

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

CP(IB)/270(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 **M/s. Casagrاند Starpark Private Limited**

M/s. RAJESH.D

Sole Proprietor Of M/s SreeWari Engineers

Reg. Office at No.88, 1st Floor,

Sakreshwari Nagar, Sundarachozavaram

Chennai – 600 077

... Applicant/*Operational Creditor*

-Vs-

M/s. CASAGRاند STARPARK PRIVATE LIMITED,

Reg. Office at 5th Floor, NPL Devi,

New No.111, L.B.Road, Thiruvanmiyur

Chennai - 600041

... *Corporate Debtor*

Order pronounced on 16th March, 2022

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Justice (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)

ANIL KUMAR B, MEMBER (TECHNICAL)

For Operational Creditor

: Allwin Godwin & Akhila, Advocates

For Corporate Debtor

: B. Karthikeyan, Advocate

ORDER

Per: Justice (Retd.) S. RAMATHILAGAM, MEMBER (JUDICIAL)

Under consideration is an Application filed under Section 9 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as "Code") by one **Mr. Rajesh. D**, Sole Proprietor of SreeWari Engineers (hereinafter referred to as "**Operational Creditor**") against **M/s. Casagrاند Starpark Private Limited** (hereinafter referred to as "**Corporate Debtor**").

2. From Part-I of the Application, it is evident that the Operational Creditor is a Sole Proprietor. From Part-II of the Application, it is evident that the Corporate Debtor is a Private Limited Company which was incorporated on 12.09.2016 with the nominal Share Capital of Rs.1,00,000/- and Paid-up Share Capital of Rs.1,00,000/-.

3. From Part-III of the Application, it is seen that the Operational Creditor has not proposed the name of the Interim Resolution Professional (IRP) and left it to the discretion of this Tribunal to appoint the IRP. Part-IV of the Application discloses the total amount of debt from which it is evident that the Operational Creditor has claimed a sum of Rs. 20,18,051/- as against the Corporate Debtor.

4. It is submitted by the Learned Counsel for the Operational Creditor that the Operational Creditor during the course of its business received Work Order from the Corporate Debtor's then group company, M/s Casa Grande Distripark Private Limited (Presently, ILV Distripark Private Limited), bearing No. CGDPL/MPD/B-10 Refrigeration Installation/101/17 dated 23.10.2017 for the provision of services such as installation of refrigeration systems (including installation of hid side and low side equipment, materials) at Mappedu, Thiruvallur. In light of the Work



Order, Two Invoices were raised by the Applicant against M/s Casa Grande Distripark Private Limited in 2018.

5. It is averred in the application that pursuant to sale of assets of M/s Casa Grande Distripark Private Limited to one M/s. Logos India, the invoices were asked to be raised in the name of CGD Satharai Private Limited (which pursuant to a change of name is now, Casagrاند Starpark Private Limited). Invoices dated (i) 05.10.2018 bearing reference number: SWE-31/2017-18; (ii) 05.10.2018 bearing reference number SWE-32/2017-18; and (iii) 06.06.2019 bearing reference number SWE-13/2019-20 were raised in the name of CGD Satharai Private Limited. The applicant herein has attached the above said invoices in order to prove existence of operational debt and the debt claimed. Thereafter, the applicant had issued two legal notices dated 20.04.2021 and 06.05.2021 through its legal counsel calling for payment.

6. It was submitted that on 11.08.2021, the applicant sent a statutory demand notice, Form 3 as required under section 8 of the Code for clearance of the outstanding amount of Rs. 20,18,051/- including 10% interest. The Ld. Counsel submitted that no reply was received from the corporate debtor against the demand notice.

7. Pursuant to this, the applicant filed an application under Section 9 of the Code for initiation of CIRP proceedings against the

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Corporate Debtor on 29.09.2021. Hence, prayed for the initiation of Corporate Insolvency Resolution Process as against the Corporate Debtor.

8. The Learned Counsel appearing on behalf of the Corporate Debtor, has raised a preliminary issue regarding maintainability of the application stating that the alleged default claimed in the present petition is Rs. 20,18,051/- which is lower than the minimum threshold of default for initiation of corporate insolvency resolution process as revised by the Notification No.S.O.1205(E) issued under Section 4 of IBC, 2016 dated 24.03.2020.

9. Heard the submissions and perused all the records placed before us. This Application under Section 9 of IBC, 2016 has been filed by the applicant/operational creditor herein on 30.09.2021, which is after the increase of the pecuniary limit by the central government vide Notification No. S.O.1205 (E) issued under Section 4 of IBC, 2016 dated 24.03.2020. The Hon'ble NCLAT in the Company Appeal (AT) (Ins) No. 813 of 2021 between Jumbo Paper Products vs. Hansraj Agrofresh Pvt. Ltd, by order dated 25.10.2021 decided 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 applications 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."

10. 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)/270(CHE)/2021** is hereby **dismissed**.

-Sd-

B. ANIL KUMAR
MEMBER (TECHNICAL)

-Sd-

Justice (Retd.) S. RAMATHILAGAM
MEMBER (JUDICIAL)

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