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Division Bench

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

T.P.No.82/2017
C.P-893/2016

Present: Hon'ble Member (J) Shri Vijai Pratap Singh
Present: Hon'ble Member (J) Shri K.R.Jinan

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 9th August, 2017, 10.30 A.M

Name of the Company		Diabari Tea Company Ltd.	
Under Section		433,434 Winding up	
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

8. MADHUSUDHAN SARKAR, Applicant,
Advocate, 9/8/17

ORDER

Ld. Counsels for the operational creditor informed that on 26/07/2017 an order was passed to serve the notice on the corporate debtor but he received the notice from the Registrar, NCLT only on 08/08/2017, so he could not serve the notice on the corporate debtor.

In view of the law laid down by the Hon'ble NCLAT in **Innovative Industries Ltd. -versus- ICICI Bank**, it is necessary to serve the notice on the corporate debtor. Therefore, Registry is directed to issue fresh notice on the corporate debtor which will be served by the operational creditor within 3 days from today and affidavit of service may be filed within 7 days from today.


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It also appears from the record that operational creditor has not complied with provision of Section 9(3)(b) and (c) of the IBC, 2016. Operational creditor is directed to file an affidavit of compliance of the above provisions and file the Bank's certificate as required under the rule. Ld. Counsel for the operational creditor has informed that Bank has not issued the certificate despite request. Therefore he made a prayer that direction be given to bank to issue the requisite certificate. Petitioner may obtain a certified copy of the order, and that can be served on the bank for compliance.

Petitioner is directed to file supplementary affidavit with regard to compliance of the above directions by 30/08/2017.

Registry is directed to issue urgent certified copy of the order upon compliance of all requisite formalities.

List the matter on 08/09/2017.


(K.R.Jinan)
Member (J)


(Vijai Pratap Singh)
Member (J)