IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER

SHRI PRASANTA KUMAR MOHANTY,
HON'BLE TECHNICAL MEMBER

CP No. (IB)- 76/9/JPR/2021

(Under Section 9 of the Insolvency and Bankruptcy Code, 2016 Read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

IN THE MATTER OF:

M/s Bansal Trading Company …Operational Creditor/Applicant

Versus

M/s SKCC Personal Care Pvt. Ltd. …Corporate Debtor/Respondent

MEMO OF PARTIES

M/s Bansal Trading Company
Having its registered office at: -
603-605, NDM-1 Netaji Subhash Place, Pitampura, Delhi-110034

… Operational Creditor/Applicant

VERSUS

M/s SKCC Personal Care Private Limited
Having its registered office at: -
J-390, Near Chatrala Circle,
Sitapura Industrial Area,
Jaipur-Rajasthan-302022

… Corporate Debtor/Respondent

For the Applicant : Sanyam Jain, Adv.

For the Respondent : Aditya Vijay, Adv.

Order Pronounced On: 20.02.2023

ORDER

Per: Shri Prasanta Kumar Mohanty, Technical Member

1. This Application is filed by M/s Bansal Trading Company ('Applicant/Operational Creditor'), through the authorised signatory Mr. D.K Aggarwal, who is duly authorised to sign this Application *vide* Partnership Resolution at Annexure –I/B of the Application, under Section 9 of the Insolvency and Bankruptcy Code, 2016 ('IBC' / 'Code') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 ('Rules') seeking to initiate a Corporate Insolvency Resolution Process ('CIRP') against M/s SKCC Personal Care Private Limited ('Respondent' / 'Corporate Debtor').

2. The Corporate Debtor, M/s SKCC Personal Care Private Limited is a private limited company registered under the Companies Act, 2013, having its registered office at J-390, Near Chatrala Circle Sitapura Industrial Area Jaipur Rajasthan 302022. Copy of the Corporate Debtor's Master data along with details of Signatory as extracted from the portal of Ministry of Corporate Affairs (www.mca.gov.in) is Annexed as Annexure-I/A of the Application at Page No. 26.

3. The Operational Creditor, M/s Bansal Trading Company, is a Partnership firm registered under the Partnership Act, 1932, having its registered office at 603-605, NDM-1, Netaji Subhash Place, Pitampura, Delhi-110034, India.

4. The Operational Creditor engaged in the supply of various cosmetic raw materials and other industrial chemicals items. The Applicant has supplied various cosmetic raw material/industrial chemicals items during the period 06.08.2019 to 16.11.2019. Subsequently, the Applicant issued the following invoices in the said period:

Inv No.	*Invoice Date*	*Invoice Date*
BTC/19-20/1715	*06-Aug-19*	*2,99,254*
BTC/19-20/2007	*29-Aug-19*	*2,13,344*
BTC/19-20/2571	*7-Oct-19*	*2,94,823*
BTC/19-20/2745	*17-Oct-19*	*6,66,311*
BTC/19-20/2962	*2-Nov-19*	*32,332*
BTC/19-20/3132	*12-Nov-19*	*1,44,102*
BTC/19-20/3196	*16-Nov-19*	*2,23,020*

5. In the meantime, the Corporate Debtor has paid Rs. 4,64,254 (Rupees Four Lakh Sixty-Four Thousand Two Hundred Fifty-Four Only) during the period 25.09.2019 to 13.11.2019. Further, the Applicant also received the cheques from the Corporate Debtor for an amount of Rs. 1,13,000 and 1,00,000.

6. Thereafter adjusting the aforementioned amount in default is Rs. 14,08,932/- (Rupees Fourteen Lakh Eight Thousand Nine Hundred Thirty-Two Only) remains unpaid. The details of the same as mentioned below:

	Inv. No.	*Invoice Date*	*Invoice Amount*	*Outstanding Amount*
Sale	*BTC/19-20/2007*	*29-Aug-19*	*2,31,344*	*48,344*

Sale	*BTC/19-20/2571*	*7-Oct-19*	*2,94,823*	*3,43,167*
Sale	*BTC/19-20/2745*	*17-Oct-19*	*6,66,311*	*10,09,478*
Sale	*BTC/19-20/2962*	*2-Nov-19*	*32,332*	*10,41,810*
Sale	*BTC/19-20/3132*	*12-Nov-19*	*1,44,102*	*11,85,912*
Sale	*BTC/19-20/3196*	*16-Nov-19*	*2,23,020*	*14,08,932*

7. The Applicant, in pursuance of the above cause of action, issued a Demand Notice dated 12.03.2021 and 28.07.2021 under section 8 of the code demanding the payment of Rs. 14,08,932/- (Fourteen Lakh Eight Thousand Nine Hundred Thirty-Two Only) along with the interest.

8. As a consequence of the aforementioned default, this application has been filed seeking initiation of CIRP against the Corporate Debtor. The Applicant has stated the details of the amount due in Part IV of the Application which is as follows:

PARTICULARS OF OPERATIONAL DEBT

1.	Total Amount of Debt, Details of Transactions on account of which debt fell due, and the Date from which such debt fell due.	Total amount of debt: 18,35,548/- (Inclusive of Interest) Date of Default-28.10.2019
2.	Amount claimed to be in default and the date on which the default occurred	Amount Claimed to be in default: Rs. 14,08,932/- and Rs. 4,26,616 – (Interest @18% per annum) upto 25.08.2021 Rs. 18,35,548/- (inclusive of the interest amount mentioned above) Date from which Debt fell Due: 28.10.2019

9. The Corporate Debtor has filed its reply *vide* diary No. 1487/2022 dated 17.05.2022 in which objection regarding the maintainability of the petition has been raised. The Corporate Debtor submitted that application does not meet the minimum threshold limit as prescribed under the IBC for initiation of CIRP and therefore, is liable to be dismissed. It was further stated that as per the notification dated 24.03.2020, the minimum threshold limit under Section 4 of IBC has been fixed as Rs. 1,00,00,000/- (Rupees One Crore) for initiation of CIRP. However, the present application is filed on 05.10.2021 and the Applicant claimed the defaulted amount of Rs. 18,35,548/- (Rupees Eighteen Lakh Thirty-Five Thousand Five Hundred Forty-Eight Only) which is less than the minimum threshold limit as prescribed under Section 4 of IBC, therefore, the present application is liable to be rejected. Further, the Corporate Debtor also relied on the following judgments:

   I. *Jumbo Paper Products Vs Hansraj Agrofresh Pvt. Ltd., Company Appeal (AT) (Ins) No. 813 of 2021 dated 25.01.2021*
   II. *Desos Software Development Pvt. Ltd. Vs VA Tech Wabag Ltd. Company Appeal (AT) (CH) (INS) No. 306/2021 dated 10.01.2022*
   III. *Metal's & Metal Electric Private Ltd. Vs Goms Electric Pvt. Ltd.*

10. This Adjudicating Authority has perused all the relevant papers and found them in order. The Registered Office of the Respondent is situated in Jaipur;

therefore, this Adjudicating Authority has jurisdiction to entertain and try this application.

11. It is necessary to refer to Section 4 of the IBC which reads as follows:

> *"4. Application of this Part –*
> *(1) This part shall apply to matters relating to the Insolvency and liquidation of corporate debtors where the minimum amount of the default is one lakh rupees.*
> ***Provided** that the Central Government may, by notification, specify the minimum amount of default of higher value which shall not be more than one crore rupees."*

12. The Ministry of Corporate Affairs vide Notification dated 24.03.2020 specified Rupees One (1) Crore as the minimum amount of default for the purposes of Section 4 of the Code. Hence, as per the Code, the minimum amount of default against which applications under Part II of the Code can be moved, in lieu of the notification dated 24.03.2020, is revised to Rs. 1,00,00,000/- (Rupees One Crore Only).

13. Therefore, all the applications that are filed after the notification dated 24.03.2020 came into existence, have to fall within the amended threshold limit of Rs. 1,00,00,000/- (Rupees One Crores Only) even if the debt existed or default occurred before 24.03.2020. The Hon'ble NCLAT has further clarified in the judgment of *Jumbo Paper Products vs. Hansraj Agrofresh Pvt. Ltd., Company Appeal (AT) (Ins.) No. 813 of 2021* that the threshold limit will be applicable for applications filed u/s 7 or 9 on or after 24.03.2020 even if debt is of a date earlier than 24.03.2020.

14. It is necessary to examine whether the present insolvency application is maintainable in terms of Section 4 of the Code as the Applicant in Part IV of the Application has claimed an amount of Rs. 18,35,548/- (Rupees Eighteen Lakh Thirty-Five Thousand Five Hundred Forty-Eight Only) from the Corporate Debtor. The Applicant has filed the present application before this Adjudicating Authority on 05.10.2021.

15. In view of the foregoing, we are not inclined to allow the present application for CIRP of the Corporate Debtor as the Application does not fall within the pecuniary jurisdiction of this Adjudicating Authority. This order shall not act as a bar to the Applicant in pursuing any other remedies available to it, under the prescribed provisions of law.

16. Accordingly, *CP No. (IB)76/9/JPR/2021* is dismissed.

DEEP CHANDRA JOSHI
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DEEP CHANDRA JOSHI,
JUDICIAL MEMBER

PRASANTA KUMAR MOHANTY
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PRASANTA KUMAR MOHANTY,
TECHNICAL MEMBER