

6

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

CP(IB)/267/CHE/2021

*(Filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 r/w
Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating
Authority) Rules, 2016)*

In the matter of **Dalmia Cement (Bharat) Limited**

M/s. Sunrise Movers

Radhakrishna Pally,
Benachity,
Durgapur-713213.

... Operational Creditor

-Vs-

Dalmia Cement (Bharat) Ltd.

Dalmiapuram,
Trichirapalli-621651.

...Corporate Debtor

Order pronounced on 4th February 2022

CORAM:

**R. SUCHARITHA, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)**

For Operational Creditor: Mr. Vinay Kumar Jain, Advocate

For Corporate Debtor: Mr. Rishikesh, Advocate

ORDER

Per : SAMEER KAKAR, MEMBER (TECHNICAL)

This is an Application filed by M/s. Sunrise Movers through its proprietor Ms. Radha Bhattad (*hereinafter referred to as "Operational Creditor"*) under Section 9 of the Insolvency and

Bankruptcy Code, 2016 against Dalmia Cement (Bharat) Ltd. (hereinafter referred as the "**Corporate Debtor**") seeking thereof to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor.

2. From Part IV of this Application, it is seen that the amount claimed to be in default is Rs. 37,21,317 which comprises of Rs. 11,88,116 as outstanding principal and Rs. 25,33,201 being compound interest. The date of default is 31.12.2014. The petition was filed on 06.09.2021.

3. Objections were raised by the Ld. Counsel for the Corporate Debtor during hearing on 12.11.2021 (first hearing) as preliminary issue regarding maintainability of this petition on limitation and pecuniary jurisdiction. During the hearing on 28.01.2022 detailed arguments were advanced by both the sides. Learned Counsel for the Corporate Debtor states that the alleged default claimed in the present petition is Rs.37,21,317/- which is lower than the minimum threshold of default for initiation of Corporate Insolvency Resolution Process as revised by Notification No. S.O 1205 (E) issued under Section 4 of IBC, 2016 dated 24.03.2020.

4. Learned Counsel for the Corporate Debtor cites decision by Hon'ble NCLAT in Company Appeal (AT) (Ins) No. 813 of 2021



between **Jumbo Paper Products -Vs- Hansraj Agrofresh Pvt. Ltd.**, order dated 25/10/2021, and draws our attention to the para 10 of the said order which reads as under:-

"It is seen that notification dated 24.3.2020 (supra) makes it unambiguously clear that the threshold limit to be considered for section 9 application will be Rs. 1 crore. This threshold limit will be applicable for application filed u/s 7 or 9 on or after 24.3.2020 even if debt is of a date earlier than 24.3.2020."

5. Per contra Ld. Advocate for the Applicant cites **Madhusudan Tantia Vs. Amit Choraria & Anr.** in CA (AT) (Ins) No. 557 of 2020 decided by Hon'ble NCLAT. It is seen from the record that Demand Notice was issued only on 18.03.2021 and the present petition was filed only on 06.09.2021, i.e. much after Notification No. S.O 1205 (E) was issued on 24.03.2020.

6. In view of the discussions above regarding the pecuniary jurisdiction, as the amount claimed in default is less than Rs. 1 Crore, this Tribunal is unable to entertain this petition. Hence CP(IB)/267(CHE)/2021 is hereby **dismissed**. No order as to costs.

-Sd-
SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-
R. SUCHARITHA
MEMBER (JUDICIAL)

Raymond