

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Company Appeal (AT) (Insolvency) No. 2057 of 2024

**[Arising out of the Order dated 12.07.2024, passed by the
'Adjudicating Authority' (National Company Law Tribunal, New
Delhi, Court-IV in Company Petition CP (IB) No. 277/2022)]**

IN THE MATTER OF:

Bhushan Power & Steel Limited

4th Floor, A-2, NTH Complex
Shaheed Jeet Singh Marg, USO Road
Qutub Institutional Area, New Delhi-110067

...Appellant

Versus

A.G. Pipes Private Limited

Property No. G-7, Gupta Plaza, LSC Bhera Enclave
Paschim Vihar, New Delhi – 110087

...Respondent

Present:

For Appellant : Mr. Chandra Shekhar Yadav, Mr. Ahtitva Srivastava
and Ms. Pakhi Dutta Roy, Advocates

For Respondent : Mr. Rakesh Kumar, Ms. Preeti Kashyap, Mr. Ankit
Sharma and Mr. Sahil Chawla, Advocates

J U D G M E N T
(Hybrid Mode)

[Per: Arun Baroka, Member (Technical)]

This Appeal has been filed by the Appellant - Bhushan Power & Steel Limited (BPSL) Vs. A.G. Pipes Private Limited against the dismissal of Section 9 petition on the grounds that the petition is not maintainable in terms of Section 4 as the debt default is less than Rupees One Crore.

2. The Appellant - BPSL claims that in terms of various purchase orders issued by the Respondent, it supplied steel products and raised invoices from

time to time as per the supplies. It claims that an amount of Rs. 1,49,04,757/- crores is outstanding against the Appellant as per its ledger.

3. As a background, it informs us that the Appellant – BPSL had undergone CIR Process vide order dated 26.07.2027 under Section 7 of the Code. Subsequent to the approval of resolution plan, the new management had taken over. It also informs us that during the pendency of CIR Process the erstwhile RP of the Appellant had issued a demand notice dated 04.03.2019 to the respondent. It was replied by the Respondent on 08.03.2019. Later on, it issued another demand notice on 07.10.2021 under the Code. The Appellant claims that a reply was provided by the Respondent on 13.10.2021.

4. Thereafter the Appellant filed CP (IB) No. 277/2022 on 12.07.2024, however, NCLT dismissed the petition on the ground that the petition is not maintainable in terms of Section 4 as a debt defaulted is less Rs. 1 crore.

Submissions of Appellant:

5. The Operational Creditor claims that as per its ledger Rs. 1,49,04,757/- is outstanding towards the principal amount. This consists of outstanding amount, the details of which are as under:

- the outstanding amount from the unit with SAP Code 1000224 - Rs.1,42,02,230/-. The last payment was made by the Corporate Debtor on 30.11.2019 and therefore, the interest is calculated w.e.f. 01.12.2019;

- the outstanding amount from the unit with SAP Code 1000579 – Rs.7,02,527/-. The last payment was made by the Corporate Debtor on 23.09.2019 and therefore, the interest is calculated w.e.f. 01.12.2019. Calculation sheet is at Page Nos. 172 of Appeal.

6. The Operational Creditor served a Demand Notice dated 07.10.2021 upon the Corporate Debtor and also served through Email dated 07.10.2021 and speed post on 09.10.2021 - demanding payment of the Operational Debt. Vide the said notice, the Operational Creditor sought the payment of unpaid debt of Rs.1,49,04,757/-outstanding from the unit with SAP Code 1000224 Rs.1,42,02,230/-& outstanding amount from the unit with SAP Code 1000579 Rs.7,02,527/-. The said Demand Notice has been duly served upon the Corporate Debtor and the Corporate Debtor issued a Reply dated 13.10.2021 raising frivolous issues which do not amount to existence of any dispute. No payment of unpaid debt has been made. Alongwith Demand Notice, all Tax Invoices, Goods Receipts, Ledger & Calculation Sheet were also enclosed. The said documents were also filed alongwith Company Petition.

7. In para 2 of the Reply to the Demand Notice, the Corporate Debtor denied the existence of any outstanding amount and alleged that the amount of Rs.7,02,527/- is the cost of rejected material and that vide Email dated 06.09.2019, it was mentioned that there is rejected material worth Rs. 7,02,527/-. No further defense was taken. Even this Email was sent after receipt of earlier Demand Notice dated 04.03.2019. In Reply to the Company Petition

filed before Ld. NCLT, the Corporate Debtor took the defense that the Principal Amount of Operational Debt claimed is less than Rupees One Crore:

"The Applicant/Operational Creditor had only arrayed respondent/corporate debtor as sole respondent in the present matter and therefore, the present Reply is being filed on behalf of respondent/corporate debtor herein only." It is further stated that applicant is making a deliberate attempt to seek relief against an entity which is not party herein. (Para 4 of Reply at Page 197 of Appeal)."

The Respondent had also argued that the invoices placed by the applicant on record do not have any concern with corporate debtor except which are on pages 75 to 76 and 125 to 129 against, which payment has already been made. Appellant claims that for the first time, this kind of defense has been taken. Neither in Email dated 06.09.2019 nor in Reply dated 13.10.2021 to Demand Notice dated 07.10.2021, any such defense was taken despite the fact that the invoices filed herein and the unpaid debt referred herein were duly enclosed alongwith Demand Notice.

8. The Operational Creditor had filed Rejoinder before Ld. NCLT to the Reply filed by the Corporate Debtor to Company Petition. In the rejoinder the Operational Creditor has categorically stated that vide one earlier Demand Notice dated 04.03.2019, unpaid debt of Rs. 2,65,62,017/- alongwith interest @ 24% per annum was demanded from the corporate debtor. Alongwith said Demand Notice dated 04.03.2019, all documents i.e. Tax Invoices alongwith Goods Receipts, Ledger Account maintained by the Operational Creditor in the name of the Corporate Debtor [SAP Code 1000224 & SAP Code 1000579] enclosed with

the Demand Notice 07.10.2021 were also enclosed. The amount of unpaid debt claimed in that Demand Notice is same as claimed in the present Demand Notice dated 07.10.2021 (less the amount received thereafter). In the said earlier Demand Notice dated 04.03.2019, at Page 9 of the said Rejoinder, the "particulars of operational debt" have been mentioned and it is clearly mentioned that

"Details of Transaction: - 1. That M/s Bhushan Power & Steel Limited (BPSL) having their registered office at Delhi and branch office at Chandigarh & Faridabad supplied Precision Tube (Steel) from Chandigarh and also from their Trading Division situated at Faridabad, in the name of M/s A.G. Pipes Private Limited Faridabad & Palwal supplied the steel products against the invoice raised in their name from time to time. The company supplied goods interalia precision Tube to the notice company from time to time and there was current and running account between the applicant company and the noticee company."

The said Demand Notice dated 04.03.2019 was replied by Corporate Debtor vide Reply dated 08.03.2019 wherein it is stated that "*...there is no such outstanding of you against my client in any manner whatsoever...*". The Email dated 06.09.2019 was also issued after earlier Demand Notice dated 04.03.2019.

9. Admittedly, no dispute of any kind was ever raised by Corporate Debtor prior to Demand Notice dated 04.03.2019. Moreover, the defense that "*...The invoices placed by the applicant on record do not have any concern with corporate debtor...*" was never taken prior to filing of Company Petition. Such a defense is an afterthought and not tenable under provisions under Section 8(2) (a) of IBC, 2016 and admittedly, there is no suit or arbitration proceedings pending inter-

se parties in respect to the present unpaid debt or the invoices filed on record by Operational Creditor.

10. The Reply to the Demand Notice dated 07.10.2021, and 04.03.2019 have been issued by the same counsel Mr. Pt. Umesh Gautam.

11. Vide Order dated 20.07.2022 by the Ld. NCLT, the Corporate Debtor was directed to file Affidavit of its directors to the extent whether AG Pipes Pvt. Ltd. Palwal is holding any unit in the name of AG Pipes, Faridabad and the Operational Creditor was also directed to file Affidavit whether any contract exists between AG Pipes Pvt. Ltd. and the Corporate Debtor and that whether AG Pipes and AG Pipes Pvt. Ltd. are one and the same entity or different. The Corporate Debtor did not comply with the said Order as Corporate Debtor did not file Affidavit of its directors and has merely, by filing Affidavit of its manager namely Mr. Sanjeev Kumar, stated that AG Pipes Pvt. Ltd. is not holding any unit in the name of AG Pipes. No such averment or document was even mentioned/enclosed with the said Affidavit as have been filed alongwith Affidavit dated 25.10.2023. For the first time, in the Affidavit dated 25.10.2023, the Corporate Debtor has taken new defense and has enclosed various documents which were never stated and relied upon in any of the previous pleadings and the same cannot be looked into by Ld. NCLT.

12. The Operational Creditor filed Affidavit dated 28.07.2022 (and Affidavit dated 16.10.2023 of Ms. Garima Vashist, AR, stating that:-

"2. That the Operational Creditor has undergone CIR Process before this Hon'ble Adjudicating Authority during the period the operational creditor has gone CIR Process before Hon'ble Adjudicating Authority, New Delhi during the period 26.07.2017 (the Order vide which the petition was admitted and IRP was appointed) to 05.09.2019 (the Order vide which resolution application was accepted) and after acceptance of resolution application, new management has taken over the operational creditor as ongoing concern.

3. That as per the records provided by erstwhile management through resolution professional, there was no written agreement executed between the corporate debtor and the operation creditor in respect to the supplies made. As per records of operational creditor, the amount shown as due against corporate debtor is recoverable from them and supplies were made to the two different units/factories of the corporate debtor as per their requests and for convenience purposes of the accounting system, two separate ledger accounts were maintain."

13. The Ld. NCLT in the Order dated 16.10.2023 has noted as under:-
"On perusal of the application and documents filed, it is observed that the Corporate Debtor/Respondent in its Affidavit dated 12.08.2022 in compliance of Order dated 20.07.2022 stated that M/s A.G. Pipes Pvt. Limited is not holding any unit in the name of A.G. Pipes situated at Faridabad but on the website of A.G. Pipes Pvt. Ltd. it is clearly mentioned that the Respondent/Corporate Debtor i.e. A.G. Pipes Pvt. Ltd., is having two manufacturing locations:-

1. Unit-1 Plot No. 4. Industrial Area, NIT, Faridabad-121001, Haryana
2. Unit-2 Devli Mandkol Road, Village-Bhagola, Palwal-121002, Haryana"

14. In the Affidavit dated 25.10.2023, the Corporate Debtor for the first time has stated that AG Pipes has got separate GST registration on 01.07.2017. It is submitted that under proviso to Section 25(2) of GST Act which is reproduced hereunder, multiple GST registrations are permissible for a single entity:

"(2) A person seeking registration under this Act shall be granted as single registration in a State or Union territory:

Provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business verticals, subject to such conditions as may be prescribed."

15. The Ld. NCLT failed to consider that there were no pre-existing dispute and no such defense as taken in Affidavit dated 25.10.2023 was ever taken at any stage. Therefore, the CD was liable to pay debt amount as claimed in Company Petition.

16. The Appellant-Operational Creditor is relying upon following Judgments:

- i) **Mobilox Innovations Private Limited vs. Kirusa Software Private Limited reported** in MANU/SC/1196/2017 passed by the Hon'ble Supreme Court of India (Relevant Para 24);
- ii) **Consolidated Construction Consortium Limited vs. Hitro Energy Solutions Private Limited** reported in MANU/SC/0152/2022 (Relevant Paras 23, 35 & 36);
- iii) **M/s. Next Education India Private Limited versus M/s. K12 Techno Services Private Limited** passed in Company Appeal (AT)(Insolvency) No. 98 of 2019 passed by the Hon'ble National Company Law Appellate Tribunal, Principal Bench (Relevant Paras 27, 28, 29 & 30);
- iv) **Ahluwalia Contracts (India) versus Raheja Developers Limited** passed in Company Appeal (AT) Insolvency No. 703 of 2018 passed by the Hon'ble National Company Law Appellate Tribunal, New Delhi (Relevant Paras: 16, 17, 18, 19, 20, 21 & 22);

Both the above judgments, relying upon various judgments of Hon'ble Supreme Court inter alia **Mobilox Innovations Pvt. Ltd. versus Kirusa Software (P) Limited** reported in 2017 SCC OnLine SC 353, Hon'ble NCLAT has re-affirmed that "existence of dispute must be pre-existing i.e. it must exist before the receipt of Demand Notice".

Submissions of Respondent:

17. The entire case of the Appellant is based on the incorrect assertion that the Respondent never took the stand that A.G. Pipes and A.G. Pipes Pvt. Ltd. are distinct entities while responding to the demand notices. This claim is factually incorrect. The first demand notice was issued on 04.03.2019, and the Respondent's reply dated 08.03.2019 was expressly made on behalf of A.G. Pipes Pvt. Ltd., clearly denying any outstanding liability. Additionally, in an email dated 06.09.2019, the Respondent clarified that an RTGS payment of Rs.3,00,000/- had been made and material worth Rs. 7,00,000/- had been rejected. Subsequently, a second demand notice was issued on 07.10.2021, to which the Respondent replied on 13.10.2021, once again clearly stating that no dues were payable by A.G. Pipes Pvt. Ltd. Therefore, the Appellant's assertion that the Respondent failed to distinguish between the two entities in its responses is misleading and contrary to the record. Even otherwise, without prejudice, it is an established matter of record that A.G. Pipes (proprietorship) and A.G. Pipes Pvt. Ltd. (company) are separate and independent legal entities.

18. That the Appellant filed a Petition under Section 9 of the Insolvency and Bankruptcy Code, 2016, before the Ld. AA against the Respondent, seeking initiation of CIRP for an alleged default amount of Rs. 1,49,04,757/- (Rupees

One Crore Forty-Nine Lakhs Four Thousand Seven Hundred and Fifty-Seven Only). This sum was alleged to be owed by two units, specifically by the unit with SAP code 1000224 has an outstanding balance of Rs. 1,42,02,230/-, and unit with SAP code 1000579 with an outstanding balance of Rs. 7,02,527/-.

19. The Ld. AA heard the said petition on 27.02.2023 and reserved the order. Subsequently, the Petition was scheduled for a hearing on 16.10.2023, during which the Ld. AA directed both the Appellant and Respondent to file clarification affidavits regarding whether AG Pipes and AG Pipes Pvt. Ltd. are the same entity or distinct. In response, the Respondent filed a clarification affidavit dated 17.10.2023, clearly stating that AG Pipes and AG Pipes Pvt. Ltd. are two separate and independent entities. The Appellant voluntarily concealed the said affidavit and did not file along with the present appeal. A copy of the Affidavit dated 17.10.2023 is marked in reply as Annexure-R2 at Pg.25.

20. A.G. Pipes Pvt. Ltd. (the Respondents herein) and A.G. Pipes (the proprietorship firm) are two distinct and independent entities, each having its own legal status, operations, and financial structure. The two entities operate separately and are not legally or operationally interconnected.

21. The outstanding debt pertains to two SAP account codes, namely 1000224 and 1000579. The bifurcation of the debt amount claimed by the Appellant before the Ld. AA, categorized by SAP code, is stated herein below:

"D. That as per the Ledger account-maintained the Operational Creditor, Rs.1,49,04,757/- outstanding towards the principal amount, the detail of which are as under: -

“the outstanding amount from the unit with SAP Cod 1000224 Rs.1,42,02,301-. The last payment was made by the Corporate Debtor on 30.11.2019 and therefore the interest is calculated w.e.f 01.12.2019 the outstanding amount from the unit with SAP Cod 1000579 – Rs. 7,02,527/. The last payment was made by the Corporate Debtor on 23.09.2019 and therefore the interest is calculated w.e.f 01.12.2019;”

22. Respondent has already paid a sum of INR 7,02,527/- (Rupees Seven Lakhs Two Thousand Five Hundred Twenty-Seven Only) to the Appellant towards the alleged outstanding dues. This payment is reflected in the Respondent's ledger and further confirmed by an email dated 16th September 2019, evidencing full and final settlement. Further, the Respondent in their Affidavit dated 17.10.2023, categorically indicated that AG Pipes and AG Pipes Pvt. Ltd. are two different independent entities. A table giving detailed clarification on A.G. Pipes Pvt. Ltd. (Corporate Debtor herein) and A.G. Pipes, Sole Proprietorship being two completely separate independent entities is produced herein below:

A.G. PIPES, SOLE PROPRIETORSHIP	A.G. PIPES PVT. LTD.
GST Registration Certificate of A.G. Pipes, Sole Proprietorship bearing GST No. 06AKNPS7027A1Z6. A copy of the GST Registration Certificate in the name of A.G. Pipes, Proprietorship concern is marked in the Reply as Annexure R-5 at Pg.47 of the Reply.	GST Registration Certificate of A.G. Pipes Pvt. Ltd bearing GST No. 06AADCB7213NIZM. A copy of the GST Registration Certificate in the name of A.G. Pipes Pvt. Ltd. is marked in the Reply as Annexure R-6 at Pg. 50.

<p>Electricity Bill in the name of A.G. Pipes, Proprietorship concern. A copy of the Electricity bill in the name of A.G. Pipes, Proprietorship concern is marked in the Reply as Annexure R-7 at Pg. 53.</p>	<p>Electricity Bill in the name of A.G. Pipes Pvt. Ltd. A copy of the Electricity bill in the name of A.G. Pipes Pvt. Ltd. is marked in the Reply as Annexure R-8 at Pg. 54.</p>
<p>License Fee paid to Directorate of Urban Local Bodies, Haryana by A.G. Pipes, Sole Proprietorship. A copy of the Receipt of License Fee paid in the name of A.G. Pipes: Proprietorship concern is marked in the Reply as Annexure R-9 at Pg. 56.</p>	<p>MCA Master data. A copy of the MCA master data of A.G. Pipes Pvt. Ltd is marked in the Reply as Annexure R-10 at Pg.57.</p>
<p>Pan Card of the Proprietor i.e., Gurdeep Singh. A copy of the pan card of Mr. Gurdeep Singh is marked in the Reply as Annexure R-11 at Pg.58.</p>	<p>Pan card in the name of A.G. Pipes Pvt. Ltd. A copy of the Pan Card in the name of A.G. Pipes Pvt. Ltd. is marked in the Reply as Annexure R-12 at Pg. 59.</p>
<p>UDYAM (MSME) Registration Certificate of A.G. Pipes, Sole Proprietorship. A copy of the Udyam Registration Certificate in the name of A.G. Pipes, Proprietorship concern is marked in the Reply as Annexure R-13 at Pg. 60.</p>	<p>UDYAM (MSME) Registration Certificate of A.G. Pipes Pvt. Ltd. A copy of the Udyam Registration Certificate in the name of A.G. Pipes Pvt. Ltd. is marked in the Reply as Annexure R-14 at Pg. 63.</p>
<p>VAT Registration Certificate of A.G. Pipes, Sole Proprietorship. A copy of the VAT Registration Certificate in the name of A.G. Pipes, Proprietorship concern is marked in the Reply as Annexure R-15 at Pg.67.</p>	<p>VAT Registration Certificate of A.G. Pipes Pvt. Ltd. A copy of the VAT Registration Certificate in the name of A.G. Pipes Pvt. Ltd. is marked in the Reply as Annexure R-16 at Pg.69.</p>

EPF Certificate in the name of A.G. Pipe proprietorship concern. A copy of the EPF Certificate in the name of A.G.Pipe, proprietorship concern is marked in the Reply as Annexure R-17 at Pg.71.	EPC Certificate in the name of A.G. Pipes Pvt. Ltd. A copy of the EPF Certificate in the name of A.G. Pipes Pvt. Ltd. is marked in the Reply as Annexure R-18(Colly) at Pg. 77.
Central Excise Department Registration of A.G. Pipes, Sole Proprietorship. A copy of the Central Excise Department Registration in the name of A.G. Pipes, Proprietorship concern is marked in the reply as Annexure R-19 at Pg. 78.	

23. The invoices raised by the Appellant are for different entities as the GSTIN on the invoices are different. The details of which are as follows:

INVOICES GIVEN AT	A.G. PIPES	A.G. PIPES PVT LTD.
GSTIN Mentioned	06AKNPS7027A1Z6	06AADCB7213N1ZM
Relevant Page No. of the present Petition	From Page No. 91 to 129 of the present appeal	From Page No. 130 to 131 of the present appeal

24. The invoices referred to by the Appellant pertain to both the aforesaid entities, i.e., A.G. Pipes Pvt. Ltd. (the Respondent herein) and A.G. Pipes (the sole proprietorship concern). A thorough examination of the invoices of the present appeal reveals that only two invoices, found at Pages 130 and 131 are issued in the name of A.G. Pipes Pvt. Ltd., the Respondent. The remainder of the invoices, however, are issued in the name of A.G. Pipes, the sole proprietorship concern, which is a separate and independent entity. The following table provides a summary of the invoices in question:

S.NO.	DATE	INVOICE NO.	NAME	AMOUNT
1.	08/12/2017	0601005385	A.G. PIPES	3,73,310/-
2.	08/12/2017	0501005386	A.G. PIPES	1,23,180/-
3.	12/12/2017	0601005539	A.G. PIPES	4,08,078/-
4.	12/12/2017	0601005540	A.G. PIPES	1,32,573/-
5.	14/12/2017	0601005607	A.G. PIPES	1,87,369/-
6.	14/12/2017	0601005609	A.G. PIPES	92,422/-
7.	15/12/2017	0601005017	A.G. PIPES	2,73,882/-
8.	15/12/2017	0601005660	A.G. PIPES	1,85,602/-
9.	18/12/2017	0601005726	A.G. PIPES	3,90,507/-
10.	21/12/2017	0601005785	A.G. PIPES	8,09,849/-
11.	21/12/2017	0601005823	A.G. PIPES	4,26,115/-
12.	21/12/2017	0601005824	A.G. PIPES	1,50,414/-
13.	21/12/2017	0601005825	A.G. PIPES	17,016/-

14.	22/12/2017	0601005861	A.G. PIPES	1,26,440/-
15.	22/12/2017	0601005862	A.G. PIPES	6,30,424/-
16.	02/01/2018	0601006118	A.G. PIPES	4,26,746/-
17.	02/01/2018	0601006119	A.G. PIPES	86,299/-
18.	04/01/2018	0601006174	A.G. PIPES	5,47,721/-
19.	08/01/2018	0601006274	A.G. PIPES	4,75,115/-
20.	10/01/2018	0601006371	A.G. PIPES	7,79,449/-
21.	15/01/2018	0601006476	A.G. PIPES	3,41,592/-
22.	16/01/2018	0601006589	A.G. PIPES	3,29,106/-
23.	16/01/2018	0601006591	A.G. PIPES	2,26,855/-
24.	20/01/2018	0601006709	A.G. PIPES	4,35,355/-
25.	22/01/2018	0601006780	A.G. PIPES	3,45,132/-
26.	22/01/2018	0601006782	A.G. PIPES	1,11,333/-
27.	22/01/2018	0601006783	A.G. PIPES	80,383/-
28.	17/02/2018	0601007585	A.G. PIPES	4,53,816/-
29.	28/03/2018	0601008603	A.G. PIPES	1,37,151/-
30.	28/03/2018	0601008604	A.G. PIPES	2,67,340/-
31.	28/03/2018	0601008605	A.G. PIPES	3,46,306/-
32.	20/04/2018	0601000365	A.G. PIPES	4,51,088/-
33.	20/04/2018	0601000366	A.G. PIPES	3,07,929/-
34.	18/06/2018	0601001752	A.G. PIPES	7,47,872/-
35.	19/06/2018	0601001789	A.G. PIPES	5,97,434/-
36.	20/06/2018	0601001835	A.G. PIPES	6,79,692/-
37.	23/06/2018	0601001885	A.G. PIPES	6,47,100/-
38.	25/06/2018	0601001907	A.G. PIPES	6,04,809/-
39.	19/09/2018	0601004114	A.G. PIPES	4,75,068/-
TOTAL AMOUNT				1,42,27,872/-
40.	31/03/2018	0601008659	A.G. PIPE PVT. LTD.	6,33,719/-
41.	31/03/2018	0601008677	A.G. PIPE PVT. LTD.	6,75,786/-
TOTAL AMOUNT				13,09,505/-

25. The proceedings under the Code are purely technical in nature and are not intended as recovery proceedings. These proceedings cannot be initiated against the Respondent or any entity associated with one of its directors solely on the basis of common management. The alleged debts cannot be consolidated. Furthermore, as previously clarified, there is no debt owed by the Respondent.

Appraisal

26. We have heard the counsels of both sides and also perused the material placed on record.

27. We find that the Appellant had set up the CIR proceedings against A.G. Pipes Private Limited – the CD in this case and provided details of various invoices totaling amount Rs. 1,57,00,000/- approximately which forms the bases of the operational debt. However, detailed examination of these invoices indicate that majority of the invoices pertain to A.G. Pipe, which is a sole proprietorship concern. We find that the total amount associated with the sole proprietorship is about Rs. 1.42 crores and the total amount pertaining to A.G. Pipes Private Limited is Rs. 13,09,505/-. Even though both the sole proprietorship and A.G. Pipes Private Limited is being managed by the same person but A.G. Pipes Private Limited is a separate legal entity. The debts of A.G. Pipes Private Limited cannot be combined with the debts of a separate legal entity, which is A.G. Pipes. Both are separate independent legal entities and for that reason the debt owed by A.G. Pipes be loaded onto the CD for reaching the threshold. Thus, we find that the

minimum threshold of Rs.1,00,00,000/- (Rupees one crore only) was not out made by the Appellant.

28. The Adjudicating Authority in its order dated 12.07.2024 has clearly brought out that in the application, the invoices raised in the name of the corporate debtor, that is A.G. Pipes Private Limited, are of Rs 13,09,505, which falls below the pecuniary threshold limit of Rs 1 crore as laid down under Section 4 of the Code.

29. Thus, the appellant has not been able to bring out clearly as to how he is claiming the amount owed by the proprietorship from the corporate debtor. The only justification which the appellant is canvassing is that the CD, for the first time in its affidavit on 25/10/2023, has stated that AG Pipes has got a separate GST registration. Appellant also claims that since there is no pre-existing dispute between the two parties, therefore, the CD was liable to pay the debt amount as claimed in the company petition. We do not find the grounds taken by the appellant to be tenable. Further, we do not find any infirmity in the orders of the adjudicating authority. Accordingly, the Adjudicating Authority has dismissed the petition as not maintainable.

30. The appellant has placed reliance upon several judgments, as noted herein earlier in the submissions of the appellant, but we do not find their relevance as the appeal is not maintainable on the grounds of the threshold.

Order

31. We do not find sufficient grounds to entertain the appeal. Accordingly, the appeal is dismissed. All related IAs are also disposed of.

**[Justice N Seshasayee]
Member (Judicial)**

**[Arun Baroka]
Member (Technical)**

**New Delhi.
April 21, 2026.**

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