



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

IBC Case Law Capsule

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(January 15, 2024)

M/s Neptunus Power Plant Services Pvt. Ltd. Vs. M./s Jagson International Limited
IB - 827/ND/2020
Date of NCLT Judgement: January 09, 2024

Facts of the Case:-

The present application was filed by M/s. Neptunus Power Plant Services Pvt. Ltd. (hereinafter referred as 'Applicant') before the Adjudicating Authority, under Section 9 of the IBC for initiating the CIRP against M/s. Jagson International Ltd. (hereinafter referred as 'Respondent').

The Applicant claimed that the Respondent defaulted to clear the outstanding amount of Rs. 1,32,99,727.58/- along with interest @ 18% p.a. and the date of default being 18.03.2020.

The entire claim was based on invoices issued by the Applicant to the Respondent for the services rendered by him. The Respondent acknowledged the liability by way of acknowledgement letter dated 29.08.2018. The Applicant sent the demand notice to the Respondent on 03.01.2020 and 24.01.2020 for the debts outstanding since 2015.

The Respondent denied the contentions of the Applicant on the grounds that (i) Application is below the statutory limit of Rs 1 crore, (ii) There was a pre-existing dispute even before the issuance of Demand Notice, and (iii) The Application is time barred.

The Respondent asserted that the debt mentioned in the first demand notice stood at Rs 87.67 Lacs (54.12 Principal +33.54 Interest @18%) and without any prior notice the amount was increased to Rs 1.32 Crs in the application. Further, the Respondent alleged that the Applicant has wrongly added interest amount as no such interest amount has ever been agreed in any invoices nor any agreement exists for the same.

NCLT Observations: -

The Adjudicating Authority observed that the Applicant has not shown any clause in the invoice which specifies that interest is leviable in case of any default. Therefore, in such absence the Applicant cannot claim any interest.



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The AA also observed that the Applicant has failed to satisfy the minimum pecuniary threshold for default being Rs 1 Crore as mandated in the amendment to Section 4 of IBC.

Further, taking note of the averments made by the Respondent and the substantiating documents provide by him, the AA stated that the Respondent was not negligent in its obligations and that the dispute existed prior to the issue of Demand Notice.

Order/Judgement: The Adjudicating Authority held that the filed application fails to fulfill the criteria laid under Section 9 of the Code. Accordingly, the application for initiating CIRP against the Respondent was dismissed.

Case Review: Application dismissed. No Costs.