



**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)- 85/9/JPR/2021**

Application under Section 9 read with Rule 6 of the Insolvency and Bankruptcy  
(Application to Adjudicating Authority) Rules, 2016

**IN THE MATTER OF:**

**M/s Colorplas Polyadditives LLP                      ...Operational Creditors/Applicant**

**Versus**

**Shri Shyam Madhav Polybags Pvt. Ltd.                      ...Corporate Debtor/Respondent**

**MEMO OF PARTIES**

**M/s Colorplas Polyadditives LLP**

having registered office at  
PL. NO. 49 Ida Jeedimetla  
Hyderabad TG 500055

**Through**

Mr. Kamallesh Gupta S/o Sh. Omprakash Gupta,  
R/o Villa No. 314, Avenue 19,  
Splendid Aparna Palm Meadows,  
Near Dhola Ri Dhani, Gundla, Pochampally,  
Kompally, Hyderabad - 500014

**...Operational Creditor/Applicant**

**VERSUS**

**Shri Shyam Madhav Polybags Pvt. Ltd.**

Registered Office at 104, Building No.1,  
Landmark Treasure Town, Badgaon,  
Udaipur RJ 313001

**... Corporate Debtor/Respondent**



**For the Applicant** : Sakshi Jain, Adv.  
**For the Respondent** : Amol Vyas, Adv.  
Vikas Jain, Adv.

**Order Pronounced On: 16.11.2022**

**ORDER**

**Per: Shri Prasanta Kumar Mohanty, Technical Member**

1. This Application is filed by Mr. Kamalesh Gupta on behalf of M/s Colorplas Polyadditives LLP ('Applicant'/'Operational Creditor') under Section 9 of the Insolvency and Bankruptcy Code ('IBC' / 'Code'), 2016 on 30.09.2021, seeking to initiate a Corporate Insolvency Resolution Process ('CIRP') against Shri Shyam Madhav Polybags Pvt. Ltd. ('Respondent' / 'Corporate Debtor').
2. The Operational Creditor is the manufacturer of Chemicals and Chemical Products and had supplied goods to the Corporate Debtor and there was no dispute at the time of delivery of the goods or thereafter relating to the quantity and quality of goods but subsequently the Corporate Debtor had failed to make the payment for the outstanding invoices dated 23rd August, 2017 to 02nd January, 2018 amounting to Rs. 3,15,650/- (Rupees Three Lakh Fifteen Thousand Six Hundred Fifty Only). Copy of the Invoices and Consignment Notes is attached herewith and marked as Exhibit – C at Page no. 21.
3. The Corporate Debtor is a Private Limited Company incorporated under the provisions of the Companies Act, 2013, incorporated on 16th July, 2014



registered with ROC-Jaipur vide Corporate Identification Number (CIN): U24230TG1981PTC003101 and having its Registered Office at 104, Building No.1, Landmark Treasure Town, Badgaon, Udaipur-313001, Rajasthan, India. The copy of the Master Data along with the Signatory Details as extracted from the web portal of Ministry of Corporate Affairs ([www.mca.gov.in](http://www.mca.gov.in)) is attached herewith and marked as Exhibit-B at Page No. 19.

4. The Operational Creditor after giving several reminders to the Corporate Debtor sent the Statutory Demand Notice in Form 3 along with Form 4 dated 05th August, 2020 as required under Section 8 of the Insolvency & Bankruptcy Code, 2016 via speed post and e-mail on 05 August, 2020 to the Corporate Director and all its directors. The copy of the said Demand Notice is attached herewith and marked as Exhibit - F at Page no. 27.
5. The demand Notice sent by the speed post could not be delivered to the Registered office of the Corporate Debtor and to any of its directors, reason being insufficient address, provided all the addresses were extracted from the web portal of Ministry of Corporate affairs. Though, the copy of the Demand Notice sent via email was delivered successfully and did not bounce back. The copy of the email, speed post receipts along with the track reports as extracted from the website of India Post is attached herewith and marked as Exhibit - G at Page no. 37. However, no reply or objections has been received by the Operational Creditor from the Corporate Debtor.



6. It is submitted that the Corporate Debtor is liable to pay its total outstanding dues of Rs. 5,20,731/- (Rupees Five Lakh Twenty Thousand Seven Hundred Thirty-One Only) including an amount of Rs. 2,05,081/- (Rupees Two Lakh Five Thousand Eighty-One Only) being interest @ 24% per annum as per terms of the outstanding invoices from the due date of the invoices till the date of the demand notice. The copy of the Ledger of Corporate Debtor in the books of accounts of Operational Creditor is attached and marked as Exhibit- D at Page no. 25 and the copy of the computation sheet showing the details of interest calculation on the outstanding dues and the date of default is attached and marked as Exhibit - E at Page no. 26.
7. On 14.12.2021, Mr. Amol Vyas appeared on behalf of the Corporate Debtor and sought time to file the reply. Thereafter, the matter was adjourned several times but no reply has been filed by the Corporate Debtor till date.
8. 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.
9. 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.”*

10. 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).
11. 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) (Im.) No. 813 of 2021* that the threshold limit will be applicable for application filed u/s 7 or 9 on or after 24.03.2020 even if debt is of a date earlier than 24.03.2020.
12. 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. 5,20,731/- (Rupees Five Lacs Twenty Thousand Seven Hundred Thirty-one Only) from the Corporate Debtor. The Applicant has filed the present application before this Adjudicating Authority on 25.09.2021.



13. A bare perusal of the law makes it clear that the amount of default as on date of filing of the application should be within the prescribed threshold when the application is filed. 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.
14. Accordingly, *CP No.(IB)- 85/9/JPR/2021* is dismissed being not maintainable.

DEEP  
CHANDRA  
JOSHI

Digitally signed  
by DEEP  
CHANDRA JOSHI  
Date: 2022.11.16  
18:14:32 +05'30'

**DEEP CHANDRA JOSHI,  
JUDICIAL MEMBER**

PRASANT  
A KUMAR  
MOHANTY

Digitally signed by  
PRASANTA KUMAR  
MOHANTY  
Date: 2022.11.16  
18:33:29 +05'30'

**PRASANTA KUMAR MOHANTY,  
TECHNICAL MEMBER**