

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Comp. App. (AT) (Ins.) No. 1411 of 2022**

In the matter of:

Anubha Sinha

....Appellant

Vs.

JN Hotels Pvt. Ltd. & Anr.

...Respondents

For Appellant:	Mr. Kumar Anurag Singh, Mr. Zain A. Khan, Mr. Shwetank Singh, Advocates.
For Respondents:	Mr. Dhananjaya Mishra, Mr. Ayan Rai, Mr. Navneet Dogra, Advocates for R-1. Mr. Shiv Mangal Sharma, Ms. Shrinjan Khosla, Ms. Sonali Gaur, Advocates for R-2.

ORDER

24.11.2022: Heard Learned Counsel for the Appellant as well as Learned Counsel appearing for the Respondents.

2. This Appeal has been filed against the order dated 28.10.2022 passed by the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench-I, Kolkata, by which Application under Section 9 filed by 'JN Hotels Pvt. Ltd.' has been admitted. The Respondent- Operational Creditor is a lessor under two leases. The Corporate Debtor has taken the premises on lease for business purposes, one deed was executed in the year 2013 and another in 2016. The Application was filed claiming operational debt of Rs.1,22,61,890/. Prior to filing Application, demand notice was issued under Section 8 on 25.04.2019. The demand notice was not replied by the Corporate Debtor and thereafter Section 9 Application was filed claiming the operational debt. Reply was filed by the Corporate Debtor opposing Section 9 Application. The Adjudicating Authority, after considering the submissions of the parties and the grounds, admitted Section 9 Application.

3. Shri Kumar Anurag Singh, Learned Counsel for the Appellant challenging the order contends that the amount which was claimed in the

Application if properly adjusted the amount already paid by the Corporate Debtor does not fulfill the threshold. He submits that no proper calculation was given in the Application and the letter which was earlier sent by the Operational Creditor demanding the rent was replied by the Corporate Debtor on 21.02.2019.

4. Learned Counsel for the Respondents refuting the submissions of the Appellant contends that in the Application, the Operational Creditor has already given the calculation of all the claims which was specifically mentioned and the statement which was sought to be referred and relied by the Appellant in this Tribunal filed as Annexure A-20 (Page 303) was not before the Adjudicating Authority and all payments towards rent have already adjusted by the Operational Creditor and the amount claimed fulfills the threshold. Application was filed in the year 2019 and at that time the threshold was only Rupees One Lakh.

5. We have considered the submissions of the Counsel for the parties and perused the record. The Adjudicating Authority in the impugned order has noticed all the objections raised by the Corporate Debtor and has elaborately considered and returned the finding that operational debt is due and the submission which was pressed before the Adjudicating Authority that lease rental is not operational debt has been dealt with and relying on the larger Bench judgment of this Tribunal in ***“Jaipur Trade Expocentre Private Limited v. Metro Jet Airways Training Private Limited- Company Appeal (AT) (Ins.) No. 423 of 2021”*** argument was rejected. Learned Counsel for the Appellant sought to contend that there is no proper computation of rent in the Application under Section 9. We have seen Part-IV of the Application which gives the details of the operational debt and also supported by computation chart as Annexure A-2B. We are not convinced with the submission of the Appellant that the correct computation of the amount outstanding has not been given. Insofar as the letter on which reliance has been placed by the Appellant being letter dated 21.02.2019 (wrongly typed as 21.02.2018) does not amount to any dispute with regard to the entitlement of lease rental and on that basis it cannot be contended that debt was disputed.

6. Learned Counsel for the Appellant sought to contend that the maintenance of the premises was the liability of the Operational Creditor in which there was certain lapses. These issues cannot be a ground to deny the claim of the rental as was agreed between the parties.

7. We do not find any good ground to entertain this Appeal. The Appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

**[Dr. Alok Srivastava]
Member (Technical)**

**[Barun Mitra]
Member (Technical)**

Anjali/nn