



**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT-V, NEW DELHI**

CP IB NO. 792/(ND)/2024

*An Application under Section 9 of the Insolvency and Bankruptcy Code, 2016
read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating
Authority) Rules, 2016.*

IN THE MATTER OF:

M/s. Venture Supply Chain Pvt. Ltd.

Through its Director
G/F Block K2, Shop in Seq. No. MHP-5950,
Kh. No. 831, Mahipalpur,
South West Delhi, Delhi- 110037

...Operational Creditor

Versus

M/s. Metropolis Logistics Private Limited.

KHASRA NO. 834, K2-832, Near Mata Chowk, Mahipalpur,
South West Delhi, Delhi- 110037

...Corporate Debtor

Order Delivered on: 16.05.2025

CORAM:

SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)

SHRI SUBRATA KUMAR DASH, HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the Applicant : Mr. Vinod Kumar Chaurasia, Adv.

For the Respondent: Mr. Rishi Singhal, Adv.



ORDER

PER: SUBRATA KUMAR DASH, MEMBER (TECHNICAL)

1. This is a Company Petition filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (***‘the Code’***) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by Mr. Rajesh Kumar Singh, Director of **M/s Venture Supply Chain Private Limited** (***‘Operational Creditor’***) duly authorized for initiation of Corporate Insolvency Resolution Process (***‘CIRP’***) against **M/s Metropolis Logistics Private Limited** (***‘Corporate Debtor’***).
2. **M/s Venture Supply Chain Private Limited** (Operational Creditor) is a company, having its office at G/F Block K2, Shop in Seq. No. MHP-5950, Kh. No. 831, Mahipalpur, South West Delhi, Delhi, 110037. **M/s Metropolis Logistics Private Limited** (Corporate Debtor) is a company registered under the Companies Act, 1956 [CIN- U64200DL2012PTC231388], having its registered office at KHASRA NO. 834, K2-832, Near Mata Chowk, Mahipalpur, South West Delhi, Delhi, 110037. The Corporate Debtor has Authorized Share Capital of Rs. 50,00,000/- (Fifty Lakh Only) and Paid-Up Share Capital of Rs 21,00,000/- (Twenty- One Lakh Only).
3. The present Petition was filed on 19.11.2024 before this Adjudicating Authority by Mr. Rajesh Kumar Singh, the Director of the Operational Creditor’s entity, duly authorized to initiate Corporate Insolvency Resolution Process (***‘CIRP’***) proceedings under Section 9 of the Insolvency and Bankruptcy Code, 2016 (***‘Code’***). The total amount claimed is Rs 41,01,77,786/- (Rupees Forty-One Crore One Lakhs Seventy-Seven Thousand Seven Hundred Eighty-Six Only). The date of default is 30.07.2024.

4. Submissions by the Ld. Counsel appearing on behalf of the Operational Creditor.



- a) The Operational Creditor is engaged in business providing commercial cargo vehicles for hire and providing transportation services, transport via pipelines (Includes transport of gases, liquids, slurry and other commodities via pipelines. Included are the incidental activities like the operation of pump stations and the maintenance of the pipeline. The Operational Creditor provided the vehicle and other services to the Corporate Debtor as required by the Corporate Debtor. The Operational Creditor and Corporate Debtor entered into an agreement dated 01.05.2019, for the purpose of transportation of its consignment by road along with certain ancillary services required by the Corporate Debtor.
- b) The Operational Creditor had raised the invoices fortnightly for each transaction held between the parties. However, the corporate Debtor, since 2023 failed to release the payment for the supply of services despite several follow-ups by the Operational Creditor.
- c) In relation to the debt, the Operational Creditor had received 3 (three) No. of cheques of Rs 2,00,00,000/- each, which were returned by the Bank along with the Return Memo with a remark of "Fund insufficient".
- d) Due to non-payment of the dues, M/s Venture Supply Chain Private Limited was constrained to issue a notice under Section 8 of the Insolvency and Bankruptcy Code, 2016 dated 18.10.2024 for repayment of the total defaulted principal debt of Rs. 42,03,19,629.00 (Rs. Forty-Two Crore Three Lakhs Nineteen Thousand Six Hundred Twenty Nine) as on 30.06.2024 from the respective date of default for multiple invoices that were raised on and between 31.03.2023 - 30.06.2024. The Operational Creditor in its demand notice also mentioned that:
- "3. If you dispute the existence or amount of unpaid operational debt (in default) please provide the undersigned, within ten days of the receipt of this letter, of the pendency of the suit or arbitration proceedings in relation to such dispute filed before the receipt of this letter/notice.*
- 4. If you believe that the debt has been repaid before the receipt of this letter, please demonstrate such repayment by sending to us, within ten days of receipt of this letter, the following: - (a) An attested copy of the record of electronic transfer*



of the unpaid amount from the bank account of the corporate debtor; or (b) An attested copy of any record that M/s Venture Supply Chain Private Limited has received the payment.”

- e) The Corporate Debtor never raised any pre-existing dispute in relation to the Claim set out in the Demand Notice dated 18.10.2024. However, the Corporate Debtor, vide its reply through Email dated 26.10.2024 to the Operational Creditor's Notice dated 18.10.2024, the Corporate Debtor sent its reply through an email dated 26.10.2024 with a vague statement that:

“last week we receive demand notice of Insolvency Bankruptcy code 2016 from your end.

We are in long term business relationship of 7-8 years. we agree that we are not able to make payments on time and you face many operational issues and our all cheques provided by us to you were bounced. But aside that in consideration of our such a long and strong business relation I request you to kindly hold this IBC proceeding.

we will clear your payment as soon as possible.”

- f) It is relevant to mention herein that neither the Corporate Debtor brought to the notice of the Operational Creditor about the existence of any dispute (e.g. record of the pendency of any suit or arbitration proceedings filed before the receipt of the demand notice or invoice in relation to such dispute). However, the Corporate Debtor made the repayment of Rs 1,01,41,843.00 (One Crore One Lakh Forty-One Thousand Eight Hundred Forty-Three) to the Operational Creditor after the service of the Demand Notice dated 18.10.2024 and the payment was done in multiple transactions in the period between 15.10.2024 to 18.10.2024. Further, it is argued that a part of the Debt still remains unpaid as on the date of filing this application.
- g) The Applicant to substantiate its claim of Operational Debt has placed on record a copy of the Invoices, Demand Notice dated 18.10.2024, along with the reply to the demand notice dated 26.10.2024, Ledger Account of Operational Creditor and Corporate Debtor, NeSL Information Utility etc.



5.Submission by the Learned Counsel appearing on behalf of the Corporate Debtor:

- a) The Corporate Debtor is a company incorporated under the provisions of the Companies Act, 1956, and is engaged in the business of providing commercial cargo vehicles for hire and providing transportation services. It is submitted that the petitioner is not an Operational Creditor as there exists no operational debt under Section 5(21) of the IBC 2016. The provision of Section 5(21) read with Section 3(6) stipulates that an operational debt entails a claim for payment of goods or services that is 'implicitly linked to a valid contract for the provision of the same. Thus, the essentials of an operational debt are that there must be a debt against which a claim arises, which should be either for the remedy for breach of an underlying contract between Operational Creditor and Corporate Debtor for providing goods or services, or for the payment of goods or services already supplied under a valid contract.
- b) The respondent company has requested the Operational Creditor through email dated 26.10.2024 to not proceed under IBC Proceeding, considering 7-8 years of business relationship, and also assured to make payment as soon as possible. Further, it is submitted by the Corporate Debtor that there was a massive fire incident on 13.05.2024 in Indian Corporation Compound, Mankoli Naka, Gundavali area Bhiwandi District, in which godown/work place of around 9 companies/firms including that of the Corporate Debtor, was gutted by fire. The estimated cost of the material/inventory belonging to various clients of the Corporate Debtor, which was burnt is around Rs.800 crore. Consequently FIR was lodged with Narpoli Police Station, Maharashtra. A copy of the FIR lodged is placed on record.
- c) After the fire incident, the business of the Company came to a complete standstill, and as of now, the company is struggling to revive. Moreover, the insurance company has not settled the claim as of now, and the Company is presently passing through severe financial hardships. The Respondent has



issued a cheque of Rs 2,00,00,000/- as averted by the petitioner. The respondent has requested the authorized person of the petitioner not to deposit the cheque because of a fund issue, but the petitioner, without understanding the genuine reason, deposited the cheque, which got dishonored. Further, the Applicant only intends to recover the amount and treats this Tribunal as a Recovery Forum. Hence, the present application is obliged to be rejected.

Analysis & Findings

6. We have heard the Learned Counsels for the Operational Creditor and the Corporate Debtor, and further perused the averments made in the petition and reply filed by the Corporate Debtor, and written submissions presented by both the Operational Creditor and the Corporate Debtor. Since the registered office of the respondent Corporate Debtor is in Delhi, this Tribunal is having territorial jurisdiction as the Adjudicating Authority in relation to prayer for initiation of Corporate Insolvency Resolution Process (CIRP) under Section 9 of The Insolvency and Bankruptcy Code, 2016, against the Corporate Debtor. Further, the present petition is filed within the period of limitation.
7. It is to be noted that the 'Operational Creditor' had sent a demand notice dated 18.10.2024 via speed post to the 'Corporate Debtor' under Section 8 of The Insolvency and Bankruptcy Code, 2016 for payment of outstanding dues worth Rs. 42,03,19,629.00 (Rs. Forty-Two Crore Three Lakhs Nineteen Thousand Six Hundred Twenty-Nine). Thus, the present petition meets the pecuniary threshold limit of Rs. 1 Crore (as required after the amendment dated 24.03.2020), as required by Section 4 of the Code.
8. In order to determine the admissibility of petition for initiating CIRP under Section 9 of the Code, the judgment of the Hon'ble Supreme Court in **Mobilox Innovations (P) Ltd. v. Kirusa Software (P) Ltd., (2018) 1 SCC 353** is to be taken into consideration. The said judgment makes it clear that in order to initiate CIRP proceedings under Section 9 of the Code, the Adjudicating Authority has to determine:



- a) Whether there is an 'Operational Debt' exceeding Rs. 1 Lakh (1 Crore, in case the petition is filed after 24.03.2020) as defined under Section 4 of the IBC?
 - b) Whether the documentary evidence furnished with the application shows that the aforesaid debt is due and payable and has not yet been paid?
 - c) Whether there is existence of a dispute between the parties or the record of the pendency of a suit or arbitration proceeding filed before the receipt of the demand notice if the unpaid operational debt in relation to such dispute?
9. In the first instance, to determine that whether the said amount claimed by the Operational Creditor would fall under the ambit of 'Operational Debt', it is pertinent to analyze the definition of 'Operational Debt' as mentioned under Section 5(21) of The Insolvency and Bankruptcy Code, 2016. Under said Section, the 'Operational Debt' is defined as:

"A claim in respect of the provision of goods or services including employment or a debt in respect of the payment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority".

While analyzing the present facts in the light of said Section 5(21), it is noticed that the Corporate Debtor started trading in iron, steel etc. in the Financial Year 2010-11. The Operational Creditor was engaged in the business of providing commercial Cargo Vehicles for hire, transportation services, transport via pipelines, etc., amongst other things, and it was providing commercial Cargo Vehicles for hire to the Corporate Debtor. The parties entered into an agreement dated 01.05.2019. It was stated that as the Corporate Debtor defaulted in making the payment to the Operational Creditor, this application is preferred by the Operational Creditor before this Adjudicating Authority. The said Creditor claims the outstanding amount worth Rs. 42,03,19,629.00 (Rs. Forty-Two Crore Three Lakhs Nineteen Thousand Six Hundred Twenty-Nine) from the Corporate



Debtor. Furthermore, on the appreciation of the transactional invoices and the bank statements of the Operational Creditor's account, Copy of NeSL Report, Copy of ledger of the Corporate Debtor and Operational Creditor as annexed by the Operational Creditor and placed on record before us, we are of the view that there had been a transaction between the said parties and that the Operational Creditor has provided the service to the Corporate Debtor for which the Corporate Debtor has defaulted in making the payment. Hence, this Adjudicating Authority holds that the debt claimed by the petitioner comes under the purview of 'Operational debt' within the meaning of Section 5(21) of the Code.

10. It is observed that as per the requirement of Section 8(2)(a) of the Code, the Corporate Debtor is required to bring to notice of the Operational Creditor, the existence of any dispute within 10 days of the receipt of the demand notice. In the present case, the Corporate Debtor has filed a reply dated 26.10.2024 to the demand notice dated 18.10.2024 sent by the Operational Creditor and received by the Corporate Debtor on 21.10.2024. Therefore, the Corporate Debtor has fulfilled the requirement of reply to the demand notice within the stipulated period of 10 days of the receipt of demand notice as laid down under said Section 8(2)(a) of the Code. However, in the said reply, no specific issue of pre-existing dispute was raised.

11. The transaction invoices issued between the year 31.03.2023-30.06.2024 by the Operational Creditor to the Corporate Debtor are placed on record along with a copy of the Balance Confirmation Letter issued by the Corporate Debtor to the Operational Creditor. As per the agreement dated 01.05.2019, both parties mutually agreed to make the payment within 30 days from the date of receipt of the invoices raised between 31.03.2023 to 30.06.2024 by the Operational Creditor to do so. Further vide reply dated 26.10.2024 and by furnishing Balance Confirmation letters, the Corporate Debtor has acknowledged the amounts payable to the Operational creditor. Further, in relation to the debt, the Operational Creditor had received Rs 1,01,41,843.00 (One Crore One Lakh Forty-One Thousand Eight Hundred Forty-Three) payment from the Corporate



Debtor, however, the Debt still remains unpaid as on the date of filing this application. Hence, we hold that there is a debt due and payable, and that there has been a default on the part of the Corporate Debtor.

12.In view of the above facts and circumstances, we are satisfied that the present petition filed by the Operational Creditor fulfills the criteria laid down under the provisions of the Insolvency and Bankruptcy Code. The Petition establishes that the Corporate Debtor is in default of a debt due and payable and that the default is more than the minimum amount stipulated under section 4 (1) of the Code, stipulated at the relevant point of time. In the light of the above facts and circumstances, it is, hereby ordered as follows: -

- a) The application bearing **CP (IB) No. 792/ND/2024** filed by, **Mr. Rajesh Kumar Singh, Director of M/s Venture Supply Chain Private Limited**, the Operational Creditor, under Section 9 of the Code read with rule 6 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP against **M/s Metropolis Logistics Private Limited**, the Corporate Debtor, is **admitted**.
- b) The Applicant has proposed the name of Mr. Harmanjit Singh, registration number IBBI/IPA-001/IP-P-02034/2020-2021/13080, as the Interim Resolution Professional of the Corporate Debtor in Part-III of the application. Therefore, Mr. Harmanjit Singh, Registration Number IBBI/IPA-001/IP-P-02034/2020-2021/13080 Email: ipcaharmanghai@gmail.com, is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the Code. The consent Form 2 from the IRP is placed on record. It is pertinent to mention that the IRP has a valid AFA.
- c) We direct the applicant to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional, namely Mr. Harmanjit Singh, to meet out the expense to perform the functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the



Operational Creditor. The amount, however, be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Operational Creditor.

- d) We also declare moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section 14 (1) (a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:

“(a)The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b)Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c)Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(d)The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the corporate debtor.”

(e)The IB Code 2016 also prohibits Suspension or termination of any license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.”

- e) It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government or the supply of the essential goods or services to the Corporate Debtor as may be specified, are not to be terminated or suspended or interrupted during the moratorium period. In addition, as per the Insolvency and Bankruptcy Code (Amendment) Act, 2018 which has come into force w.e.f. 06.06.2018, the provisions of moratorium shall not apply to the surety in a contract of guarantee to the corporate debtor in terms of Section 14 (3) (b) of the Code.



- f) The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections 15, 17, 18, 19, 20 & 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the day-to-day affairs of the 'Corporate Debtor'.
- g) In case there is any violation committed by the ex-management or any tainted/illegal transaction by ex-directors or anyone else, the Interim Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing an appropriate order. The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of its obligation imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.
- h) A copy of the order shall be communicated to the applicant, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Applicant is also directed to provide a copy of the complete paper book to the IRP. A copy of this order is also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

Resultantly, the present application, i.e. Company Application No.: **792/ND/2024 stands allowed** with aforesaid terms.

Let copy of the order be served to the parties.

Sd/-
(SUBRATA KUMAR DASH)
MEMBER (TECHNICAL)

Sd/-
(MAHENDRA KHANDELWAL)
MEMBER(JUDICIAL)