



IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

IA NO.625 of 2025 IN CP (IB) NO.101/ALD/2022
(Application filed under Rule 11 of NCLT Rules, 2016)

IN THE MATTER OF:

ASSOCIATED MACHINERY CORPORATION LIMITED

Through its Authorized representative
F-64 Site-I, Bulandshahar Road Industrial Area,
Ghaziabad, U.P-201001

.....Applicant

Versus

M/S SUNDER ENGINEERING WORKS

Through Mr. Siddhant Jain, Proprietor
27, Mohkampur Industrial Complex,
Delhi Road, Meerut, U.P-250002

.....Respondent

AND IN THE MATTER OF:

M/S SUNDER ENGINEERING WORKS

Through Its Proprietor Mr. Siddhant Jain
27, Mohkampur Industrial Complex,
Delhi Road, Meerut (U.P.)-250002

.....Operational Creditor

Versus

ASSOCIATED MACHINERY CORPORATION LTD,

F-64 SITE-1, Bulandshahar Road Industrial Area,
GHAZIABAD-201001(UP)

.....Corporate Debtor

Order pronounced on: 22.07.2026

-Sd-



Coram:

Sh. Praveen Gupta : Member (Judicial)
Sh. Ashish Verma : Member (Technical)

Appearances:

Sh. Mohit Nandwani with : For the Corporate Debtor/
Ms. Aditi Yadav, Applicant in IA No.625/2025
Sh. Aabhaas Sukhramani &
Sh. Anant Prakash, Advs.

Ms. Prachi Johri with Sh. Sachin Jain, For the Respondent/OC
Advs.

ORDER

1. The instant application has been filed by Associated Machinery Corporation Limited through its authorized representative (hereinafter referred to as the “Applicant/Corporate Debtor”) on 18.09.2025 under Rule 11 of the National Company Law Tribunal Rules, 2016, seeking dismissal of CP (IB) No. 101/ALD/2022 filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “the Code”) by M/s Sunder Engineering Works (hereinafter referred to as the “Respondent”) inter alia seeking the following reliefs:

- a. *Allow the present Application dismiss the section 9 petition filed being not maintainable; and*
- b. *Pass such further order/order(s) as may be deemed fit and proper in the facts and circumstances of the case.*

2. The brief facts relating to the present matter are as follows:

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- a. As submitted, the Respondent has filed CP (IB) No. 101/ALD/2022 under Section 9 of the Code against the Applicant/Corporate Debtor. It is stated that the said Company Petition is presently pending consideration before this Adjudicating Authority.
- b. The Applicant submits that the present application has been filed seeking dismissal of the aforesaid Section 9 petition on the ground that the same has been instituted in the name of M/s Sunder Engineering Works, a proprietorship concern, and not in the name of its proprietor in his/her personal capacity.
- c. It is contended by the Applicant that a proprietorship concern is not a legal entity competent to file such an application under Section 9 of the Code.
- d. The Applicant further states that under the scheme of the Code, an application under Section 9 can be filed only by an “Operational Creditor” as defined under Section 5(20) of the Code, and that a proprietorship concern does not fall within the definition of a “person” as defined under Section 3(23) of the Code, capable of maintaining such proceedings.
- e. It is further averred that judicial precedents of the Hon’ble Supreme Court of India and the Hon’ble National Company Law Appellate Tribunal have consistently held a petition under section 9 of the code cannot be filed by the proprietorship concern and can only be filed in the name of the proprietor in his/her personal capacity.
- f. The Applicant has, therefore, filed the present application praying for dismissal of the section 9 petition.

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FINDINGS AND ORDER

3. A perusal of the record reveals that no reply or rejoinder has been filed by either party in the present application. We, therefore, proceed to examine and adjudicate the application on the basis of the averments contained therein, the material placed on record, and the submissions made by the parties.
4. The limited issue for consideration before us is whether the Company Petition filed under Section 9 of the Code is liable to be dismissed merely because it has been instituted in the name of M/s Sunder Engineering Works through its Proprietor Mr. Siddhant Jain, the Operational Creditor being a sole proprietorship concern.
5. We have carefully perused the records of the Company Petition. It is noticed that the petition has not been filed merely in the trade name of the proprietorship concern. Rather, Part I of Form-5 describes the Operational Creditor as "*M/s Sunder Engineering Works through its Proprietor Mr. Siddhant Jain.*" Further, Part-II of Form-5 specifically discloses that "*This Application is being submitted through Mr. Siddhant Jain, who is the sole proprietor of the Operational Creditor and hence no separate authorisation is required*". The petition has also been affirmed by the said proprietor.
6. At this stage, it is apposite to refer to Section 2(f) of the Insolvency and Bankruptcy Code, 2016, which provides that the Code is applicable on proprietorship firms as under:

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“2. Application. –

The provisions of this Code shall apply to—

...

(f) partnership firms and proprietorship firms; and..”

7. It is equally relevant to notice the definition of “person” contained in Section 3(23) of the Code which reads as under:

“3. Definitions. –

(23) “person” includes –

(a) an individual

.....

*and (g) any other entity established under a statute,
and includes a person resident outside India;”*

8. As it is evident, Section 2(f) of the Code expressly provides that the provisions of the Code apply to proprietorship firms. The expression "Operational Creditor" under Section 5(20) means a person to whom an operational debt is owed, and the definition of "person" under Section 3(23) is an inclusive one, hence, indicating that the legislature has consciously adopted a broad and purposive approach.
9. In the present case, the application has not been instituted merely in the name of the proprietorship concern but specifically through its sole proprietor, Mr. Siddhant Jain. Therefore, in view of the foregoing discussion, the objection of the Corporate Debtor that the present application is not maintainable

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merely because it has been filed in the name of the proprietorship concern is devoid of merit.

10. Accordingly, the present application I.A. No. 625 of 2025 stands dismissed.

**-Sd-
(Ashish Verma)
Member (Technical)**

**-Sd-
(Praveen Gupta)
Member (Judicial)**

Date: 22.07.2026