

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 910 of 2020

IN THE MATTER OF:

Raman Raheja

....Appellant

Vs

Prime Air Global Ltd. & Ors.

....Respondents

Present:

**For Appellant: Mr. Anirudh Bakhru and Ms. Smriti Dua,
Advocates.**

**For Respondents: Ms. Urvika Suri, Mr. Abhishek Anand and Mr. Kunal
Godhwani, Advocates for R-1.**

ORDER
(Through Virtual Mode)

20.10.2020: Appellant is aggrieved of admission of application under Section 9 filed by the Operational Creditor. It is submitted by Mr. Anirudh Bakhru, learned counsel representing the Appellant (Shareholder of the Corporate Debtor) that adequate opportunity for proper representation was denied by the Adjudicating Authority. It is further submitted that settlement talks were going on when lockdown was imposed and part payment was made by cheque. However, we find from record that in terms of order dated 24th February, 2020 the Adjudicating Authority (National Company Law Tribunal), New Delhi (Court No. IV) granted time to Corporate Debtor to file reply within the extended time of three days. It happened at a time when lockdown was not in force i.e. around one month before imposition of lockdown due to COVID-19.

Cont'd...../

2. Admittedly, the Corporate Debtor has not raised any defence in the nature of there being a pre-existing dispute or in respect to satisfaction of the claim of the Operational Creditor or pendency of a Civil Suit or Arbitration Proceeding. The limited notice required to be given by the Adjudicating Authority to Corporate Debtor for such purpose has not been honoured, as no reply has been filed and no such dispute or plea has been raised. Under Sub-section 5 of Section 9, the Adjudicating Authority was bound to pass an order admitting or rejecting the application under Section 9 on its merit within 14 days from the date of receipt of such application. Therefore, on the pretext of settlement, pre-admission proceedings could not be permitted to protract. Admittedly, the period of 14 days from the date of filing of the application had elapsed by the time when the impugned order came to be passed. Therefore, we find no legal infirmity in the impugned order. Apart from the issue of settlement talks being underway no legal pleas have been taken which could be a defence in the proceedings. Being devoid of merit, the appeal is dismissed.

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

**[Justice Jarat Kumar Jain]
Member (Judicial)**

**[Dr. Alok Srivastava]
Member (Technical)**

am/gc