

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Company Appeal (AT) (Insolvency) No. 58 of 2021**

In the matter of:

Vibrant Buildwell Pvt. Ltd.

....Appellant

Vs.

Dilwara Leasing and Investment Ltd.

....Respondent

Present:

Appellant: Mr. Tushar Thareja, Advocate.

Respondent: Mr. Krishnendu Datta, Mr. Anand M Mishra, Mr. Saurabh Kalia, Advocates.

ORDER

(Through Virtual Mode)

01.02.2021: The only issue raised in this appeal is that the Corporate Debtor's right to file reply has been closed and no opportunity of hearing was provided to him.

2. After hearing learned counsel for the Appellant, we find that the matter relates to an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("I&B Code" for short) which is still pending at pre-admission stage before the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-IV. It appears that the Corporate Debtor was given time to file reply on 9th November, 2020 and when the matter came up for consideration on 17th December, 2020 i.e. the date when impugned order came to be passed, it was found that the reply had not been filed by the Corporate Debtor.

3. Learned counsel for the Appellant submits that there being *inter se* conflict between the Directors, there was no consensus on appointment of a counsel which occasioned delay in drafting and filing of the reply.

Contd/-....

4. We are not impressed by this argument. The mandate of Section 7(5) of the 'I&B Code' is loud and clear. The Adjudicating Authority is required to pass an order of admission or rejection qua an application under Section 7 of the 'I&B Code' within 14 days of the receipt of application. This mandate cannot be overlooked to set aside the impugned order and make room for further adjournment. Moreso, around 40 days have been availed by the Corporate Debtor for filing reply but despite the same, no reply had been forthcoming. The task assigned to the Adjudicating Authority at the stage of admission of application is summary in nature as it is supposed to only satisfy itself in regard to financial debt and default on the part of the Corporate Debtor besides looking to the aspect of completion of application.

5. Viewed from this perspective, we are of the considered opinion that acceding to Appellant's prayer would be going against the mandate of law, which even if it held to be directory, furnishes the guidelines so that object of 'I&B Code' and time frame envisaged under it for completion of CIRP is achieved.

The appeal is accordingly dismissed.

[Justice Bansi Lal Bhat]
Acting Chairperson

[Dr. Ashok Kumar Mishra]
Member (Technical)

[Dr. Alok Srivastava]
Member (Technical)

AR/g