

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 121 of 2021**

**IN THE MATTER OF:**

**Aditya Birla Finance Ltd.**

**...Appellant**

**Versus**

**Sintex Prefab and Infra Ltd.**

**...Respondent**

**Present:**

**For Appellant: Mr. Gopal Jain, Sr. Advocate with Mr. R. Sudhinder,  
Mr. Ranjit Shetty, Ms. Astha, Mr. Luckyraj Indorkar,  
Ms. Ekta Bhasin and Ms. Himani Chabra, Advocates.**

**For Respondent:**

**ORDER**  
**(Through Virtual Mode)**

**22.02.2021:** Heard Shri Gopal Jain, Senior Advocate representing the Appellant.

2. It is brought to our notice that the application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'I&B Code') is pending at the pre-admission stage before the Adjudicating Authority (National Company Law Tribunal) Ahmedabad Bench Ahmedabad Court No. 2 which in terms of impugned order dated 12<sup>th</sup> January, 2021 has listed the matter for 'final hearing'. The application is stated to be pending since July, 2020. It is not understandable as to how it can be listed for 'final hearing' at the pre-admission stage. All that the Adjudicating Authority was required to do was to ascertain

*Cont'd...../*

existence of debt and default within 14 days from the receipt of application as mandated under Section 7(4) of I&B Code and on being satisfied that there is debt and default and the application is complete, the Adjudicating Authority was required to pass order of admission of the application on merit.

3. This view has already been taken by this Appellate Tribunal in **“The South Indian Bank Ltd. vs. Gold View Vyapaar Pvt. Ltd., Company Appeal (AT) (Insolvency) No. 40 of 2021 decided on 3<sup>rd</sup> February, 2021”**. The extract thereof is reproduced hereinbelow:-

*“2. After hearing Mr. Raghav Chadha, Advocate for the Appellant, we find that the application under Section 7 has been filed in December, 2019 and time has been granted to Respondents to file reply umpteen times, three weeks’ time granted in terms of the impugned order being as a last chance. This approach cannot be supported as the Adjudicating Authority is statutorily bound to pass an order of admission or rejection on being satisfied in respect of debt, default and completeness of the application within 14 days from the date of filing of such application. It appears that the matter is now fixed for 18<sup>th</sup> February, 2021 “for final hearing” which appears to be based on a wrong premise as pre-admission hearing with limited notice to the Corporate Debtor is only to derive satisfaction in regard*

*to the existence of debt, occurrence of default and completeness of the application. On being satisfied, the Adjudicating Authority is required to pass an order of admission. Therefore, it can safely be stated that no final hearing was postulated at pre-admission stage. The Adjudicating Authority will be well advised to be alive to the phraseology/ terminology to be employed at different stages of the CIRP proceedings and not give impression of a final hearing at the pre-admission stage. Be that as it may, now looking to the fact that the matter is posted for 18<sup>th</sup> February, 2021, we expect the Adjudicating Authority to address the issue at the pre-admission stage and pass an order of admission or rejection as warranted without granting any adjournment.”*

4. In view of the aforesaid, we dispose off this appeal by directing the Adjudicating Authority to address the issue at pre-admission stage with utmost expedition, preferably within one week and pass an order of admission or otherwise as warranted under law without adjourning the matter. Copy of this order be communicated to the Adjudicating Authority.

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

**[Dr. Ashok Kumar Mishra]  
Member (Technical)**

*am/gc*