

S.No.102

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
25-03-2022 AT 10:30 A.M. THROUGH VIDEO CONFERENCE.

CP(IB) No.71/9/HDB/2022
U/s 9 of IBC, 2016

IN THE MATTER OF:

M/s. Winttus Formwork Pvt Ltd

...Operational Creditor

Vs

M/s. Smart Projects & Infratech India Pvt Ltd

...Corporate Debtor

CORAM:-

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER (TECHNICAL)

ORDER

Learned Counsel Shri Gursat Singh, for petitioner appeared via video conference.
Orders passed vide separate sheets.



MEMBER (T)



MEMBER (J)

Karim

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

CP (IB) No. 71/9/HDB/2021

Application filed under U/s 9 of IBC, 2016, r/w Rule 6 of I & B (AAA) Rules

IN THE MATTER OF

Winntus Formwork Private Limited
(formerly known as SHIV SHAKTI SCAFFOLDING
PRIVATE LIMITED)
House No. 1623, Sector-10A
Gurgaon, Haryana – 122001

...Operational Creditor

VERSUS

Maiwir Ecoinfra Private Limited
House No. 6-1-23, VDOs Colony
Near SR BGNR College
Khammam, Telangana – 507002

...Corporate Debtor

Date of order: 25.03.2022

Coram:

Dr N.Venkata Ramakrishna Badarinath, Hon'ble Member (Judicial)

Shri Veera Brahma Rao Arekapudi, Hon'ble, Member (Technical)

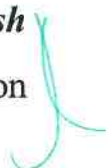
Parties / counsels present:

For the Applicant: Shri Gursat Singh Vachher & Shri Pranam Jain,
Advocates



PER: BENCH

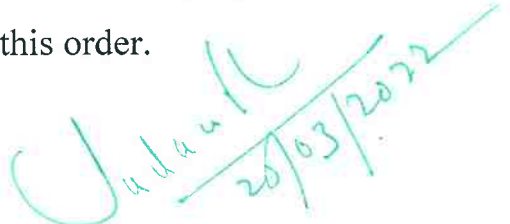
1. This Application is filed under Section 9 of Insolvency and Bankruptcy Code (hereinafter to be referred as “Code”), read with Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, *seeking admission of the petition, initiation of Corporate Insolvency Resolution Process (CIRP), granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon*, contending that the Respondent defaulted in the payment of alleged debt of Rs. 4,59,010.49 (Rupees Four Lakhs fifty nine thousand and ten and forty nine paise only).
2. A perusal of the Application discloses that the same has been filed before this Tribunal on 31.12.2021 (diary no. 7211). It may be stated herein that, Ministry of Corporate Affairs on 24.03.2020 issued notification No. S.O. 1205 (E), which is as follows:-
S.O. 1205 (E): In exercise of the powers conferred by the proviso to Section 4 of the Insolvency & Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby specifies one crore rupees as the minimum amount of default for the purpose of the said purpose.
3. By virtue of the above notification, the threshold limit has been raised from Rs. 1 lakh to Rs. 1 crore. Therefore, as per the above notification, application under Section 7 or 9 of IBC will be admissible, if debt and default is more than the threshold limit.
4. In so far as the date from when the above notification is applicable is concerned, Hon’ble NCLAT in Company Appeal (AT) (Ins) No. 813 of 2021, in the matter of ***Jumbo Paper Products vs Hansraj Agrofresh Pvt Ltd*** held that, the threshold limit will be applicable for application



filed under Section 7 or 9, on or after 24.03.2020, even if default is of a date earlier than 24.03.2020.

5. Therefore, the present application being one under Section 9 of IBC, filed on 31.12.2021, where under the debt claimed is less than Rs. 1 crore, the application is not maintainable before this Tribunal.
6. Hence, returned for presentation before the appropriate court/authority, within 45 days from the date of this order.


(Veera Brahma Rao Arekapudi)
Member (Technical)


(Dr. N. Venkata Ramakrishna Badarinath)
Member (Judicial)

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