

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Company Appeal(AT) (Insolvency) No. 979 of 2022**

IN THE MATTER OF:

**Uma Shankar Geonka
(Suspended Director of Calzini Fashions Ltd.)
Versus**

...Appellant

**Kailash Chandra Jain
Interim Resolution Professional of Jayna
Traders Pvt. Ltd. & Anr.**

...Respondents

Present:

**For Appellant : Ms. Pooja M. Saigal, Mr. Vaibhav Tyagi, Mr.
Shubham Jaiswal and Mr. Simrat Passey,
Advocates.**

**For Respondents : Mr. Nihil Kr. Verma, Advocate for R-1
Mr. Rishabh Jain, Advocate for R-2**

O R D E R

08.09.2022 Heard learned Counsel for the parties.

2. This Appeal has been filed against the order dated 03.08.2022 by which the Adjudicating Authority has adjourned the Application I.A. No. 3657 of 2022 filed under Section 12A of IBC to 26.08.2022. This Appeal was heard by this Tribunal on 17.08.2022 when we passed the following order:

O R D E R

17.08.2022: Learned counsel for the Appellant submits that the Adjudicating Authority vide impugned order has adjourned the Section 12A application and asked the Petitioner – Appellant to assure that claims which has been received by the IRP shall be addressed as per law. Learned counsel for the Appellant submits that the Section 12A application was filed before constitution of the CoC, hence, there was no occasion for the Adjudicating Authority for issuing any direction in the impugned order. Submission needs scrutiny.

Issue notice. Learned counsel appearing for the Respondent No. 1 (IRP) and Respondent No. 2 accept notice.

They may file Reply within two weeks. Rejoinder may be file within two weeks thereafter.2

List this Appeal on 08.09.2022. In the meantime, we stay the order dated 03.08.2022. It shall be open for the Adjudicating Authority to pass order on Section 12A application. We further observe that in the CIRP proceeding no further steps shall be taken.”

3. Learned Counsel for the Appellant submits that on 26th August, 2022 the Application was not heard. It is submitted by the learned Counsel for the Appellant that Section 12A Application was filed before the constitution of Committee of Creditors and all outstanding dues of the Operational Creditor have been paid including CIRP dues which was mentioned in paragraph-10 of the Application.

4. Learned Counsel for the parties submit that IRP has also no objection as well as 2nd Respondent that I.A. No. 3657/2022 be allowed which was filed before the Adjudicating Authority.

5. Considering the aforesaid, we allow this Appeal by allowing I.A. No. 3657/2022 permitting withdrawal of Section 9 Application filed by Respondent No. 2. Consequently, the order initiating CIRP dated 19.07.2022 is set aside.

6. The Appeal is allowed accordingly. Let a copy of this order be placed before the Adjudicating Authority.

(Justice Ashok Bhushan)
Chairperson

(Barun Mitra)
Member(Technical)

Akc/NN