

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**

ITEM No.306  
**IA/458(AHM)2024**  
in  
**C.P.(IB)/313(AHM)2022**

**Proceedings under Section Application under any other provisions- IBC**

**IN THE MATTER OF:**

Mukhtarbhai Vazirali Varteji Proprietor of M/s. Fine Impex .....Applicant  
Vs  
C M SMITH AND SONS LIMITED .....Respondent

**Order delivered on: 03/07/2024**

**Coram:**

Mr. Shammi Khan, Hon'ble Member(J)  
Mr. Sameer Kakar, Hon'ble Member(T)

**PRESENT:**

For the Applicant :  
For the Respondent :

**ORDER**  
**(Hybrid Mode)**

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

**-Sd-**  
**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

**-Sd-**  
**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT-I**

**IA/458(AHM)2024  
in  
CP (IB) No. 313 of 2022**

**Mukhtarbhai Vazirali Varteji  
Proprietor of M/s. Fine Impex  
Mr. Samir Vora, Proprietor of Samir Pharma,**  
Having its registered office at,  
Mamsa, Plot No. 69-D, Sahkari Ind Co.  
Ghodha, Bhavnagar, Gujarat.

**.....Applicant/Operational Creditor**

**VERSUS**

**C. M. Smith and Sons Limited**  
Having its registered office at,  
Dashrath Wadi, Court Road,  
Nadiad, Dist. Kheda, Gujarat.

**.....Respondent**

**Order pronounced on 03.07.2024**

**CORAM:**

**SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)  
SH. SAMEER KAKAR, HON'BLE MEMBER (TECHNICAL)**

**APPEARANCE:**

For the Applicant : Mr. Tirth Nayak, Advocate  
For the Respondent : Mr. Monaal Davawala, Advocate

## **ORDER**

[Per Bench]

1. This is an application being IA/458/2024 was filed on 08.03.2024 by the Applicant/Operational Creditor seeking amendment in the CP (IB) No.313/2022. In terms of order dated 08.02.2024 liberty was given to the Applicant/Operational Creditor to amend the Form-5 of the said petition. Applicant/Operational Creditor has sought following relief which are as under:

*“A. To permit the amendment to Form-5 and to take on record the amended Form-5 at **Annexure B** on record in CP IB No. 313 of 2022.*

*B. Permit the Applicant to Replace the Form 5 in CP IB No. 313 of 2022 with the amended Form-5 at **Annexure B** hereto.*

*C. Pass any such other orders that this Hon'ble Tribunal may deem fit to take on record the amended Form-5.*

*D. AND THAT for such further and other orders be passed as this Hon'ble Tribunal may deem fit and proper.”*

2. After issuance of the notice in IA/458/2024, Respondent/ Corporate Debtor appeared and filed its reply vide inward diary No. 3711 on 13.04.2024 opposing the prayer of amendment in Form-5.

3. The Applicant/Operational Creditor has annexed the proposed amended Form-5 with this application as **Annexure-B** and in relief clause Para 7(A) & (B) has specifically sought permission for amendment in the Form-5 and to take on record and to replace with the amended Form-5 *with **Annexure B*** in CP (IB) No.313/2022.
4. However, on perusal of the proposed amended Form-5 annexed as Annexure-B with the IA, Part -V Clause-8 in column 1 to 12 at page No. 12 there are certain blank places qua annexures and dates and same has been duly signed by the Applicant/Operational Creditor which cannot be taken on record..
5. In view of above, we find this **IA/458/2024** is defective and rejected accordingly.

**-Sd-**  
**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

**-Sd-**  
**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**

MD