

**IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI**  
**COURT – IV**

**Item No. 407**  
**IB/682/ND/2022**

**IN THE MATTER OF:**

Ram Chander Omer	...	Applicant
Versus		
Naftogaz Infrastructure Limited	...	Respondent

**Order under Section 9 of IBC, 2016.**

**Order delivered on 09.03.2023**

**Coram:**

**MR. ASHOK KUMAR BHARDWAJ,**  
**HON'BLE MEMBER (JUDICIAL)**  
**DR. BINOD KUMAR SINHA,**  
**HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

For the Applicant : Mr. Ashish, Adv.  
For the Respondent :

**ORDER**

As can be seen from the various invoices placed on record by the petitioner, to allege the default, the same are dated 31.03.2020, 30.06.2020, 30.09.2020 31.12.2020, 31.03.2021. The amount mentioned in each of the invoices is of Rs.12,50,000/-. The amount which was allegedly defaulted to be paid by the Corporate Debtor during the period from 24.03.2020 to 25.03.2021 i.e. the period covered by Section 10A of IBC is more than 50,00,000/-. The total amount of default is Rs. 1,37,50,000/-, thus if Rs. 50,00,000/- is deducted therefrom, the balance of amount will be less than Rupees One Crore i.e. the threshold limit for invoking the provision of Section 9 of IBC, 2016. The aforementioned provision of Section 10A of IBC categorically provides that no application for initiation of CIRP should be instituted for any default occurred during the period mentioned in Section 10A of IBC, 2016. For convenient reference, Section 10A is reproduced thus:

*Section 10A: Suspension of initiation of corporate insolvency resolution process.*

*10A. Notwithstanding anything contained in sections 7, 9 and 10, no application for initiation of corporate insolvency resolution process of a corporate debtor shall be filed, for any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf:*

*Provided that no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period.*

*Explanation. – For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply to any default committed under the said sections before 25th March, 2020.]*

As has been noted above, if the amount which was defaulted to be paid during the period covered by Section 10A IBC, is deducted the total amount of default alleged by the petitioner will not satisfy the limit of threshold amount to invoke CIRP. In view of the above, we find that the company petition (IBC) is devoid of any merit and is liable to be rejected. We have expressed no opinion qua the entitlement of the petitioner to claim the amount allegedly payable the Corporate Debtor. The scope of our examination was limited i.e. whether the CIR process can be directed to be commenced qua the Corporate Debtor or not.

The petition is accordingly rejected.

**Sd/-**  
**DR. BINOD KUMAR SINHA**  
**MEMBER (TECHNICAL)**

Mukesh

**Sd/-**  
**ASHOK KUMAR BHARDWAJ**  
**MEMBER (JUDICIAL)**