

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

**Company Appeal (AT) (Insolvency) No. 370 of 2023  
& I.A. No.1245 of 2023**

**IN THE MATTER OF:**

**Royal Manpower Services  
Through its proprietor Mr. Vasudev** **...Appellant**

**Versus**

**Faridabad Autocomp System Pvt. Ltd.** **Respondent**

**Present:**

**For Appellant: Mr. Krishnendu Datta, Sr. Advocate with Mr. Karan Gandhi, Ms. Varsha Himatsingka, Mr. Shivam Gautam, Advocates.**

**For Respondent: Mr. Manan Shishodia, Mr. Abhinav Aggarwal, Mr. Krishanagopal Abhay, Ms. Rimjhim Garg, Advocates.**

**ORDER**

**06.04.2023:** Heard learned counsel for the Appellant as well as learned counsel appearing for the Respondent, the Operational Creditor. This Appeal has been filed against the order dated 06.01.2023 by which order the Adjudicating Authority has rejected the Section 9 application filed by the Appellant on the ground that the application does not fulfil the threshold limit as prescribed by notification dated 24.03.2020 i.e. of Rupees One Crore.

2. Learned counsel for the Appellant submits that the application which was registered subsequently was originally filed in the year 2019. He has referred to the affidavit filed in compliance of the order dated 07.04.2022

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passed by the Adjudicating Authority, which is filed at page 354 of the paper book. In para 2 of the affidavit following has been stated:

*“2. This it is humbly submitted that on 07.04.2022, this Hon’ble Adjudicating Authority was pleased to note that the Vakalatnama of the Counsel for the Operational Creditor is dated 30.03.2021 and the present matter in the hand is registered on 20.07.2021. That the another issue which was raised by this Hon’ble Adjudicating Authority was in relation to meeting the minimum threshold of Rs.1 Crore as enhanced and made applicable from 24.03.2020 and that the present application was registered after the said amendment, hence the Hon’ble Bench directed the counsel to address upon the maintainability issue. That the counsel of the Applicant inter alia submitted that the matter was filed way back in October 2019, which however, came to be registered in 2021. The counsel further submitted that his submissions are supported with the judgments passed by Hon’ble Appellate Authority and Hon’ble Apex Court. Accordingly, the counsel was directed to submit the judgments being relied upon.”*

3. Learned counsel for the Respondent does not dispute about the filing of the application in 2019, however, he submits that there is delay in the application and there was pre-existing disputes.

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

5. The Adjudicating Authority having dismissed the application only for not fulfilling the threshold of Rs.1 crore, which does not appear to be applicable, since the application was filed in the year 2019 and subsequent registration of application will not change the date of filing. Hence, on the date of filing of the application, the threshold which was to be fulfilled by the Appellant was Rupees One Lakh only. In view of the above, impugned order dated 06.01.2023 is set aside and the application under Section 9 is revived before the Adjudicating Authority to be heard and decided in accordance with law.

6. The parties may file the copy of this order before the Adjudicating Authority within a week, and both the parties may appear before the Adjudicating Authority on 24.04.2023, which date may be fixed by Adjudicating Authority on this order being brought on record.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Kanthi Narahari]**  
**Member (Technical)**

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