

RAJESH UTTAMCHANDANI MEMBER OF THE SUSPENDED BOARD OF DIRECTORS OF SYSKA LED LIGHTS PRIVATE LIMITED VS SUNSTAR INDUSTRIES THROUGH ITS PARTNER MR. TARRUSH GUPTA

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Case Summary

1. Details of the Parties:

- **Appellant:** Rajesh Uttamchandani (Suspended Director of the Corporate Debtor)
- **Respondents:**
 - Sunstar Industries (Operational Creditor)
 - SBI (State Bank of India) and other Financial Creditors (Intervenors)
 - Hitech Engineering (Intervenor)

2. Facts of the Case:

- The Appellant, Rajesh Uttamchandani, has filed an appeal against the order passed by the National Company Law Tribunal (NCLT), Mumbai Bench, admitting a Section 9 Application filed by Sunstar Industries, the Operational Creditor.
- The appeal challenges the NCLT's order dated 08.10.2024, which admitted the Section 9 application.
- During the course of the appeal, the Appellant made efforts to settle the matter with the Operational

Creditor, agreeing to pay a total amount of Rs. 7.8 Crores. The Appellant has already paid Rs. 4 Crores and was in the process of handing over a Bank Draft of Rs. 1 Crore.

- An Interim order was passed by the Appellate Tribunal on 21.10.2024, which restrained the constitution of the Committee of Creditors (CoC) until further compliance.

3. Issues Involved:

- Whether the Appellant's settlement efforts with the Operational Creditor, including partial payment, justify the continuation of the appeal and the stay on the formation of CoC.
- Whether the Section 12A Application, filed for seeking the dismissal of the Insolvency Petition, should be considered.
- Whether the objections filed by other creditors (SBI, K.K. International) should be considered during the hearing of the 12A application.

4. Judgement:

- The Appellate Tribunal reviewed the progress of the settlement between the Appellant and the Operational Creditor, noting that the Appellant had made substantial payments towards the settlement.
- It was observed that the Section 12A Application, which was filed through the Interim Resolution Professional (IRP), is pending before the Adjudicating Authority.
- The Appellate Tribunal disposed of the appeal, directing that the 12A application be considered by the Adjudicating Authority within eight weeks, with the liberty for all creditors (both Financial and Operational) to file objections.
- The Tribunal also stated that after the eight-week period, further steps would be taken based on the decision of the Adjudicating Authority.

- The appeal was disposed of, with the understanding that the Section 12A application would be dealt with expeditiously by the Adjudicating Authority.

5. Conclusion:

- The appeal was disposed of, with a directive for the 12A application to be considered by the NCLT within eight weeks. The Financial and Operational Creditors were allowed to raise objections, and further actions would be determined accordingly. The Tribunal emphasized expeditious resolution in light of the ongoing settlement efforts.