

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 676 of 2020

IN THE MATTER OF:

M/s. Samtex Desinz Pvt. Ltd.

...Appellant

Versus

Bharat Bhushan

...Respondent

Present:

For Appellant :

**Mr. Jayant Kumar Mehta and Mr. Aniruddha
Deshmukh, Advocates**

For Respondents :

Mr. Manish Raghav and Mr. Ranjan Doshi, Advocate

O R D E R

(Through Virtual Mode)

11.08.2020 After hearing the learned counsel for the parties, we find that the impugned order has been passed at the pre-admission stage of application filed by the Respondent (Operational Creditor). The order passed is prohibitory in nature. Without going into the merits of the order, we are constrained to observe that the Adjudicating Authority has failed to follow the mandate of Section 9(5) of the 'I&B Code' as it was supposed to pass order of admission or rejection in regard to the application under Section 9 within 14 days of its filing. We also find that the impugned order has been passed after more than three months of filing the application under Section 9 of the 'I&B Code' and before imposition of lockdown on account of outbreak of Covid-19. In the given circumstances, without interfering with the impugned order, we direct the Adjudicating Authority, New Delhi Bench to pass order in regard to the admission or rejection of the application under Section 9 filed by the Respondent (Operational Creditor) on merit within one week. We make it clear that the

direction given in the impugned order will last only till the date such order is passed by the Adjudicating Authority.

All questions regarding the merits of the case are left open and the parties shall be at liberty to address the Adjudicating Authority.

The appeal is accordingly disposed of.

Registry is directed to send a copy of this order to the Adjudicating Authority, New Delhi Bench forthwith.

**[Justice Bansi Lal Bhat]
Acting Chairperson**

**[Justice Anant Bijay Singh]
Member (Judicial)**

**[Dr. Ashok Kumar Mishra]
Member (Technical)**

/ns/gc/