

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 860 of 2026

IN THE MATTER OF:

Jai Sinter Polycon Pvt. Ltd.

...Appellant(s)

Versus

Beria Commercial Impex Pvt. Ltd.

...Respondent(s)

Present:

For Appellant(s) : Mr. Rahul Jajoo and Mr. Sidharth Bapna, Advocates.

For Respondent(s) : None.

O R D E R
(Hybrid Mode)

25.05.2026 Heard Ld. Counsel for the Appellant.

2. This Appeal has been filed against the order dated 20.03.2026 by which order the Adjudicating Authority has rejected the Transfer Petition No. 85/KB/2023, on the ground of limitation as well as the application does not fulfil the threshold of Rs. 1,00,00,000/-. In the facts of the present case, the winding up petition was filed by the Appellant in September, 2015 calling upon the Corporate Debtor to pay an amount of Rs. 15,82,089/- on account of Principal and TDS.

3. The application remained pending and ultimately was transferred to NCLT to be registered under Section 7. The transfer of the application was made by the order dated 10.07.2023 passed by the Hon'ble Calcutta High Court. The application STP/85/KB/2023 was rejected. One of the grounds taken by the Adjudicating Authority was that by Amendment Act, 2020 in the IBC, the threshold has been increased to Rs. 1,00,00,000/- and the application does not meet the threshold, hence, the application needs to be rejected.

4. Ld. Counsel for the Appellant challenging the order submits that the threshold shall not be applicable in the facts of the present case where winding up petition was transferred from the High Court to NCLT. He submitted that although this Tribunal has taken a view in the Judgment of Navin Ashokkumar Aswani and Anr., Vs. Falcon Industries., delivered by this Tribunal that the Application after being registered under Section 7 or 9 has to fulfil the threshold prescribed in the IBC, against which Judgment, Civil Appeal No. 4151 of 2026 has been filed, which although was dismissed, the question of law was left open. He further relies on the Judgment of Hon'ble Supreme Court in (2022) 2 SCC 161, Neena Aneja and Ors. Vs. Jaiprakash Associates Ltd., specially Para-82 of the Judgment.

5. We have heard Ld. Counsel for the Appellant and perused the record.

6. Coming to the question of threshold, admittedly, the amount under Section 7 application which was registered on 10.07.2023 was less than of Rs. 1,00,00,000/-. We have already held in Navin Ashokkumar Aswani and Anr., that after the registration of Section 7 and 9 application threshold is required to be fulfilled and when threshold is not fulfilled the Insolvency proceedings cannot be proceeded with. Ld. Counsel for the Appellant has placed reliance on the Judgment of Hon'ble Supreme Court dated 27.04.2026 which needs to be noted. The Hon'ble Supreme Court in order dated 27.04.2026 in the Appeal filed against the Judgment of this Tribunal in Navin Ashokkumar Aswani, has dismissed the Appeal by following the order dated 27.04.2026:

“1. We are not inclined to interfere with the impugned judgment and order passed by the National Company Law Appellate Tribunal, Principal Bench, New Delhi in C.A. (AT) (I) No. 109 of 2026; hence, the Civil Appeal is dismissed

2. However, question of law, if any, is kept open.

3. Pending interlocutory application(s), if any, shall stand disposed of.”

7. The order passed by the Hon’ble Supreme Court does not indicate that there is any different expression of opinion with regard to the question of threshold which was decided by this Tribunal in CA(AT)(Ins.) No. 109 of 2026, rather, the Hon’ble Supreme Court has refused to interfere with the Judgment of this Tribunal.

8. Coming to the second submission for which reliance is placed on Para-82 of the Judgment in Neena Aneja and Ors., the said case arose out of Consumer Protection Act, 2019, Amendment made in the Consumer Protection Act (Amendment), 2019 and in the above reference, observation was made in Para-82 of the Judgment, which is as follows:

“82. Section 6 of the General Clauses Act provides governing principles with regard to the impact of the repeal of a central statute of regulation. These governing principles are to apply, “unless a different intention appears”. Clause © of Section 6 inter alia stipulates that a repeal would not affect “any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed”. The right to pursue a validity instituted consumer complaint under the 1986 Act is a right which has accrued under

the law which was repealed. Clause (e) of Section 6 stipulates that the repeal will not affect, inter alia, any “legal proceedings or remedy in respect of any such right ... as aforesaid”. Any such legal proceedings may be continued as if the repealing legislation had not been passed. Clause (c) of Section 6 has the effect of preserving the right which has accrued. Clause (e) ensures that a legal proceeding which has been initiated to protect or enforce “such right” will not be affected and that it can be continued as if the repealing legislation has not been enacted. The expression “such a right” in clause (e) evidently means the right which has been adverted to in clause (c). The plain consequence of clause (c) and clause (e), when read together is twofold: first, the right which has accrued on the date of the institution of the consumer complaint under the 1986 Act (the repealing law) is preserved; and second, the enforcement of the right through the instrument of a legal proceeding or remedy will not be affected by the repeal.”

9. The Hon’ble Supreme Court in the above case was dealing with Section 6 of the General Clauses Act with respect to consequences of repeal of the statute. The IBC code is a complete code, a legislation covering the Insolvency, and present was not a case of repeal of any provision and the threshold provided in the IBC was for purpose and object. When the amendment was made in 2020 the idea was that when financial debt is less than of Rs. 1,00,00,000/- no application for declaring in Insolvency against the Corporate Debtor be proceeded. With respect to lesser amount, the Financial Creditor and Operational Creditor were to take other proceedings but Insolvency proceedings cannot be proceeded with, when threshold is not met. We, thus, are of the view that the Judgment of the Hon’ble Supreme Court in Neena Aneja and Ors., does not help the Appellant in the facts of the

present case. In view of the aforesaid, we see no reason to interfere with the impugned order.

10. The Appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Abhishek/Manu