

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 429 of 2020

IN THE MATTER OF:

Kerala Ayurveda Ltd.

...Appellant

Vs.

Tata Global Beverages Ltd.

...Respondent

Present: For Appellant: - Mr. Jayant Mehta, Mr. Sanyat Lodha, Ms. Aakash Lodha, Ms. Sanjana Saddy and Mr. Parv Garg, Advocates.

For Respondent: - Mr. Joseph Kpelianthara, Senior Advocate with Mr. M.P. Vinod and Mr. Atul Shankar Vinod, Advocates.

O R D E R

16.03.2020— In terms of the impugned order, learned Adjudicating Authority has only disposed of I.A. No. 09/KOB/20 recording a finding that the money advanced constituted a 'financial debt', which is disputed by the Appellant.

It emerges from the record that the application under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("I&B Code" for short) has not been dealt with at the stage of admission and no order has been passed either admitting or rejecting the application.

Mere finding on an Interlocutory Application that the debt claimed by the Creditor constituted a 'financial debt' would not *ipso facto* justify admission or rejection of the application as learned Adjudicating Authority is required to consider the debt along with default and unless

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there is a finding in respect of default and an order of admission is passed, 'Corporate Insolvency Resolution Process' does not commence. Viewed in this perspective, it is futile to contend that the appeal in terms of Section 60(1) shall be maintainable.

The appeal is accordingly, dismissed as being premature leaving it open to the learned Adjudicating Authority to decide the application on merit and in the event of the Appellant being aggrieved of order of admission passed under Section 7, it shall be open to the Appellant to raise all issues in appeal.

[Justice Bansi Lal Bhat]
Acting Chairperson

[Justice Anant Bijay Singh]
Member(Judicial)

[Shreesha Merla]
Member(Technical)

Ar/G

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