

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1958 of 2024

IN THE MATTER OF:

Rajesh Uttamchandani

...Appellant

Versus

Sunstar Industries & Anr.

...Respondents

Present:

For Appellant : Mr. Sumant Batra, Mr. Sarthak Bhandari, Ms. Nidhi Yadav and Ms. Ayat Khusheed, Advocates

For Respondent : Mr. Abhirup Dasgupta, Mr. Ishaan Duggal, Ms. Ruchi Goyal, Advocates for SBI/Interveners.
Mr. Abhijeet Sinha, Sr. Advocate with Mr. Nipun Gautam, Ms. Eshna Kumar, Mr. Harpreet Malhotra, Advocates for OC.
Ms. Varsha Banerjee, Advocate for Applicants in I.A. No.161/2025)
Ms. Jagriti Ahuja and Mr. Ateev Mathur, Advocates for Intervenor (Hitech Engineering)

ORDER
(Hybrid Mode)

09.01.2025 This Appeal have been filed by the Appellant - Suspended Director of the Corporate Director challenging the order dated 08.10.2024 passed by National Company Law Tribunal, Mumbai Bench, Court-II admitting Section 9 Application filed by the Respondent No.1 – Sunstar Industries. In the Appeal, we have passed the following order on 11.11.2024 which is to the following effect:

“11.11.2024: Ld. Counsel for the Appellant submits that appellant has as per settlement with the Respondent No. 1 is also paying the balance amount during the course of the day and handing over the bank draft today. Counsel appearing for the State Bank of India has submitted that they have filed an intervention application. Ld. Counsel for the parties have also

referred the Judgment of the Hon'ble Supreme Court in Civil Appeal No. 9986/2024 Glas Trust Company LLC vs. ByjuRaveendran&Ors. Reference has been made to paragraph 80 of the Judgment.

In facts of the present case we are of the view that parties may take recourse to the proceedings under Section 12A by filing an application through IRP under Regulation 30A and it is for adjudicating authority to take a decision on the said application in the appeal we have passed an interim order on 21.10.2024 which is to the following effect.

“Learned Counsel for the Appellant submits that after the Orders was passed by the Adjudicating Authority on 08.10.2024 admitting Section 9 Application, Appellant reached out to the Operational Creditor and figure of Rs. 7.8 Crores has been decided out of which Rs. 4 Crores has already been paid and Appellant is handing over the Bank Draft of Rs. 1 Crore during the course of the day to the Counsel for other side.

List this Appeal on 11th November, 2024, before which the balance amount be paid and compliance Affidavit be filed. In the meantime, in pursuance of the Impugned Order, CoC shall not be constituted”.

Counsel for the operational creditor submits that he shall file an application under Section 12A through the RP within one week and IRP shall present the application within further period of two weeks before the adjudicating authority. Adjudicating Authority shall endeavour to dispose of the 12A application at an early date.

List this appeal again on 09.01.2025.

Parties may file an affidavit for bringing on record the orders passed by the adjudicating authority. Interim order to continue till then. Ld. Counsel for the intervener seeks liberty to file hard copy within one week.”

2. Subsequently the matter was taken up on 21.10.2024 on which date the following order was passed:

“21.10.2024: Learned Counsel for the Appellant submits that after the Orders was passed by the Adjudicating Authority on 08.10.2024 admitting Section 9 Application, Appellant reached out to the Operational Creditor and figure of Rs. 7.8 Crores has been decided out of which Rs. 4 Crores has already been paid and Appellant is handing over the Bank Draft of Rs. 1 Crore during the course of the day to the Counsel for other side.

List this Appeal on 11th November, 2024, before which the balance amount be paid and compliance Affidavit be filed.

In the meantime, in pursuance of the Impugned Order, CoC shall not be constituted.”

3. Learned Counsel for the Appellant submits that Section 12A Application has now been filed through IRP and listed on 22.01.2024 for consideration. Counsel for the Financial Creditors – SBI and K.K. International and as well as other interveners submits that they have claims and they have already filed objection including Section 7 application before the Adjudicating Authority.

4. In view of the fact that, Section 12A has already been filed, there is no reason to keep the appeal pending. The appeal is disposed of with the observation that 12A application which is pending for consideration before the Adjudicating Authority may be disposed of within a period of eight weeks. All the Financial Creditors and the Operational Creditor who have claim against the Corporate Debtor are free to file their objection before the Adjudicating Authority at the time of hearing of the 12A Application.

5. It is further directed that after eight weeks' further steps shall be taken in accordance with the order passed by Adjudicating Authority. Appeal disposed of.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

**[Arun Baroka]
Member (Technical)**

pks/nn