

**IN THE NATIONAL COMPANY LAW TRIBUNAL AT
ALLAHABAD BENCH**

CP NO.(IB)224/ALD/2018

Section 9 of Insolvency & Bankruptcy Code, 2016

IN THE MATTER OF

JAI PRAKASH SINGH.

**..... OPERATIONAL CREDITOR
VERSUS**

J R ORGANICS LIMITED.

..... CORPORATE DEBTOR

JUDGMENT/ORDER DELIVERED ON 31.08.2018

**CORAM : SH. V.P SINGH, MEMBER (J)
MS. SAROJ RAJWARE, MEMBER (T)**

**For the Operational Creditor : Ms Monica Nanda, (PCS)
For the Corporate Debtor : Sh. Abhishek Anand, (Advocate)**

PER SE : SH. V.P SINGH, MEMBER (J)

ORDER/JUDGMENT

1. Petitioner has filed this petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 alleging that corporate debtor is liable to pay to the operational creditor a sum of Rs. 3,86,856/- being unpaid wages and other claims including P.F. dues amounting to Rs. 67,680/-. Petitioner has stated that in spite of issuing demand notice corporate debtor has failed to make the payment. After filing of the petition notices were issued, as per the directions of Hon'ble N.C.L.A.T in Innoventive Industries, on the corporate debtor, thereafter counter affidavit was filed by the corporate debtor and rejoinder affidavit has been filed by the operational creditor.

2. During the Course of argument learned counsel for the corporate debtor has submitted that the entire due amount has been transferred to the bank account of the operational creditor. He further produced the copy of the bank transfer certificate which shows that amount of Rs.3,12,755 .95 Paisa was transferred to the account of Mr. Jai Prakash Singh having bank account No. 0539000100259574. Learned counsel for the corporate debtor also produced details of the amount paid to the operational creditor.
3. After submission of the counsel of corporate debtor regarding the payment of outstanding dues to the operational creditor, Practicing Company Secretary for the operational creditor submitted that she has no information about the payment transferred to the account of operational creditor. Since the alleged amount has been transferred to the account of operational creditor today only therefore, we issued instruction to the corporate debtor to file supplementary affidavit annexing the proof of payment to the account of operational creditor.
4. In response to our order, corporate debtor has filed affidavit annexing the details of payment made to the operational creditor on 2nd August, 2018. On perusal of the affidavit filed by the corporate debtor it is clear that Corporate Debtor has made payment of Rs. 3,12,755.95 Paisa on 2nd August by transferring the same amount to the account of the operational creditor Jai Prakash Singh having account no. 0539000100259574.
5. Operational Creditor has also attached the calculation chart alongwith affidavit which shows that the corporate debtor has paid Rs. 10,000/- on April, 2013, 10,000/- on 16 August, 2013, 10,000/- on 28 February, 2017 and thereafter 15,000/- on 29th September, 2017. On the basis of documents available on record it is clear that the corporate debtor has made total payment of Rs. 52,000 to the operational creditor. Calculation chart is attached with the

supplementary affidavit which shows that after settlement agreement total amount which was realisable from the corporate debtor was Rs. 3,64,755/- and Paise 95 and out of that the corporate debtor has made payment of Rs. 52,000/- up to 29th September, 2017 and only 3,12,755/- and 95 Paise was outstanding which was transferred today by the corporate debtor in bank account of the operational creditor and proof of transfer of due amount has been filed alongwith supplementary affidavit. It is also on record that as per Part IV of the application corporate debtor is liable to pay to the operational creditor a sum of Rs. 3,86,856/- being unpaid wages and other claims plus interest thereon plus un deposited provident fund dues of Rs. 67,680/-.

6. Corporate debtor has produced certificate in the Court which shows that the outstanding amount of Rs.3,12,755/- and paise 95 has been paid by the corporate debtor today in the Bank Account of the operational creditor and it is also on record that up to 29th September, 2017 corporate debtor had paid 52,000/- to the operational creditor. Therefore, as per calculation chart given by the corporate debtor it appears that entire payment has been made by the corporate debtor. However, under Insolvency & Bankruptcy Code we have not to calculate and determine the outstanding bills. It is only to be seen whether the due amount is more than Rs 1,00,000/- or not.
7. Since the corporate debtor has made the payment in the account of the operational creditor and entire payment of Rs. 3,12,755/- is transferred today in the bank account of the operational creditor and the corporate debtor has also filed the bank certificate regarding depositing the due amount in the account of Operational Creditor, therefore, it is clear that total outstanding, if any, has become less than Rs. 1,00,000/-. Learned counsel for the operational creditor also during the course of argument has admitted that after transfer of

the amount in the bank account of the operational creditor, outstanding dues will be less than 1,00,000/- rupees. In the circumstances present petition under Insolvency & Bankruptcy Code is not maintainable. Learned counsel for the operational creditor has also given consent, in view of the circumstances that corporate debtor has transferred the outstanding dues in the bank account of the operational creditor. Petition filed under Insolvency & Bankruptcy Code has become infructuous and is not maintainable, therefore, liable to be dismissed.

8. Petition is dismissed as not maintainable at the very threshold.

Dated:31.08.2018

**SAROJ RAJWARE
MEMBER (TECHNICAL)**

**V.P. SINGH,
MEMBER (JUDICIAL)**

Typed by:
Shubham Kumar Singh
(P.S)