Company incorporated under the
Companies Act 1956 and having its
Office at Malkani Chambers, 1st Floor,
Off. Nehru Road, Near Hotel Orchid,
Vile Parle (East), Mumbai – 400 099

.... Respondent No.2
(Orig. Intervenor)

**WITH
CRIMINAL APPEAL NO. 22 OF 2024**

Shri. Surender Gupta,
Age : 52, House No.2249, Sector 7,
Urban Estate, Karnal,
Haryana 132001

.... Appellant
(Original Objector)

V/s.

1. The State of Maharashtra
(Through Competent Authority appointed
under the MPID Act, 1999)
3rd floor, MPID branch, Old Custom House,
Mumbai – 400001

.... Respondent No.1
(Orig. Applicant)

2. National Spot Exchange Ltd.
A Company incorporated under the Companies Act 1956 and having its Office at Malkani Chambers, 1st Floor, Off. Nehru Road, Near Hotel Orchid, Vile Parle (East), Mumbai – 400 099
- Respondent No.2
(Orig. Intervenor)

**WITH
CRIMINAL APPEAL NO. 23 OF 2024**

Shri. Surender Gupta,
Age : 52, House No.2249, Sector 7,
Urban Estate, Karnal,
Haryana 132001

.... Appellant
(Original Objector)

V/s.

1. The State of Maharashtra
(Through Competent Authority appointed under the MPID Act, 1999)
3rd floor, MPID branch, Old Custom House, Mumbai – 400001
- Respondent No.1
(Orig. Applicant)
2. National Spot Exchange Ltd.
A Company incorporated under the Companies Act 1956 and having its Office at Malkani Chambers, 1st Floor, Off. Nehru Road, Near Hotel Orchid, Vile Parle (East), Mumbai – 400 099
- Respondent No.2
(Orig. Intervenor)

**WITH
CRIMINAL APPEAL NO. 24 OF 2024**

Shri. Surender Gupta,
Age : 52, House No.2249, Sector 7,
Urban Estate, Karnal,
Haryana 132001

.... Appellant
(Original Objector)

V/s.

1. The State of Maharashtra
(Through Competent Authority appointed

under the MPID Act, 1999)
3rd floor, MPID branch, Old Custom House,
Mumbai – 400001

.... Respondent No.1
(Orig. Applicant)

2. National Spot Exchange Ltd.
A Company incorporated under the
Companies Act 1956 and having its
Office at Malkani Chambers, 1st Floor,
Off. Nehru Road, Near Hotel Orchid,
Vile Parle (East), Mumbai – 400 099

.... Respondent No.2
(Orig. Intervenor)

**WITH
CRIMINAL APPEAL NO. 25 OF 2024**

Shri. Surender Gupta,
Age : 52, House No.2249, Sector 7,
Urban Estate, Karnal,
Haryana 132001

.... Appellant
(Original Objector)

V/s.

1. The State of Maharashtra
(Through Competent Authority appointed
under the MPID Act, 1999)
3rd floor, MPID branch, Old Custom House,
Mumbai – 400001

.... Respondent No.1
(Orig. Applicant)

2. National Spot Exchange Ltd.
A Company incorporated under the
Companies Act 1956 and having its
Office at Malkani Chambers, 1st Floor,
Off. Nehru Road, Near Hotel Orchid,
Vile Parle (East), Mumbai – 400 099

.... Respondent No.2
(Orig. Intervenor)

**WITH
CRIMINAL APPEAL NO. 26 OF 2024**

- 1) Shri. Surender Gupta,
Age : 52, House No.2249, Sector 7,
Urban Estate, Karnal,
Haryana 132001.

- 2) Smt. Sheetal Gupta,
Age : 49, House No.2249, Sector 7,
Urban Estate, Karnal,
Haryana 132001.

.... Appellants
(Original Objectors)

V/s.

1. The State of Maharashtra
(Through Competent Authority appointed
under the MPID Act, 1999)
3rd floor, MPID branch, Old Custom House,
Mumbai – 400001

.... Respondent No.1
(Orig. Applicant)

2. National Spot Exchange Ltd.
A Company incorporated under the
Companies Act 1956 and having its
Office at Malkani Chambers, 1st Floor,
Off. Nehru Road, Near Hotel Orchid,
Vile Parle (East), Mumbai – 400 099

.... Respondent No.2
(Orig. Intervenor)

**WITH
CRIMINAL APPEAL NO. 27 OF 2024**

- 1) Smt. Kanta Gupta,
Age : 54, House No.2249, Sector 7,
Urban Estate, Karnal,
Haryana 132001

- 2) Shri. Surender Gupta,
Age : 52, House No.2249, Sector 7,
Urban Estate, Karnal,
Haryana 132001.

.... Appellants
(Original Objectors)

V/s.

1. The State of Maharashtra
(Through Competent Authority appointed
under the MPID Act, 1999)
3rd floor, MPID branch, Old Custom House,
Mumbai – 400001

.... Respondent No.1
(Orig. Applicant)

2. National Spot Exchange Ltd.

A Company incorporated under the Companies Act 1956 and having its Office at Malkani Chambers, 1st Floor, Off. Nehru Road, Near Hotel Orchid, Vile Parle (East), Mumbai – 400 099

.... Respondent No.2
(Orig. Intervenor)

Mr. Vinay Bhanushali a/w. Mr. Abhiraj Rao, Mr. Sanmit Vaze and Ms. Diksha Sharma for the Appellant in all Appeals.
Ms. Leena Patil, Special PP for Respondent No.1-State.
Mr. Arvind Lakhawat a/w. Mr. Nimeet Sharma, Adv. Vinit Vaidya, Adv. Jalpa Shah & Adv. Himani Narula i/b. MZM Legal LLP for Respondent No.2 (NSEL).

**CORAM: A.S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

**RESERVED ON : 17th FEBRUARY, 2026
PRONOUNCED ON : 10th MARCH, 2026**

JUDGMENT : [PER : SHYAM C. CHANDAK, J.] :-

1) All aforesaid Appeals have been filed under Section 11 of The Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (for short 'MPID Act') impugning separate Order dated 4th November, 2023 passed by the learned Special Judge (MPID), City Civil & Sessions Court, Gr. Bombay in separate Applications in same MPID Special Case No.1/2014 and seeking quashing and setting aside of said Orders. The impugned Orders arising out of similar facts on the same question of law. Therefore, all these are being decided by this common Judgment.

2) Heard Mr. Bhanushali, learned Advocate for the Appellant, Ms. Patil, learned Special PP for Respondent No.1 and Mr. Lakhawat, learned counsel for Respondent No.2.

3) **FACTS IN CRIMINAL APPEAL NO. 6 OF 2024 :-**

This Appeal is directed against an Order below Exh.18 an Application under Section 96 of the Insolvency and Bankruptcy Code, 2016 (for short “IBC”), in Objection/Application at Exh.79. Said Exh.18 had sought to stay the proceedings in said Exh.42 filed under Section 7 of MPID Act and seeking to make absolute the attachment of certain properties.

3.1) Respondent No.1 has filed the Application Exh.42 under Section 7 of MPID Act seeking to make absolute the attachment of certain properties attached by the State *vide* Notification dated 28th August, 2014. The Appellant opposed that Application with her objection at Exh.79. During pendency of Exh.42, the Appellant preferred Exh.18 contending that the SBI has filed an Application before the NCLT, Mumbai bearing CP(IB)/1145/MB/2021 against the Appellant. Said Application has been filed under Section 95(1) of IBC read with Rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 to initiate Insolvency Resolution Process against the Appellant. The Application was listed before the NCLT, Mumbai on 19th January, 2022 and notice was issued to her. Consequently, the interim moratorium was

commenced against her in terms of Section 96 of IBC, 2016. Since the interim moratorium was set, therefore, no legal action/proceedings can be instituted or commenced or continued against her. As a result, the proceedings in Exh.42 are liable to be stayed by virtue of Section 96 of IBC.

3.2) Respondent Nos. 1 and 2 resisted the Exh.18 with their say at Exh.18A and 18B respectively, which were similar. Respondent No.2 contended that Section 96 of the IBC is applicable only when the statutory attachment at the instance of Respondent No.1 under Section 4 of the MPID Act is 'debt'. There is no material on record to show that, there was such a 'debt' that has been sought to be secured by the State with the help of the attachment under Section 4(1) of the MPID Act. There existed no relationship as 'debtor-creditor' between Appellant-Smt. Kanta Gupta and Respondent No.1. The property of the Appellant has not been attached by Respondent No.1 to secure any debt whatsoever but to protect the interest of the depositors who have lost their monies. Therefore, Section 96 is not applicable to the case. It was further alleged that M/s. PD Agro Processors Pvt. Ltd. ("M/s. PD Agro", for short) is one of the defaulter on the exchange platform of the Respondent No.2 and owes it liability to the tune of Rs.673.85 crores. M/s. PD Agro has been declared as Financial Establishment under the MPID Act. That, Appellant, sole proprietor of M/s. Dulison Cereals, has been a family member of the Director of M/s. PD Agro. The relevant Forensic Audit

Report revealed the money trail of about Rs.13.60 Crores from M/s. PD Agro to the Appellant. It was contended that money trail deposit from the financial establishment M/s. PD Agro was found by EOW and Enforcement Directorate. The said direct money trail of deposits from M/s. PD Agro to the Appellant, *per se*, liable to be attached under Section 4 (1) and 8 of the MPID Act. Any stay of proceedings qua the Appellant would affect the recovery of the outstanding amount of the alleged deposit of M/s. PD Agro. The Appellant has been arraigned as accused in the said case. Respondent No.2 has obtained a decree of INR 633,66,98,350.40 along with interest @ 9% p.a. and execution proceedings has been initiated to execute the said decree. It was contended that only the Interim Resolution Professional has the locus to file an Application under the IBC. As such, there is no substance in the Application.

4) We shall now advert to the remaining Appeals.

The Appeal No.22 of 2024 is directed against an Order below Exh.17 an Application under Section 96 of IBC, in Objection/Application at Exhibit No.172. Said Exh.17 had sought to stay the proceedings in said Exh.74 filed under Section 7 of MPID Act and seeking to make absolute the attachment of certain properties.

Appeal No.23 of 2024 is directed against an Order below Exh.20 an Application under Section 96 of IBC, in Objection/Application at

Exhibit No.78. Said Exh.20 had sought to stay the proceedings in said Exh.42 filed under Section 7 of MPID Act and seeking to make absolute the attachment of certain properties.

Appeal No.24 of 2024 is directed against an Order below Exh.16 an Application under Section 96 of IBC, in Objection/Application at Exhibit No.170. Said Exh.16 had sought to stay the proceedings in said Exh.74 filed under Section 7 of MPID Act and seeking to make absolute the attachment of certain properties.

Appeal No.25 of 2024 is directed against an Order below Exh.17 an Application under Section 96 of IBC, in Objection/Application at Exhibit No.171. Said Exh.17 had sought to stay the proceedings in said Exh.74 filed under Section 7 of MPID Act and seeking to make absolute the attachment of certain properties.

Appeal No.26 of 2024 is directed against an Order below Exh.17 an Application under Section 96 of IBC, in Objection/Application at Exhibit No.80. Said Exh.17 had sought to stay the proceedings in said Exh.42 filed under Section 7 of MPID Act and seeking to make absolute the attachment of certain properties.

Appeal No.27 of 2024 is directed against an Order below Exh.18 an Application under Section 96 of the IBC, in Objection/Application at Exhibit No.81. Said Exh.18 had sought to stay the proceedings in said Exh.42 filed under Section 7 of MPID Act and seeking

to make absolute the attachment of certain properties.

5) The case set out by the remaining Appellant/s in the said Applications filed under Section 96 of the IBC is practically similar to the case advanced by Appellant- Smt. Kanta Gupta in Appeal No.6 of 2024 in her Application at Exh.18 under Section 96 of the IBC seeking stay to the Application at Exh.42 filed under Section 7 of MPID Act by Respondent No.1. Said Applications under Section 96 of the IBC filed by other Appellant/s were opposed by the Respondents by filing their separate say. The contentions raised therein are materially similar to those advanced in their say at Exh. 18A and 18B filed in response to the Application at Exh. 18 of Appellant- Smt. Kanta Gupta in Appeal No.6 of 2024. However, only distinction is that the subject matter property/amount in these remaining Appeals is different.

Therefore, for the sake of brevity, we do not deem it necessary to reproduce the contents of said Applications under Section 96 of IBC seeking stay of the proceedings in the related Applications under Section 7 of MPID Act filed by Respondent No.1 and the contentions of the Respondents in their say filed in the Appellants' Applications under Section 96 of IBC.

6) After hearing the parties and considering the record, the learned Special Judge (MPID), City Civil & Sessions Court, Gr. Bombay rejected the aforestated Applications filed by the Appellants under Section 96 of IBC

seeking stay to the proceedings in the related Applications filed by Respondent No.1 under Section 7 of MPID Act.

7) We have carefully considered the facts in each Appeal as noted above and the submissions made by the parties. Similar controversy had arisen in Criminal Appeal No.5 of 2024 filed by Smt. Kanta Gupta, proprietor of M/s. Dulisons Cereals. The facts in that case and the facts of the aforesaid Appeals are similar. Even the submissions advanced by learned counsel appearing for the parties are same. But only distinction is that the Criminal Appeal No.5 of 2024, the Order under challenge was the one passed in an Application under Section 96 of IBC filed by Smt. Kanta Gupta in the proceeding arising out of an Application under Section 8 of MPID Act filed by the Competent Authority.

8) While dismissing said Criminal Appeal No.5 of 2024, this Court concurred with the reasons given by the learned Judge of the trial Court which persuaded him to reject the Application under Section 96 of IBC. Mainly, the reasons are that, the property, attachment of which was to be made absolute was not a 'debt' within the meaning of the MPID Act. There was no 'debtor-creditor' relationship between the Appellants therein and Respondent No.1. In absence of any debt the moratorium under Section 96 was not applicable. The doctrine of repugnancy under Article 254 (1) of the Constitution of India is applicable only if both Parliamentary Legislation and State legislation are framed under List III (Concurrent List) of Seventh

Schedule of the Constitution. The MPID Act and IBC operate in distinct spheres of legislation and fall in List II and List III of Seventh Schedule of the Constitution respectively. Therefore, there is no repugnancy between these two enactments. As a result, it cannot be contended that the IBC would override the provisions of the MPID Act by virtue of Section 238 of the IBC. These reasons are backed by the decision in *National Spot Exchange Ltd. v/s. Union Of India* reported in (2025) 8 SCC 393.

9) In the wake of above, we do not find any substance in these Appeals and submissions made by Mr. Bhanushali, the learned counsel appearing for the Appellants. Therefore, all these Appeals are liable to be dismissed.

10) We have dismissed the Criminal Appeal No.5 of 2024 with costs of Rs.10,00,000/- for the reasons that the Appellant-Smt. Kanta Gupta had filed the said Appeal in order to delay the attachment proceedings under the MPID Act just to reap its illegal and unethical benefits. The conduct of the Appellants in these Appeals including Appellant -Smt. Kanta Gupta is not an exception to the conduct noted in the Criminal Appeal No.5 of 2024. Because, the Appellants have adopted the very same *modus operandi* in instituting the present Appeals. Despite the legal position having been conclusively settled by the Hon'ble Supreme Court, the Appellants have persisted in pursuing proceedings of a repetitive nature, evidently with a view to delay the attachment proceedings and frustrate the

recovery of monies due and payable to the investors. Such dilatory tactics, in the face of binding precedent, cannot be countenanced in law.

11) Hence, we pass following Order :

11.1) Appeals are dismissed with costs of Rs.5,00,000/- (Rupees Five Lakhs only) in each Appeal.

11.2) Said cost totaling to Rs.35,00,000/- shall be paid to the Armed Forces Battle Casualties Welfare Fund' (AFBCWF) within a period of four weeks from the date of uploading of the present Judgment on the official website of the High Court of Bombay and the payment receipt(s) shall be submitted in the Registry of this Court.

11.3) Details of the bank account for payment of cost are as under :-

Account Name	:- Armed Forces Battle Casualties Welfare Fund (AFBCWF)
Bank Name	:- Canara Bank Ltd. DoD, South Block
Branch Name	:- South Block, Defence Headquarters, New Delhi – 110011.
Account Number	:- 90552010165915
IFSC Code	:- CNRB0019055
Type of Account	:- Saving

11.4) List the Appeals on 15th April 2026 for reporting compliance.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

12) At this stage, Mr. Bhanushali, learned counsel appearing for the Appellants requested that, the ad-interim relief granted earlier may

be continued for the period of four weeks, to enable the Appellants to challenge this Judgment before the Hon'ble Supreme Court.

13) For the reasons recorded in the Judgment, we are not inclined to accept the said request. Hence, the said request is rejected.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)