IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/FIRST APPEAL NO. 1434 of 2025
With
CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2025
In R/FIRST APPEAL NO. 1434 of 2025
With
R/FIRST APPEAL NO. 1436 of 2025
With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2025
In R/FIRST APPEAL NO. 1436 of 2025

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SMRUTIBEN VINODCHANDRA PARIKH (NOW SMRUTIBEN W/O ANKIKET BHAGWAT) & ORS.
Versus
INCOME TAX DEPARTMENT & ORS.

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Appearance:
MR SALIL M THAKORE(5821) for the Appellant(s) No. 1,2,3
MS MAITHILI D MEHTA(3206) for the Defendant(s) No. 1

FIRST APPEAL NO.1436 OF 2025
MR. S.N.SOPARKAR, SENIOR ADVOCATE WITH MR. B.S. SOPARKAR for the appellants

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CORAM:**HONOURABLE MS. JUSTICE NISHA M. THAKORE**
Date : 06/05/2025
ORAL ORDER

1. Heard learned Senior Advocate Mr.Saurabh Soparkar appearing with Mr.B.S. Soparkar, learned advocate for the appellants and Mr.Salil Thakore, learned advocate has appeared on behalf of the appellants in the cognate appeal being First Appeal No.1434 of 2025.

2. It is submitted by the learned Senior Advocate that the original applicant was one private limited company viz. Alchemi Pharma Chem Private Limited who had moved Insolvency Petition No.2 of 1990 under Section 9 of the Provincial Insolvency Act, 1920 against two Directors –

opponent nos. 3 and 6 of one Parag Chemicals Private Limited and others opponents, who were in fact partners of the Shukan Chemicals. It is submitted that the original applicant in fact had been substituted by the Income Tax Department who are raising the recovery of the amount of tax dues from the Alchemi Pharma Chem Private Limited. It is submitted by the learned Senior Advocate that so far as the present appellants are concerned, they have been declared insolvent in absence of the original petitioner. It was further pointed out that in fact they are not liable towards dues of the Parag Chemicals Private Limited, not being the Directors of the said company. By virtue of impugned order, their individual liabilities has been fixed and further impleadment of the Directors in view of impugned order may harm their social status. Lastly, it was pointed out that the learned Judge has stayed the impugned judgment and order till the period of appeal. He has therefore, urged to suspend the further proceedings which may be initiated by the official receiver in view of the impugned judgment and decree passed by the learned Court below.

3. Considering the aforesaid submissions of the learned Senior Advocate for the appellants, prima facie, the Court finds that the question of law has been raised by the learned Senior Advocate as to whether the partners of the partnership firm can be held liable towards the liability incurred by one of the partner who also holds the position of Director of the Company, of which, the present appellants are not associated as Director. The question also arises for consideration as to in such circumstances whether the Income Tax Department

could have been allowed to be substituted in the place of original creditor.

4. Issue notice upon the respondents, making it returnable on **26.06.2025**. Noticing the fact that the learned Judge vide order dated 20.03.2025 passed below Exh.429 in Insolvency Petition No.2 of 1990 has stayed the implementation and operation of the order passed under Section 27 of the Act for a period of 90 days from the date of the pronouncement of such order, the same is directed to be continued till the next date of hearing. Registry is directed to place the copy of present order in First Appeal No.1436 of 2025.

(NISHA M. THAKORE,J)

RATHOD KAUSHIKSINH