

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-V

Item No.-503
IB-3195/ND/2019

IN THE MATTER OF:

Swastik Pipe Ltd

V/s.

Clearplus India Pvt Ltd

....Applicant

....Respondent

SECTION

U/s 9 IBC

Order delivered on 24.09.2021

CORAM:

SHRI ABNI RANJAN KUMAR SINHA
HON'BLE MEMBER (JUDICIAL)

SHRI K.K. VOHRA,
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

Heard the Ld. Counsel appearing for the Petitioner as well as the Respondent counsels. The Proxy Counsel appearing for the Petitioner seeks adjournment. Whereas the Ld. Counsel for Respondent refer to the order dated 25.02.2021 and submits that the Petitioner was directed to convince the Bench, how the application is maintainable if the amount is below the minimum threshold prescribed u/s 4 the IBC. So, considering this, we hereby reject the prayer of the Applicant to adjourn the matter.

We have gone through the order dated 25.02.2021 passed by this Bench and we notice that the Petitioner has admitted the fact that he has received Rs. 92,000/- from the Corporate Debtor. From the perusal of Part IV of the application, we notice that the defaulted amount mentioned in part IV of the application is of Rs. 97,740 as principal amount and Rs. 40,911 as interest, totalling Rs.1,38,651. As admitted, the principal amount has already been accepted by the Petitioner/Operational Creditor. At this juncture, we would like to refer to the definition of the Operational Debt, as defined u/s Section 5 (21) of the IBC, 2016 and the same is quoted below:





“Operational Debt” means a claim in respect of the provision of goods or services including employment or a debt in respect of the 5[payment] of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority;

A bare perusal of the definition of Operational Debt shows that it means a claim in respect of the provision of goods or service including employment or a debt in respect of the payment of dues arising under any law for the time being in force. We further notice, like Financial Debt, the word alongwith the interest is not included in the definition of the Operational Debt. Therefore, we are unable to accept the contention of the applicant that the application is maintainable even if the principal amount is received by the Operational Creditor. Apart from that, we also notice that after receiving the principal amount, the interest amount claimed by the applicant only of Rs. 40,911 whereas the minimum threshold is Rs. 1,00,000 as per Section 4 of the IBC, 2016. Hence, in our considered view, the present application is not maintainable. Accordingly, the Petition IB-3195/ND/2019 is **dismissed**.

-Sd-

(K.K. VOHRA)
MEMBER (T)

-Sd-

(ABNI RANJAN KUMAR SINHA)
MEMBER (J)

Lalit