

Learning Curve-1008

November 17, 2023

A joint application filed u/s 9 of the IBC is not maintainable if the individual claim of each of the joint applicant does not meet the threshold limit of Rs. 1 crore.

CASE TITLE	Mr. Brajesh Mishra and Others Vs. Dolphin Offshore Shipping Ltd.
CASE CITATION	C.P.(IB) - 206/2021
DATE OF ORDER	November 02, 2023
COURT/ TRIBUNAL	NCLT, Mumbai

BRIEF FACTS:

The Petitioner filed an application under Section 9 of the IBC to initiate CIRP against the CD. The respondent CD pleaded that the petition is non-maintainable and is liable to be dismissed on the ground that the petitioner filed a joint application and the individual claim of each OC is less than the minimum threshold limit of Rs. 1cr.

DECISION:

The Hon'ble NCLT, Mumbai, held that,

“Perusal of the record reveals that the total claimed amount in respect of all the Operational Creditors is Rs. 2,86,11,281/-. The perusal of records further reveals that none of the petitioners individually has a claim of more than Rs. 1 crore. Therefore, individually, none of the applicants meets/fulfils the threshold requirement of Rs. 1 crore as per Section 4 of the Code, 2016...

*In this context a reference can be made to the law laid down in **Sadashiv Nomaya Nayak and others Vs. Gammon India and Contractors Private Limited** whereby it has been held that if an individual claim of each of the Operational Creditor, the amount of debt is less than rupees one lakh, it can be rejected being not maintainable.*

In the light of the above brief discussion and the law laid down on the above cited cases, it has to be held that the present petition is not maintainable as the individual claim of each of the joint petitioners do not meet the threshold limit of Rs. 1 crore.”