

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

ITEM No.138  
C.P.(IB)/22(AHM)2021

**Order under Section 9 IBC**

**IN THE MATTER OF:**

Ambica Auxiliaries Pvt Ltd  
V/s  
Jinaam's Dress Ltd

.....Applicant

.....Respondent

**Order delivered on .16/03/2022**

**Coram:**

Madan B. Gosavi, Hon'ble Member(J)  
Kaushalendra Kumar Singh, Hon'ble Member(T)

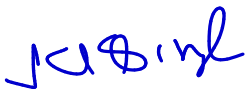
**PRESENT:**

For the Applicant :  
For the Respondent :

**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

  
**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

  
**MADAN B GOSAVI**  
**MEMBER (JUDICIAL)**

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

**CP (IB)/22(AHM) 2021**

[Application for initiation of Corporate Insolvency Resolution Process of M/s. Jinaam's Dress Limited under Section 9 of the Insolvency & Bankruptcy Code, 2016]

**In the matter of:**

**M/s. Ambica Auziliaries Private Limited**

Having address at:

201, Nishchay Co-op Housing, Society,  
Goharbaug, Balimora-396321, Gujarat

Email id- [ambica\\_surat@rediffmail.com](mailto:ambica_surat@rediffmail.com)

**....Operational Creditor**

Versus

**M/s. Jinaam's Dress Limited**

Having address at:

Plot No. 524, Road No.5,  
Sachin, Surat-394230, Gujarat

**....Corporate Debtor**

Order Reserved on: 09.03.2022.  
Order Pronounced on: 16.03.2022.

**Coram: MADAN B. GOSAVI, MEMBER (J)**

**KAUSHALENDRA KUMAR SINGH, MEMBER (T)**

**Appearance:**

For the Applicant : Ld. PCS. Mr. VinodKumar Shah

For the Respondent : Ld. Adv. Mr. Pavan S. Godiawala

*Jashin*

**O R D E R**  
**[Per: Bench]**

1. This application has been filed by M/s. Ambica Auxiliaries Pvt. Ltd.- the Operational Creditor under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “**IBC, 2016**”) for initiation of the Corporate Insolvency Resolution Process (hereinafter referred to as “**CIRP**”) against the M/s. Jinaam’s Dress Ltd.- the Corporate Debtor on the ground that Corporate Debtor committed default in paying the operational debt of Rs. 30,95,734/- (Rupees Thirty Lakh Ninety-Five Thousand Seven Hundred and Thirty Four only).
2. The registered office of the Corporate Debtor is situated in Surat-Gujarat. Hence, this application is within the jurisdiction of this Adjudicating Authority.
3. It is submitted that the Operational Creditor supplied the goods to the Corporate Debtor during the period from 01.06.2018 to 09.03.2019 and raised various invoices to the tune of Rs. 22,80,216. The total outstanding amount stands at Rs. 30,95,734/- including interest. It is further submitted that the notice of demand dated 28.12.2020

*just in*

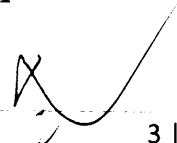


was issued to the Corporate Debtor in Form-3 under Section 8 of the IBC, 2016 for the payment of Rs. 30,95,737/- which was delivered at the registered address of the Corporate Debtor on 30.12.2020. The Corporate Debtor neither repaid the debt nor replied to the demand notice. Hence, this application before this Adjudicating Authority is filed to initiate the CIRP.

4. Learned Counsel for the Corporate Debtor appeared and filed its reply on 13.07.2021 wherein the Corporate Debtor contested this application basically on two grounds:-

- (i) There is no date of default mentioned in this application which is essential under the IBC, 2016 for the application under Sections 7 or 9 of the IBC, 2016.
- (ii) The present application does not meet the threshold limit as given under Section 4 of the IBC, 2016. He further stated that if the date of default is considered as a date of demand notice i.e., on 28.12.2020 then also the present application does not meet the threshold limit as given under Section 4 of IBC, 2016 as the threshold limit for filing the application under

JAIB/ml



Section 7 or 9 of IBC, 2016 has been increased from Rupees One Lakh to Rupees One Crore by the notification of Ministry of Corporate Affairs (Government of India). Hence, the present petition is liable to be dismissed on this ground.

5. We have considered the submissions made on behalf of Learned Counsels for both sides. It is noted that the Operational Creditor supplied the goods and raised various invoices from 01.06.2018 to 09.03.2019 for the total amount of Rs. 30,95,734/-.
6. The Learned Counsel for the Corporate Debtor during the course of the hearing has admitted the claimed amount. The moot question in this application is whether the claimed amount falls under the enhanced threshold limit of Rupees One Crore or the earlier threshold limit i.e., prior to the notification of the Ministry of Corporate Affairs (Government of India) dated 24.03.2020 of Rupees One Lakh.
7. The Hon'ble NCLAT, New Delhi in a recent decision dated 25.10.2021 in the case of *Jumbo Paper Products versus Hansraj Agrofresh Pvt. Ltd. (Company Appeal (AT) (Ins) No.*

*JCB:nl*



813 of 2021) has held that the threshold limit to be considered for the application filed after 24.03.2020 will be Rs. One Crore. This threshold limit will be applicable for the application filed under section 7 or 9 on or after 24.03.2020 even if the debt is of a date earlier than 24.03.2020. This decision of Hon'ble NCLAT is squarely applicable to the facts of the present case.

8. The present petition is filed by the Operational Creditor on 18.02.2021 for the default amount of Rs. 30,95,734/-, which is after the date of said notification.
9. Accordingly, the present application is not maintainable since the default amount is less than the threshold limit prescribed under Section 4 of the IBC, 2016.
10. Hence, the present petition CP(IB)/22(AHM)2021 is dismissed with no costs.
11. Urgent certified copy of this order, if applied for, be issued upon compliance with all requisite formalities.

**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

**MADAN B. GOSAVI**  
**MEMBER (JUDICIAL)**

Signed on this, the 16<sup>th</sup> day of March, 2022.

Rajeev Sen/Stenographer