

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 188 of 2022

IN THE MATTER OF:

CBRE South Asia Pvt. Ltd.

...Appellant

Versus

United Concepts and Solutions Pvt. Ltd.

...Respondent

Present:

**For Appellant: Mr. Pratik Malik and Mr. Priyam Kamra,
Advocates.**

**For Respondent: Mr. Sahil Sethi, Ms. Ramya Aggarwal and Mr.
Samriddh Bindal, Advocates.**

ORDER

30.08.2022: Heard learned counsel for the parties. This Appeal has been filed against the order passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Bench-II dated 19.01.2022 by which order the Adjudicating Authority has rejected the Section 9 Application filed by the Appellant. Appellant claiming to be an Operational Creditor gave a notice under Section 8 and thereafter filed Application under Section 9 claiming total amount of Rs.1,39,84,400/-. In Part IV of the application the applicant/Appellant has claimed Rs.88,50,886/- as Principal Amount and Rs.51,33,514/- as interest. The Adjudicating Authority took a view that for the purposes of threshold the amount of interest cannot be added and since the applicant only have claim of Rs.88,50,886/-, it does not fulfil the threshold limit of Rs.1 Crore and application is liable to be rejected on this

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ground only. Aggrieved by the order of the Adjudicating Authority the Appellant has come up in this Appeal.

2. It is submitted by learned counsel for the Appellant that the view taken by the Adjudicating Authority that for purpose of arriving at an Operational Debt, the interest amount cannot be included with the Principal amount, is not in accordance with the judgment of this Tribunal in **“Company Appeal (AT) No. 690 of 2022, Prashant Agarwal vs. Vikash Parasrampuriah & Anr.” decided on 15.07.2022**. He submits that this Tribunal having held that the interest can be added to fulfil the threshold, the view of the Adjudicating Authority is erroneous.

3. Learned counsel for the Respondent refuting the submissions of learned counsel for the Appellant contends that in fact there is no entitlement of interest in the facts of the present case, hence, the Adjudicating Authority has rightly rejected the application.

4. We have considered submissions of learned counsel for the parties and perused the record.

5. The Adjudicating Authority in the impugned order has taken a view that interest cannot be added to constitute an Operational Debt, hence, the Principal Amount being less than Rs.1 Crore, the minimum threshold is not fulfilled and the application is rejected on this ground only.

6. The above issue has already been answered by this Tribunal in **Prashant Agarwal’s Case (Supra)**. This Tribunal in Para (vi) laid down following:

Company Appeal (AT) (Insolvency) No. 188 of 2022

“(vi) It is, therefore, clear from these facts that the total amount for maintainability of claim will include both principal debt amount as well as interest on delayed payment which was clearly stipulated in the invoice itself. It is noted that the total principal debt amount of Rs.97,87,220/- along with interest the total debt makes total outstanding as Rs.1,60,87,838/- . Thus, the total debt outstanding of OC is above Rs.1 crore as per requirement of Section 4 IBC read with notification No. S.O 1205 (E) dated 24.3.2020 (Supra), and meets the criteria of Rs.1 crore as per Section 4 of IBC and Application is therefore maintainable in present case.

We concur with the orders of Adjudicating Authority on this issue also.”

7. We, thus, are of the view that the rejection of the application under Section 9 on the above ground is erroneous. In result, we set aside the impugned order passed by the Adjudicating Authority and remit back the matter before the Adjudicating Authority for fresh consideration in accordance with law. Appeal is allowed accordingly.

**[Justice Ashok Bhushan]
Chairperson**

**[Justice M. Satyanarayana Murthy]
Member (Judicial)**

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

Archana/nn