



**THE NATIONAL COMPANY LAW TRIBUNAL  
CHANDIGARH BENCH, CHANDIGARH**

**CP (IB) No. 186/Chd/Pb/2019**

**Under Section 9 of Insolvency and  
Bankruptcy Code, 2016.**

**In the matter of:**

**M/s Oswal Cable Products  
Through its Partner, Shri Gaurav Daga,**  
having its registered office at  
A-93/1, Wazirpur Group Industrial Area,  
Delhi-110052

...Petitioner-Operational Creditor

Vs.

**M/s. Jindal Speciality Textiles Limited  
Through its Managing Director**  
having its registered office at  
Mandiala Kalan,  
P.O. Bija Teh Khanna,  
Ludhiana, Punjab-141412  
CIN No: U17100PB2008PLC031968

...Respondent-Corporate Debtor

**Present:**

For the Petitioner-Operational Creditor : Ms. Garima Bhardwaj, Advocate  
For the Respondent-Corporate Debtor : Mr. Aalok Jagga, Advocate  
Mr. APS Madaan, Advocate

It is noted that In the order dated 06.02.2023, the amount has been wrongly mentioned as Rs. 5,57,527/- instead of Rs. 2,13,816/-. The same stands corrected accordingly. Vide separate detailed order of even date, the present petition CP (IB) No. 186/Chd/Pb/2019 is dismissed and disposed of accordingly.

Sd/-  
**(Subrata Kumar Dash)**  
**Member (Technical)**

Sd/-  
**(Harnam Singh Thakur)**  
**Member (Judicial)**

May 16, 2023  
SD



**THE NATIONAL COMPANY LAW TRIBUNAL  
“CHANDIGARH BENCH, CHANDIGARH”  
(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)**

**CP (IB) No. 186/Chd/Pb/2019**

**Under Section 9 of Insolvency and  
Bankruptcy Code, 2016.**

**In the matter of:**

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Ludhiana, Punjab-141412  
CIN No: U17100PB2008PLC031968

...Respondent-Corporate Debtor

**Judgement delivered on: 16.05.2023**

**Coram: Hon’ble Mr. Harnam Singh Thakur, Member (Judicial)  
Hon’ble Mr. Subrata Kumar Dash, Member (Technical)**

For the Petitioner-Operational Creditor : Ms. Garima Bhardwaj, Advocate  
For the Respondent-Corporate Debtor : Mr. Aalok Jagga, Advocate  
Mr. APS Madaan, Advocate

**Per: Harnam Singh Thakur, Member (Judicial)**

**JUDGMENT**

The present petition is filed, under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity ‘IBC’ / ‘Code’), by **M/s Oswal Cable Products** through its Partner, Shri Gaurav Daga, (for brevity



**'Operational Creditor' / 'Petitioner'**), with a prayer to initiate Corporate Insolvency Resolution Process (**CIRP**) in the case of M/s Jindal Speciality Textiles Limited (**for brevity 'Corporate Debtor' / 'Respondent'**).

2. The Corporate Debtor, namely, M/s Jindal Speciality Textiles Limited, is a Company incorporated on 27.05.2008 under the provisions of the Companies Act, 1956 with CIN No: U17100PB2008PLC031968 with its registered office at Mandiala Kalan, P.O. Bija Teh Khanna, Ludhiana, Punjab-141412. Hence, the territorial jurisdiction lies with this Adjudicating Authority. Copy of the master data of the corporate debtor is attached at page No. 83 of the main petition. The copy of the board resolution dated 14.01.2019 on behalf of the petitioner firm authorizing Mr Gaurav Daga is attached as Annexure A-1 of the petition.

3. The facts of the case, briefly, as stated in the petition are that the operation creditor is dealing with the corporate debtor in day-to-day business with regard to the supply of goods. The corporate debtor has placed purchased order bearing No. PORM/1819/303 dated 23.07.2018 for the purchase of material and as per the purchase order, the payment term is 45 days from the bill date. A copy of the purchase order is attached as Annexure A-4 of the petition. On the basis of the purchase order, the corporate debtor raised invoice No. OCP-03129 dated 28.07.2018 (Annexure-A5 of the petition). The operation creditor has also sent an email dated 30.07.2018 intimating the corporate debtor regarding the dispatch of the material along with the invoice and 'bilty' (transportation receipt) which is attached as Annexure A-7 of the petition. As per the terms of payment, the last date for making payment is fixed as 10.09.2018. The operational



creditor has reminded several times to the corporate debtor to make payments to do emails and Whatsapp/text conversations which are attached as Annexure A-8 & A-9 of the petition.

4. It is submitted by the petitioner in Form 5, Part IV that the amount claimed to be in default is Rs.2,27,585/- (Rupees Two Lakhs Twenty-Seven Thousand Five Hundred Eighty-Five only). The total amount includes Principal amount of Rs. 2,13,816/- & interest of Rs. 13,769/- @ 24% P.A. till 14.01.2019. Copy of the Statement of Bank Account (Annexure-A-14), Purchase Orders (Annexure- A4), the table showing the computation of amount (Annexure-A-3) and Invoice (Annexure-A-5) are attached with the main petition.

5. A demand notice in Form 3 is stated to be issued by the operational creditor dated 07.12.2018 and the same has been delivered to the corporate debtor vide registered post. The original postal receipts along with tracking reports are part of Annexure A-10 of the petition. The operation creditor has also sent an email dated 25.12.2018 demanding payment of Rs. 2,27,585/- (Rupees Two Lakhs Twenty-Seven Thousand Five Hundred Eighty-Five only) from the corporate debtor.

6. It is deposed by way of an affidavit dated 24.01.2019 by the operational creditor stating that the operational creditor has not received any notice from the corporate debtor relating to the dispute of the unpaid operational debt.

7. The notice of this petition has been issued to the corporate debtor to show cause as to why this petition be not admitted. The affidavit of service was filed by Diary No. 5013 dated 23.09.2019. The corporate debtor has



filed reply vide diary No.00575/2 dated 01.06.2022, stating that the corporate debtor has expressed its intention to clear the principal amount. However, the dispute is with regard to the interest component. It is also contended that a demand notice was not served upon the respondent.

8. The short written submissions have been filed by the petitioner vide Diary No.00551/2 dated 21.02.2023 and by respondent/corporate debtor vide diary No.00560/4 dated 27.07.2022.

9. We have heard the learned counsel for the petitioner as well as corporate debtor and have perused the records.

10. The first issue for consideration is whether the demand notice in Form 3 was properly served. The original postal receipts along with the tracking reports are attached as Page No.52A, 52E of the main petition. It is seen from the tracking reports that the demand notice was duly served at the registered address of the corporate debtor.

11. The next issue for consideration is whether this application is filed within limitation. The period of limitation would begin from the date of default i.e. last date of for making payment of the purchase order which is 10.09.2018. This application was filed vide Diary No. 410 on 25.01.2019. Therefore, this Adjudicating Authority finds that this application is filed within limitation.

12. The other issue for consideration is whether the operational debt was disputed by the corporate debtor. The corporate debtor in its reply has stated that there is only a dispute with regard to the interest component as principal amount has been offered to the petitioner-operational creditor. It is argued that there is no agreement with regard to the interest and the



invoices are also not signed by the corporate debtor wherein the condition of paying the interest is mentioned.

13. During the pendency of this case, the corporate debtor has submitted a cheque of principal amount which is not disputed by the respondent. The only dispute left is with regard to the payment of the interest component on the above-mentioned principal amount to the petitioner. The amount of interest claimed is Rs. 13,769/-.

14. During the course of arguments Ld. Counsel for the petitioner has placed reliance on Judgement of **Prashant Agarwal vs Vikash Parasrampurria & others Company Appeal (AT) (Ins) No. 690 of 2022 dated 15.07.2022** wherein it has been held that Interest on delayed payment, if stipulated in the invoice, will form part of “debt”. Another judgement referred by the Operational Creditor to support his contention is Judgment of Hon’ble Delhi court in the case of **Dura-Line India Pvt. Ltd vs BPL Broadband Network Pvt. Ltd. 2004(74) DRJ 266** wherein it has been held that ‘a written contract comprising the offer, its acceptance by the issuance of purchase orders and raising of invoices in execution thereof. These constitute the written contract’.

15. On the other hand, Learned counsel for the respondent has also placed reliance on the judgment of (i) **S.S. Ploymers Vs. Kanodia Technoplast Limited [NCLAT Delhi] [Company Appeal (AT) (Insolvency) No.1227 of 2019**, (ii). **SBF Pharma Vs Gujarat Liqui Pharmacaps Pvt. Ltd. [NCLAT Delhi] [Company Appeal (AT) (Insolvency) No.883 of 2019]**, **M/s Amsons Communications Pvt. Ltd. Vs M/s ATS Estates Pvt. Ltd. [NCLAT Delhi] [Company Appeal (AT) (Insolvency) No.540 of 2020]**,



contending that the CIRP cannot be initiated only on the basis of interest. One of the cases titled as **S.S. Ploymers Vs. Kanodia Technoplast Limited (supra)** relied upon by the respondent is directly on the issue- whether interest alone can be held to constitute a “debt” when the Principal amount is entirely paid.

16. After hearing both the Ld. counsels and keeping in view the fact that the principal amount stands paid, we are of considered view that CIRP cannot be initiated solely on the basis of claim of interest component. In this regard, reliance can be placed on the judgement involving the same issues passed by Hon'ble NCLAT in the case of **Rohit Motawat Vs. Madhu Sharma Proprietor Hind Chem Corporation & Anr. Comp. App. (AT)** (Ins) No. 1152 of 2022 dated 03.02.2023 wherein it has been held that

*“10. We have heard counsel for the parties and after perusal of record, are of the considered opinion that the impugned order is patently illegal and deserves to be set aside. The question which has been raised by the Appellant is hereby answered in favour of the Appellant in view of the decision taken by this Court in the case of ‘S.S.Polymers’ (Supra), ‘Permal Wallage Pvt. Ltd.’ (Supra) as well as the decision of the ‘Hon’ble Karnataka High Court’ in the case of ‘Jyothi Limited’ (Supra). Before parting, we are constrained to observe that the Adjudicating Authority has erred in not looking into the facts that the principal amount has entirely been paid and the issue was only regarding to interest for which the application under Section 9 of the Code was not maintainable as the spirit of the legislation of the Code is for ‘resolution of debt’ and not for ‘recovery’.” (Emphasis Supplied)*

17. The Judgments in case of **Prashant Agarwal vs Vikash Parasrampurria & others (Supra)** and **Dura-Line India Pvt. Ltd vs BPL Broadband Network Pvt. Ltd. (Supra)** as relied upon by the petitioner are not applicable to the facts of the case as neither there is any agreement to the interest component nor invoices are signed.



18. In view of the latest judgment in case of ***Rohit Motawat Vs. Madhu Sharma Proprietor Hind Chem Corporation & Anr. (Supra)*** and discussion foregoing, CP (IB) No. 186/Chd/Pb/2019 is dismissed and disposed of accordingly.

Sd/-

(Subrata Kumar Dash)  
Member (Technical)

Sd/-

(Harnam Singh Thakur)  
Member (Judicial)

May 16, 2023

SD/SA