

**NATIONAL COMPANY LAW TRIBUNAL,**  
**MUMBAI BENCH COURT VI**

**Item No. P-1**  
**C.P. (IB)/265/MB/2025**

**CORAM:**

**SHRI SAMEER KAKAR**  
**HON'BLE MEMBER (TECHNICAL)**

**SHRI NILESH SHARMA**  
**HON'BLE MEMBER (JUDICIAL)**

**ORDER SHEET OF HEARING (HYBRID) DATED 13.01.2026**

NAME OF THE PARTIES: **Baij Nath Ram Nath (India) Private Limited**

**Vs.**

**Trivenimudrai Projects Limited**

**Under Section 9 of the IBC.**

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**ORDER**

The case is fixed for the pronouncement of the order. The order is pronounced in the open court, *vide* separate order. A detailed order is being uploaded on the NCLT portal today.

**Sd/-**

**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

*//AS//*

**Sd/-**

**NILESH SHARMA**  
**MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI - BENCH-VI**

**CP (IB) No. 265/MB/2025**

*[Under Section 9 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016]*

**IN THE MATTER OF:**

**Baij Nath Ram Nath (India) Private Limited**

[CIN No. U65910DL1997PTC084846]

**Registered Office:** Block No.1, Plot No. 7,  
W.H.S. Timber Market, Kirti Nagar,  
New Delhi- 110015.

**...Operational Creditor/(OC)**

**Vs.**

**Trivenimudrai Project Limited**

[CIN: U40106MH2010PLC327565]

**Registered Office:** 405, Floor-4,  
Plot-212, East Wing, Tulsiani Chambers,  
Free Press Journal Marg, Nariman Point,  
Mumbai- 400021.

**...Corporate Debtor/(CD)**

**Pronounced On: 13.01.2026**

**CORAM:**

**SHRI NILESH SHARMA, MEMBER (JUDICIAL)**

**SHRI SAMEER KAKAR, MEMBER (TECHNICAL)**

***Hearing: Hybrid***

**Appearances:**

Operational Creditor: Adv. Avneesh Garg

Corporate Debtor: Adv. Pulkit Sharma a/w Naman Jain & Rohan Vasa a/w Adv.  
Ankit Pitti

**ORDER**

**[PER: BENCH]**

**1. BACKGROUND**

- 1.1 This Company Petition No. C.P. (IB) 265/MB/2025 (Application) was filed on 14.12.2024 under Section 9 of the Insolvency and Bankruptcy Code, 2016 ('IBC') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 ('AA Rules') by Baij Nath Ram Nath (India) Private Limited, the Operational Creditor (OC), for initiating Corporate Insolvency Resolution Process (CIRP) against Trivenimudrai Projects Limited, the Corporate Debtor (CD).
- 1.2 The total amount of default alleged is Rs. 2,11,15,169/- (Rupees Two Crore Eleven Lakh Fifteen Thousand One Hundred and Sixty-Nine only).
- 1.3 As stated in Part IV of the Application, the last date of default is 15.05.2024.

**2. OPERATIONAL CREDITOR (OC):**

- 2.1 Rajkeshari Projects Limited approached the OC seeking the supply of construction aid products and materials on hire basis for one of its projects situated at Neyveli, Tamil Nadu.
- 2.2 In pursuance thereof, Rajkeshari Projects Limited placed upon the OC the following two hire work orders:
  - (a) RPL/VSRP/VVP/H.O/2020-21/052 dated 28.06.2021; and
  - (b) RKPL/TN/BNRNIPL/21-22/002 dated 09.09.2021.
- 2.3 Terms & conditions of the aforesaid work orders are provided as follows:

- I. Item-wise rates at which monthly hire charges for the material supplied by Operational Creditor are payable by Rajkeshari Projects Limited to Operational Creditor.
- II. Each invoice raised by the Operational Creditor shall be paid by M/s Rajkeshari Projects Limited within 15 (fifteen) days from the date of issuance thereof. Any delay in payment shall attract interest at the rate of 18% per annum.
- III. Rajkeshari Projects Limited shall compensate the Operational Creditor for any shortfall, loss, or non-return of the hired materials upon completion of its requirements.

2.4 Thereafter, M/s Rajkeshari Projects Limited remitted to the Operational Creditor an Interest-Free Refundable Security Deposit of Rs. 5,00,000/- and Rs. 8,50,000/-, vide NEFT No. 0301834342 dated 09.07.2021 and NEFT No. SIBLN21286142679 dated 13.10.2021, respectively.

2.5 Further, in accordance with the aforesaid work orders, the Operational Creditor supplied various construction materials to M/s Rajkeshari Projects Limited on different dates, under Delivery Challan No. 74 dated 14.07.2021, Delivery Challan No. 89 dated 22.10.2021, and Delivery Challan No. 90 dated 28.10.2021. True copies of the said delivery challans are annexed as ANNEXURE A-3.

2.6 For the hire charges payable against the aforesaid supply of construction-aid materials, the Operational Creditor raised regular monthly tax invoices upon M/s Rajkeshari Projects Limited on the 1st day of every calendar month towards the rental dues for the preceding month, for the period commencing from 01.08.2021 to 03.08.2023. However, M/s Rajkeshari Projects Limited

consistently failed to honour the said invoices, resulting in all hire charges remaining outstanding.

2.7 In view of M/s Rajkeshari Projects Limited's failure to return the hired materials or remit the full cost thereof, the hire charges have continued to accrue and shall remain payable until the material cost is discharged in full. Furthermore, since the materials have not been returned, M/s Rajkeshari Projects Limited is contractually liable to pay the Operational Creditor the replacement cost of the construction-aid materials. True copies of the invoices raised by the Operational Creditor upon M/s Rajkeshari Projects Limited for hire charges for the said period are annexed as ANNEXURE A-4, and true copies of the proforma invoices raised by the Operational Creditor towards the cost of unreturned hired materials are annexed as ANNEXURE A-5.

2.8 It is submitted that, in respect of each invoice raised by the Operational Creditor upon M/s Rajkeshari Projects Limited under the contract, the Operational Creditor not only suffered non-recovery of the invoiced amount but was also compelled to incur additional financial loss on account of payment of GST at the rate of 18% on the said invoice value. In order to prevent further losses arising from such GST outflow, the Operational Creditor was advised to discontinue issuance of Tax Invoices from September 2023 onwards and instead issue Proforma Invoices solely for calculation and record purposes, since the liability of M/s Rajkeshari Projects Limited to pay the hire charges and to compensate the Operational Creditor for the cost of the materials is purely a contractual liability. True copies of the Proforma Invoices raised for the said period are annexed herewith as ANNEXURE A-6.

2.9 The Operational Creditor, being an MSME, had also approached the MSME Facilitation Council, "Samadhaan," by way of an application dated 09.12.2022. However, the said proceedings proved futile, as the defaulting company refused to discharge its legitimate dues payable to the Operational Creditor.

2.10 While the aforesaid conciliation proceedings were pending before the MSME Council, the Corporate Debtor herein, i.e., M/s Trivenimudrai Project Ltd., vide its email dated 08.08.2023, informed the Operational Creditor that although the materials were originally supplied to M/s Rajkeshari Projects Limited, the same had, in fact, been utilized exclusively by the Corporate Debtor. By the said email, the Corporate Debtor also proposed to settle the dues of the Operational Creditor.

2.11 The Operational Creditor initially vehemently objected to the conduct of M/s Rajkeshari Projects Limited, inasmuch as the said company, without the consent or knowledge of the Operational Creditor, had transferred the hired materials to a third-party entity, namely, the Corporate Debtor, thereby committing a clear breach of trust. However, at the insistence of both M/s Rajkeshari Projects Limited and the Corporate Debtor, the Operational Creditor subsequently agreed to consider the proposal of the Corporate Debtor for settlement of its outstanding dues.

2.12 Thereafter, a tripartite MOU-Cum-Accounts Settlement Agreement dated 24.04.2024 was executed between the OC on one hand and Corporate Debtor and M/s Rajkeshari Projects Limited on the other. Vide this MOU, as against the then outstanding amount of Rs.1,36,99,430/- (Outstanding Hire Charges Rs.62,11,761/- + Replacement Cost of Unreturned Material Rs.74,87,669/-), OC agreed for settlement of its dues at a discount. Under this MOU, Corporate

Debtor agreed to pay a total sum of Rs. 92,65,790/- and the M/s Rajkeshari Projects Limited agreed to provide a Debit Note for Rs. 8,05,520/- to the OC on or before 15.05.2024. The said MOU further provides that in case of failure of the Corporate Debtor and M/s Rajkeshari Projects Limited to adhere to the aforesaid timeline, OC shall be entitled to recover entire dues from both the said companies i.e. jointly and severally. True copy of MOU dated 24.04.2024 along with its corresponding emails is annexed as ANNEXURE A-7.

2.13 Despite the aforesaid developments, both the said companies, including the Corporate Debtor herein, failed to honour their obligations under the MOU and did not make any payment by the agreed date, i.e., 15.05.2024. Consequently, the Operational Creditor became entitled to recover the entire outstanding amounts from both the said companies, including the Corporate Debtor.

2.14 It is submitted that, as on 30th September 2024, a sum of Rs. 2,11,15,169/- (Rupees Two Crore Eleven Lakh Fifteen Thousand One Hundred and Sixty-Nine Only) stood due and payable to the Operational Creditor from the aforesaid two companies, including the Corporate Debtor. A chart detailing the computation of the said outstanding amount is annexed as Schedule A to the Application.

2.15 Thereafter, the Operational Creditor, through its counsel, issued a notice dated 08.10.2024 under Section 8 of the Insolvency and Bankruptcy Code, 2016 to both the aforesaid companies, calling upon them to discharge their joint and several liability. A copy of the notice dated 08.10.2024 issued under Section 8 of the IBC, along with proof of its delivery, is annexed as ANNEXURE A-8.

2.16 Both the aforesaid companies, including the Corporate Debtor herein, failed to discharge their liabilities as demanded in the said notice and did not even

furnish any response thereto within the statutory period of 10 days from the date of its receipt.

2.17 After expiry of the statutory period of ten days, the Corporate Debtor, through its counsel, issued a reply dated 29.10.2024 to the said notice, which was received by the Operational Creditor on 01.11.2024. In the said reply, the Corporate Debtor raised certain false, frivolous and untenable contentions as a faint attempt to resist the legitimate demand raised by the Operational Creditor. A copy of the reply dated 29.10.2024 issued by the counsel for the Corporate Debtor and served upon the Operational Creditor on 01.11.2024 is annexed as ANNEXURE A-9.

2.18 The Operational Creditor further submits that, under the MOU dated 24.04.2024, the liability of the Corporate Debtor is joint and several with that of M/s Rajkeshari Projects Limited. Since neither of the said companies failed to discharge their joint and several liability despite service of the aforesaid notice, the Operational Creditor, through the present petition, is invoking its rights under Section 9 of the Insolvency and Bankruptcy Code, 2016 against the Corporate Debtor, while expressly reserving its right to initiate appropriate proceedings against M/s Rajkeshari Projects Limited as well, if required and/or if so advised.

2.19 The Applicant has attached the following documents with the Application:

- I. Copy of affidavit on behalf of the Operational Creditor in compliance of 9(3)(B) of the Code.
- II. Copy of written communication by the proposed IRP along with AFA.
- III. Copy of Board Resolution.
- IV. Copy of Master Data of the Operational Creditor.

- V. Copy of Master Data of the Corporate Debtor.
- VI. Copy of Pan details of the Operational Creditor.
- VII. Copy of To-Pay Bills.
- VIII. Copy of the Ledger Statement maintained by the Operational Creditor.
- IX. Copy of statement of payments prepared by the Operational Creditor.
- X. Copy of the Unpaid Invoices.
- XI. Copy of statement of default prepared by the Operational Creditor.
- XII. Copy of email correspondences between the parties.
- XIII. Printout of the Ledger Statement maintained by the Corporate Debtor.
- XIV. A copy of the Demand Notice dated 04.09.2024.
- XV. A copy of Reply Notice dated 07.10.2024.
- XVI. Copy of bank account statement of the Operational Creditor.
- XVII. Copy of record of default Form C.
- XVIII. Copy of Tripartite MoU dated 24.04.2024.

2.20 *Vide* Additional Affidavit dated 30.04.2025, the Applicant has placed on record

NeSL form C.

### **3. CORPORATE DEBTOR (Respondent/CD):**

3.1 Reply Affidavit dated 07.05.2025 was filed and affirmed by Mrs. Jyothsana Ramnath, the Director of the Corporate Debtor. The contents of the aforesaid Affidavit are summarised hereinbelow:

3.2 In or around June 2021, one Rajkeshari Projects Limited ("Rajkeshari"), a company having its registered office at Office No. 206, Inizio Business Centre Premises, Cardinal Gracious Road, Chakala, Andheri (East), Mumbai, Maharashtra – 400099, received a construction work order for a project at

Neyveli, Tamil Nadu. Pursuant thereto, Rajkeshari approached the Operational Creditor (“OC”) for the supply of shuttering materials, including scaffoldings (hereinafter referred to as the “said material”), on a hire basis for use in the said project.

3.3 Consequent to the negotiations between Rajkeshari and the Operational Creditor, Rajkeshari placed the following 2 hire work orders upon the Operational Creditor (hereinafter collectively referred to as the “Work Orders”):  
(a) Work Order No. RPL/VSRP/VVP/H.O/2020-21/052 dated 28.06.2021; and  
(b) Work Order No. RKPL/TN/BNRNIPL/21-22/002 dated 09.09.2021.

3.4 Based on the aforesaid Work Orders, the Operational Creditor (“OC”) commenced supply of construction materials to Rajkeshari at its project site located at Neyveli, Tamil Nadu, on a hire basis. The OC continued to raise regular monthly tax invoices upon Rajkeshari towards the hire charges payable for the materials supplied during the preceding month.

3.5 Despite such invoices being duly raised, Rajkeshari defaulted in making payments, resulting in the accumulation of substantial outstanding dues. Further, since Rajkeshari did not return the hired materials, the OC continued to accrue hire charges and additionally became entitled to claim the replacement cost of the unreturned materials.

3.6 The OC, being a registered MSME, also approached the MSME Facilitation Council (“Samadhaan”) by way of an application in the year 2022. However, the said proceedings did not result in any recovery, as Rajkeshari failed to comply with the claims raised by the OC.

3.7 While the conciliation proceedings against Rajkeshari were pending before the MSME Council, the Respondent herein, i.e., Trivenimudrai Project Ltd.

(“Respondent” / “Corporate Debtor” / “CD”), owing to its goodwill, long-standing professional association with Rajkeshari, and with the intent to assist the OC in amicably resolving its dispute with Rajkeshari, expressed its willingness to take over the entire Work Orders originally allotted to Rajkeshari, against payment, by entering into a written understanding with the OC.

3.8 Various meetings were thereafter held between the OC, the Respondent, and Rajkeshari, wherein it was agreed that the Respondent would take over the entire material lying at the VSRP site, as reflected in the Proforma Invoice issued by the OC in favour of Rajkeshari. Pursuant to the said understanding, a joint site inspection was conducted by the representative of the OC, the store representative of the Respondent, and the site in-charge of Rajkeshari to ascertain the status of the shuttering and staging material available at the site.

3.9 However, during the inspection, it was discovered that the material available at the site was valued at only Rs.3,50,000/-, as against the amount of Rs.74,87,669/- invoiced by the OC to Rajkeshari. The balance material was found to be missing from the site. This fact was immediately brought to the notice of the OC by the Respondent vide email dated 08.08.2023. The said email dated 08.08.2023 is annexed as Annexure A.

3.10 However, in its email dated 25.08.2023, the OC, contrary to the discussions held between the parties, expressly stated that: (i) there was no privity of contract between the Operational Creditor and the Respondent; (ii) the materials had been handed over solely to Rajkeshari on a hire basis, and Rajkeshari had no authority to transfer them to the Respondent; (iii) all discussions regarding site inspection were with Rajkeshari and not with the Respondent; (iv) if the materials were handed over to the Respondent without

the OC's consent, the same must be returned to the OC; and (v) in case of non-payment of dues or non-return of materials by Rajkeshari, the OC would initiate legal proceedings against Rajkeshari. Copy of the email dated 25 August 2023 is annexed as Annexure B.

3.11 The Respondent, *vide* its email dated 29.08.2023, informed the OC that since the materials were lying at the VSRP site, which had subsequently been taken over by the Respondent, it had expressed willingness to Rajkeshari to purchase the said materials to reach a mutually beneficial resolution. However, upon inspection, the materials available at the site did not match the quantity/value reflected in the Proforma Invoice issued to Rajkeshari. Accordingly, the Respondent proposed an amicable settlement by offering Rs.43,00,000/- towards full and final settlement for the purchase of the available material.

3.12 In response, the OC, *vide* its email dated 30.08.2023, reiterated its earlier position and denied the existence of any contractual relationship with the Respondent. Copies of the emails dated 29.08.2023 and 30.08.2023, along with the Proforma Invoice issued in favour of Rajkeshari, are annexed hereto as Annexure C.

3.13 Subsequently, since the OC denied having any direct contractual relationship with the Respondent, Rajkeshari engaged in further discussions with the OC. Pursuant thereto, all parties agreed to enter into settlement terms by executing a Tripartite Agreement, pursuant to which the OC would issue a fresh Sale Invoice in favour of the Respondent.

3.14 Accordingly, a Settlement Agreement was executed between the OC, the Respondent, and Rajkeshari on 24.04.2024. The relevant clauses of the said Settlement Agreement are as follows:

- a) Assignment of Work Order: Rajkeshari ("RKPL") agreed to hand over the entire Work Order to the Respondent ("Party-3") against payment, in terms of the mutual and written understanding between the parties.
- b) Purchase of Material: The Respondent agreed to take over the entire shuttering and scaffolding material supplied by the Operational Creditor ("Party-2/BNRN") by making payment of Rs. 74,87,669/-, inclusive of GST @18%, to the Operational Creditor under proper documentation and invoicing.
- c) Settlement of Hire Charges: The Respondent further agreed to pay the settled hire amount of Rs. 17,78,121/- (excluding GST). After adjusting the interest-free security deposit, an ad-hoc payment of Rs. 5,00,000/- was to be made towards the bills raised for hire charges, in full and final settlement of the outstanding hire dues payable by Rajkeshari to the Operational Creditor.
- d) The Operational Creditor agreed to issue a No Dues Certificate to Rajkeshari and the Respondent upon receipt of the total settlement amount of Rs. 92,65,790/- from the Respondent on or before May 15, 2024, which constitutes a fundamental condition of the Settlement Agreement.
- e) In the event the Respondent fails to make the aforesaid payment within the stipulated period, i.e., on or before May 15, 2024, the Operational Creditor shall be entitled to initiate legal proceedings against both

Rajkeshari and the Respondent for recovery of the entire cost of unreturned hired materials, along with the outstanding hire charges and applicable GST.

- f) The parties further declared that, upon fulfilment of the terms and conditions of the Settlement Agreement, none of the parties shall have any monetary claim against the others as of the date of execution of the Agreement.
- g) It is respectfully submitted that, under the Settlement Agreement, transfer of the Work Order by Rajkeshari to the Respondent was a condition precedent to any further obligations. However, Rajkeshari failed to hand over the Work Order, thereby committing a fundamental breach of the agreement. Consequently, no liability could arise against the Respondent, as its obligation to pay the Operational Creditor was contingent upon Rajkeshari's prior performance.
- h) Further, the materials described in the proforma invoice issued to Rajkeshari were largely missing from the project site, as repeatedly notified to the Operational Creditor. Since the said materials were never handed over or made available to the Respondent, performance of the Settlement Agreement became impossible and commercially unviable. Consequently, due to Rajkeshari's failure to fulfil its essential reciprocal obligations, the Settlement Agreement remained inoperative and was never acted upon by any party.
- i) The aforesaid facts were well within the knowledge of the Operational Creditor. Despite this, the Operational Creditor issued a Demand Notice under Section 8 of the Insolvency and Bankruptcy Code, 2016, claiming a

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH-VI**  
**CP (IB) No. 265/MB/2025**

sum of ₹2,11,15,170/-, which also included ₹35,07,893/- towards interest at 18% per annum. The Respondent received the said notice on October 15, 2024 and duly issued a Reply Notice dated October 25, 2024, clearly setting out the existence of a bona fide dispute.

- j) In view of the above circumstances, the present petition is devoid of merits and is not maintainable either in law or on facts, and therefore deserves to be dismissed in limine. The Respondent now proceeds to deal with the averments made in the petition and submits the following response, without prejudice to its rights and contentions.
- k) Under the Insolvency and Bankruptcy Code, 2016 (“the Code”), a Section 9 application must necessarily be founded on an “operational debt” as defined under Section 5(21) of the Code. For a claim to qualify as an operational debt, there must exist a direct operational relationship between the Operational Creditor (“OC”) and the Corporate Debtor (“Respondent”), arising from the supply of goods or services, the issuance of corresponding invoices, and the crystallization of a liability payable by the Corporate Debtor. Section 5(21) defines an “operational debt” 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.”
- l) In the present case, no such operational relationship exists. There is no privity of contract between the OC and the Respondent; no work order was ever issued by the Respondent to the OC; no invoice has been raised upon

the Respondent; and no acknowledgment of liability exists that would establish any operational debt owed by the Respondent to the OC.

3.15 It is evident from the documents annexed to the Petition, including the work orders relied upon by the OC, that the underlying commercial arrangement existed exclusively between Rajkeshari Projects Limited (“Rajkeshari”) and the OC. At no stage did the Respondent issue any work order in favour of the OC. The OC’s own pleadings acknowledge that the materials were supplied on a hire basis solely to Rajkeshari and not to the Respondent. Consequently, the business relationship giving rise to the dispute was confined to Rajkeshari and the OC, with the Respondent having no direct role in the supply or receipt of goods or services.

3.16 The MoU relied upon by the OC merely envisaged a conditional arrangement for the Respondent to potentially purchase materials. No work order was issued to the Respondent, and the materials were never delivered. Accordingly, the MoU remained non-binding, and no contractual liability could arise against the Respondent.

3.17 It is pertinent to note that no invoice was ever raised in the name of the Respondent, even after execution of the Settlement Agreement. This is because the OC was aware that the underlying work orders had not been assigned or transferred to the Respondent. In the absence of such transfer, no liability could arise against the Respondent.

3.18 The mere expression of willingness by the Respondent to consider a future settlement or purchase, contingent on certain conditions, does not create a legally enforceable operational debt. The failure of Rajkeshari to transfer the relevant work orders, as contemplated under the MOU, prevented any

contractual trigger from arising, and no obligation could materialize against the Respondent. It is evident that the Respondent never placed any direct purchase order on the Operational Creditor, nor did it receive any goods or services directly. The entire commercial arrangement, as per the Operational Creditor's own documents and pleadings, was exclusively between Rajkeshari Projects Limited and the Operational Creditor. At no stage did the Respondent assume any contractual or legal liability, and no operational relationship arose that could constitute an operational debt under the Code.

3.19 In the absence of such a relationship, the threshold requirement under Section 5(21) of the Code remains unfulfilled. Consequently, the present petition is not maintainable under Section 9 of the Insolvency and Bankruptcy Code, 2016, and deserves to be dismissed at the threshold.

3.20 Default of settlement terms does not constitute Operational Debt.

a. It is well-settled that a default under a settlement agreement, particularly where there is no underlying supply of goods or services, does not constitute an "operational debt" under the Insolvency and Bankruptcy Code, 2016. Section 5(21) defines an "operational debt" 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."*

b. A breach of a settlement or financial arrangement where no operational relationship or underlying liability for goods or services exists falls outside the scope of Section 5(21). Therefore, default in payment of instalments

under the said Settlement Agreement does not qualify as an operational debt.

c. In the present case, the alleged claim arises solely from a Settlement Agreement executed to resolve a commercial dispute between the Operational Creditor and Rajkeshari Projects Ltd., a party with whom the Respondent had no contractual or operational relationship. The Respondent's involvement in the settlement was purely incidental, and the essential condition precedent, i.e., transfer of the relevant work orders was never fulfilled. No goods or services were supplied to the Respondent, no consideration passed, and no invoices were raised in its name. Accordingly, no operational relationship exists that could give rise to a debt under Section 5(21) of the Code. The Operational Creditor's claim, being based on a failed settlement proposal without any contractual or operational foundation, does not qualify as an operational debt. A mere breach of a settlement agreement, therefore, cannot trigger CIRP against the Respondent under the Code.

### 3.21 Pre-existing Dispute:

- a) The Respondent, vide email dated 8 August 2023, informed the Petitioner that only materials worth ₹3,50,000/- were available at the site, and the balance of the materials listed in the Proforma Invoice was missing. A copy of the said email is annexed as Annexure A.
- b) Further, in its email dated 25 August 2023, the Operational Creditor expressly admitted that the shuttering and staging materials were supplied exclusively to Rajkeshari under work orders issued by Rajkeshari. No work orders were issued to the Respondent, nor was any material ever delivered

to or received by it. The Operational Creditor categorically stated that there was “no privity of contract” with the Respondent, and that all dealings were exclusively with Rajkeshari. It specifically stated:

1. *“First of all there is no privity of contract between ourselves and yourself.*

....

3. *It is further to put on record that the inspection as referred and talks were going on with M/s. RKPL and not with any official of M/s. Trivenimudrai as alleged.”*

- c) Following mutual discussions, the Respondent inspected the site where the materials were lying and, vide email dated 29.08.2023, immediately notified the Operational Creditor of the discrepancies between the actual materials available and those listed in the Proforma Invoice issued in favour of Rajkeshari. The dispute regarding the quantity remained unresolved. A copy of the said email is annexed as Annexure C.
- d) In a subsequent email dated 30 August 2023, the OC reiterated that the Respondent had no direct contractual relationship, and that all responsibility lay solely with Rajkeshari. The OC further stated that the Respondent had no authority to deal with the materials and that any claim by the Respondent regarding ownership or settlement was invalid in law. Copies of the emails dated 25 August 2023 and 30 August 2023 are annexed as Annexure D.
- e) Even when the Respondent offered a full and final settlement based on the limited material available, the OC denied any direct relationship and maintained that all dealings were solely with Rajkeshari.

- f) The correspondence clearly demonstrates that disputes existed regarding both the quantity and ownership of the materials at the site. The OC repeatedly asserted no privity of contract with the Respondent, and that all transactions were exclusively with Rajkeshari. The Respondent, a third party with no contractual nexus, merely offered to inspect and facilitate a settlement, which was rejected outright. Accordingly, the claim is vitiated by a pre-existing dispute and is not maintainable under Section 9 of the IBC.
- g) These facts establish that no clear or undisputed operational debt exists in favor of the OC. The matter arises solely from a settlement MOU, which is not actionable under the IBC. The condition precedent under the MOU namely, the issuance of a work order by Rajkeshari in favour of the Respondent was never fulfilled. Since Rajkeshari failed to perform its obligations, the Respondent was never legally or contractually liable to make any payments to the Petitioner.

3.22 The MoU was never acted upon:

- a. Under the MOU, it was expressly agreed that Rajkeshari would transfer the relevant work order(s) to the Respondent, upon which the Respondent would take delivery of the goods and make payment as per the settlement. However, no work order was ever issued or transferred by Rajkeshari. Consequently, the contractual trigger obligating the Respondent to take delivery or make payment never arose.
- b. It is respectfully submitted that no work order was ever issued or transferred to the Respondent under the purported MOU. The issuance of a valid work order was the foundational trigger for any obligations of the

Respondent, including accepting delivery of materials or making payment. In the absence of such work order, no binding obligation arose, and the Operational Creditor had no basis to raise invoices against the Respondent.

- c. Consequently, no materials were supplied, no invoices were raised, and no liability crystallized. As a matter of law, for a debt to be "due and payable," there must first exist a crystallized liability, which never occurred in this case. Therefore, no operational debt arose under the Insolvency and Bankruptcy Code, 2016.
- d. The OC has never raised any invoice in the Respondent's name, before or after the MOU, reflecting that no work order was transferred and no goods were delivered. All invoices were issued only to Rajkeshari. The MOU was never acted upon, and the Respondent was never a buyer or debtor. Mere existence of the MOU, without performance, cannot create an operational debt under the Code.

### 3.23 Failure to meet the threshold requirement of Rs. 1 crore:

- a. Without prejudice to the foregoing, and even assuming arguendo that the Petitioner qualifies as an "Operational Creditor" in relation to the Respondent, the petition fails at the threshold for non-compliance with the statutory default requirement under the IBC.
- b. The alleged claim arises solely from the tripartite MOU dated 24 April 2024 between the Petitioner, Rajkeshari Projects Limited, and the Respondent. Under the MOU, the Respondent had conditionally agreed to pay:

₹17,78,121/- towards alleged outstanding hire charges; and

₹74,87,669/- for the intended purchase of shuddering and scaffolding

materials previously supplied to Rajkeshari.

- c. The total amount of ₹92,65,790/- was expressly contingent upon the issuance of a fresh work order by Rajkeshari to the Respondent for the Neyveli project, which was never issued.
- d. Even if the full MOU amount is considered, it falls short of the statutory minimum threshold of ₹1 crore under Section 4 of the IBC, and therefore the petition is not maintainable.
- e. Moreover, the MOU does not provide for payment of interest on the amounts stated therein. Consequently, the Petitioner has no legal basis to inflate the claim by adding interest to meet any statutory threshold.
- f. Even on the Petitioner's highest hypothetical case, which is both factually and legally unsustainable, the aggregate claim against the Respondent does not satisfy the statutory minimum of ₹1 crore under the IBC. Accordingly, the present petition is liable to be dismissed in limine for want of jurisdiction.

### 3.24 Frivolous and Malicious Proceedings initiated to arm-twist the Respondent:

- a) The present petition under Section 9 of the IBC, 2016 is motivated by mala fide intent. It has been filed with malicious intent to invoke the CIRP mechanism against the Respondent despite the absence of any invoice, supply of goods, or actionable claim under the purported MOU/Settlement Agreement, which never attained legal enforceability. This constitutes a serious abuse of process and an attempt to mislead this Hon'ble Tribunal.
- b) The OC's actual claim lies solely against Rajkeshari, the original contracting party and primary obligor. Instead of pursuing recovery from Rajkeshari, the Petitioner has targeted the Respondent, apparently due to

its commercial standing, thereby misusing the insolvency process to coerce recovery from a non-liable and unrelated party. Such action is legally unsustainable and constitutes an abuse of the remedy under Section 9, which is not intended as a debt recovery tool against solvent third parties.

- c) In view of the foregoing, the OC cannot selectively enforce a settlement that was never implemented and failed through no fault of the Respondent. The claim is misconceived, legally untenable, and does not constitute an “operational debt” under Section 5(21) of the IBC.
- d) In light of the above, the Respondent respectfully prays that this Hon’ble Tribunal dismiss the petition at the threshold, with exemplary costs, as it is vexatious, devoid of merit, legally unsustainable, and filed solely to harass the Respondent and misuse the process of this Tribunal.

#### **4. REJOINDER**

- 4.1 Mr. Raunaq Kapoor has filed an affidavit-in-rejoinder on behalf of the Applicant, which was solemnly affirmed, notarised, and verified on 21.08.2025. The contentions of the Applicant in the aforesaid Affidavit are summarised below:
- 4.2 The Respondent submits that “there was no privity of contract between the Petitioner and the Respondent” as the material was supplied solely to Rajkeshari Projects Limited. No invoice was ever raised upon the Respondent. The Respondent further states that the MOU dated 24.04.2024 only contemplated that Rajkeshari would hand over the materials to the Respondent, and liability would arise only thereafter. Since the materials were

never handed over, no liability to pay hire charges or material cost ever accrued against the Respondent.

4.3 The Respondent's contentions are wholly misleading and contrary to the admitted documents on record. The MOU dated 24.04.2024, relied upon by both parties, unequivocally records that:

- (a) All materials supplied by the Petitioner to Rajkeshari Projects Limited had been handed over to the Respondent;
- (b) The Respondent expressly acknowledged its liability towards the Petitioner for both the hire charges and the cost of the said materials;
- (c) The Respondent proposed, and the Petitioner agreed, to settle the entire outstanding for ₹1,00,71,310/-, subject to the condition that if the Respondent failed to make payment on or before 15.05.2024, the Respondent would become liable to pay the entire original outstanding. The Respondent's reliance on selective portions of a few August 2023 emails is misleading. A complete reading of the correspondence, together with subsequent documents, clearly shows that the Respondent admitted to having taken over the entire project along with all materials. Further, after having executed the MOU dated 24.04.2024, the Respondent cannot now dispute the clear recitals therein acknowledging its liability towards the Petitioner. The Respondent is estopped from taking a contrary stand.
- (e) A perusal of the Respondent's reply, read together with the order dated 10.05.2025, clearly demonstrates that the Respondent's sole intent is to delay the present proceedings by making false and misleading averments. The Respondent has gone to the extent of contradicting documents executed by it

and acted upon without demur, thereby exposing the mala fide nature of its defence.

4.4 The Respondent's plea that breach of settlement terms does not constitute an operational debt is misconceived. In the present case, the settlement pertains to dues arising from the Petitioner's supply of goods to the Corporate Debtor in the ordinary course of business, thereby falling within the definition of "operational debt" under Section 5(21) of the Code. Hence, the petition is maintainable.

4.5 The Respondent's allegation of a pre-existing dispute is also untenable. The emails dated 08.08.2023, 25.08.2023, 29.08.2023 and 30.08.2023 do not disclose any genuine dispute and, in fact, contradict the Respondent's own stand. These selective emails cannot override the subsequent admitted correspondence and the MOU dated 24.04.2024, which contain a clear acknowledgment of liability by the Respondent.

4.6 The Respondent's contention that the statutory threshold of Rs. 1 crore is not met is wholly untenable for the following reasons:

- a) The Settlement Agreement itself quantifies the total settlement amount at ₹1,00,71,310/-, comprising ₹92,65,790/- payable in cash by the Respondent/CD and ₹8,05,520/- payable by M/s Rajkeshari through a debit note. Thus, the settlement amount alone satisfies the minimum threshold.
- b) The Settlement Agreement expressly stipulates that if the settlement amount is not paid by 15.05.2024, the Respondent becomes liable to pay the entire original outstanding. As stated in the petition, the principal outstanding exceeds Rs. 1.75 crores, and when interest at the agreed rate

is added, the total liability stands at Rs. 2.11 crores as on 30.09.2024 well above the statutory threshold.

4.7 The Respondent's allegation that the Petitioner has wrongly chosen to proceed only against the Respondent, and not against Rajkeshari Projects Limited, is wholly misleading and contrary to the admitted record.

- a) The documents on record unequivocally establish that the Respondent took over the entire project from M/s Rajkeshariprojects Limited along with all materials earlier supplied by the Petitioner on hire basis, and utilized the same. It is for this very reason that the Respondent expressly acknowledged its liability and entered into the Settlement/MOU dated 24.04.2024 to settle the operational dues. Accordingly, the Respondent is estopped from now claiming that liability lies only with M/s Rajkeshariprojects Limited or that the Petitioner is proceeding against the wrong party.
- b) The MOU expressly provides that, in the event of failure to make payment by 15.05.2024, both the Respondent/Corporate Debtor and M/s Rajkeshariprojects Limited shall be jointly liable for the entire original outstanding. Thus, the Respondent's liability stands clearly admitted and cannot now be disputed.
- c) Further, given that the Respondent's obligations under the MOU were primary, the Petitioner has rightly initiated the present proceedings against the Respondent.

4.8 In the present case, the Respondent's plea of absence of privity of contract is wholly false and untenable, being contrary to the admitted documents on record, including the MOU dated 24.04.2024. Once the Respondent has

admittedly taken over the relevant work orders from RKPL along with the material in question, it cannot evade its liability. Without prejudice, it is submitted that, as expressly stipulated in the MOU, the Petitioner was required to raise the GST invoice for the material only upon receipt of consideration for the same, for the following reasons:

- a) Before execution of the MOU, the Petitioner had already raised a proforma invoice for the cost of the material upon RKPL. Since Respondent has taken over the entire work orders as well as all the invoices raised thereunder upon RKPL, the said proforma invoice was also accepted by the Respondent vide tripartite email dated 10.04.2024 (at Page 124) by recording, inter alia, as under: "1. We have handed over this project and site to M/s Trivenimudrai Projects Ltd. with all the materials which are in stock at site including the scaffoldings and shuttering materials hired from you. 2. M/s TMPL has agreed to buy this material from you as 'Cost of Replacement' mentioned in your quotation and our work orders. The value of the said material is Rs.74,87,669/- including GST, the same has been confirmed by you through your proforma invoice dated 17th May 2023. 6. M/s BNRN will raise a sale invoice to M/s TMPL for the materials as mentioned in proforma invoice immediately after receipt of payment from M/s TMPL."
- b) Further, the letter dated 09.03.2024 addressed by the Respondent to the Petitioner (Page 121) contains as an annexure the proforma invoice / acknowledgement of the cost of the material under possession of Respondent. (Proforma invoice raised on RKPL is at Page 114 of the Petition).

- c) Since the Petitioner had provided the said material in the year 2021 itself on hire basis and not as sale, the Petitioner, in its accounts has not treated the same as sale. As such, a GST invoice can be raised only on final receipt of consideration for the said material from the Respondent inasmuch as if the said material is treated as a sale by the Petitioner in its books before receiving the consideration thereof, there shall not only be legal and accountancy infirmities in the books of the Petitioner (as the said material is a capital expenditure and stock in trade) but also, the Petitioner shall be deprived of the depreciation factor on the said goods despite being not in possession of either of the said material or the cost thereof. In other words, a GST invoice for sale cannot be raised for material given on hire until and unless, the Respondent pays the entire consideration pursuant whereto only, transaction can be converted from a hire transaction into a transaction of sale. It is pertinent to mention here that a GST invoice can be raised even after the receipt of payment by a vendor. It is further submitted that even otherwise, in the present case, wherein the Respondent has already been in continuous default of payment of the hire charges (already GST invoiced), raising of a GST invoice before receiving the cost of replacement of material would have entailed a further risk of more than Rs. 13 lacs in the form of GST.
- d) For the aforesaid reason, the MOU, in its substantive portion of terms and conditions does not contain any pre-condition for payment of consideration by TMPL for the material in question and rather, the MOU clearly contains the amount/cost of the said material to be paid by the Respondent by 15.05.2024 failing which the Petitioner shall be entitled to recover the entire

outstanding. Such a clear understanding between the parties is also evident from the fact that at no point in time, Respondent ever demanded any such invoice from the Petitioner as a precondition for complying with its unequivocal obligation to pay.

## 5. **ANALYSIS AND FINDINGS**

5.1 We have perused all the documents and the pleadings of the Applicant and the Respondent, including Written Submissions of both parties, and have heard both sides.

5.2 The disputes raised by the Respondent are confined to the plea of absence of privity of contract, alleged conditionality and non-implementation of the MOU, discrepancies in quantity of materials, existence of a pre-existing dispute, and the contention that default under the MOU does not constitute an operational debt. However, none of these disputes negates the admitted supply of goods, utilization thereof, execution of the MOU, or failure to make payment by the agreed date.

5.3 The first issue that arises for consideration is whether the claim of the OC qualifies as an “operational debt” under Section 5(21) of the IBC. The record clearly establishes that the claim arises from the supply of construction-aid materials on hire in the ordinary course of business. The Hon’ble Supreme Court in ***Consolidated Construction Consortium Limited vs. Hitro Energy Solutions Private Limited*** [Civil Appeal No. 2839 of 2020], has held that the definition of operational debt is wide and that what is material is the nature and origin of the transaction and not the technicalities of contractual structure. Applying the aforesaid ratio, the objection of the Respondent that the original

work orders were issued by M/s Rajkeshari Projects Limited is of no consequence, once it is admitted that the Respondent was handed over the material supplied by the Applicant to RKPL, liability arising from such receipt was acknowledged and the said liability in respect of the operational debt is taken over by the Respondent by way of the MoU dated 24.04.2024.

5.4 The correspondence placed on record, including the email dated 08.08.2023, establishes that the Respondent acknowledged handing over of the materials supplied by the OC to it. Moreover, the MoU also clearly records the receipt of the material by the CD. As held by the Hon'ble NCLAT, New Delhi, in ***Neeraj Jain vs. Cloudwalker Streaming Technologies Private Limited and Flipkart India Private Limited*** [Company Appeal (AT) (Ins) No. 1345 of 2019], acknowledgement of liability and acceptance of benefit derived from goods or services is sufficient to establish the existence of debt at the admission stage. The Respondent in the matter at hand, having admittedly derived benefit from the materials and having assumed the liability in respect thereof, cannot evade liability by raising technical pleas regarding the original contracting party.

5.5 The execution of the tripartite MoU dated 24.04.2024 constitutes a clear acknowledgment and quantification of liability. The MoU records outstanding hire charges and replacement costs and provides for a discounted settlement, while expressly stipulating that in the event of failure to make payment by 15.05.2024, the OC would be entitled to recover the entire original outstanding jointly and severally from the Respondent and M/s Rajkeshari Projects Limited. The contention that default under a settlement agreement does not constitute an operational debt cannot be accepted in the present case. The legal effect of such settlement agreements has been considered by the Hon'ble NCLAT in

***Alhuwalia Contracts (India) Ltd vs. Jasmine Buildmart Pvt. Ltd.*** [Company Appeal No. 245 of 2023], where it held that a settlement agreement which only restructures or quantifies the dues arising out of an operational transaction does not extinguish the original operational debt. Upon failure of the settlement, the operational creditor is entitled to fall back upon the original claim. Default in complying with settlement terms, where the settlement arises out of operational dues, continues to retain the character of an operational debt. Thus, the CD's contention that default under the MoU does not constitute an operational debt is contrary to the settled law.

5.6 The plea of absence of privity of contract raised by the Respondent is also untenable. The Respondent not only took over the materials but also executed the MoU, acknowledging liability. Where a party steps into the shoes of the original contracting entity and assumes obligations, it cannot escape liability by pleading absence of privity. A party that has solemnly entered into a written arrangement acknowledging certain obligations cannot be permitted to approbate and reprobate by later denying such obligations. The relevant extracts of the said MoU talking about the relation of the parties is as under:

*"RKPL, Party-1 was got an order of constructions job at Neyveil, Tamilnadu, in the financial year 2021-2022. In this connection RKPL has placed an Hire order for Shuttering Materials including Scaffoldings to the BNRN, Part-2.*

*After few days later, RKPL, decided to hand over the entire Work Order to the Party-3, and Party-3 also agreed to take over the entire Work Order from Party-1*

against payment on mutually as well as written understanding and RKPL, Party-1 handed over the entire materials lying a site including Scaffoldings and Shuttering Materials etc which was hired from Party-2. TMPL or RKPL has not paid any amount against the monthly rental bills raised by Party 2 BNRN, Total amount of monthly rental bills was INR.62,11,761/- (Rupees Sixty Two Lacs Eleven Thousand Seven Hundred Sixty One Only) including the GST @ 18%. Now, TMPL wants and agreed to Purchase the entire Shuttering and Scaffolding Materials supplied by Party 2 BNRN by paying an amount of INR. 74,87,669/- (Rupees Seventy Four Lacs Eighty Seven Thousand Six Hundred Sixty Nine Only) including the GST @ 18% from Party-2 under proper documents / Invoicing.

TMPL, Party-3 was also agreed to pay the settled hire amount of INR.17,78,121/- (Rupees Seventeen Lacs Seventy Eight Thousand One Hundred Twenty One Only) excluding GST and also after adjustment of interest free security deposit and another adhoc payment of INR.5,00,000/- (Rupees Five Lacs Only) against the bills raised for Hiring Charges to the Party-2 as full and final settlement against the outstanding hire dues to be paid to party 2 BNRN.

*RKPL, Party-1 has agreed to raise a debit note worth INR 8,05,52C/- (Rupees Eight Lacs Five Thousand Five Hundred Twenty Only) to avail the GST Credit to BNRN, Party-2 over and above the total settlement amount INR.92,65,790/- (Rupees Ninety Two Lacs Sixty Five Thousand Seven Hundred Ninety Only) to be paid by TMPL to BNRN.*

*BNRN, Party-2 has agreed to issue a 'No Dues' certificate to RKPL and TMPL, BNRN also agreed to stop ! withdraw all kinds of legal proceedings against RKPL related to Neyveli, Tamilnadu Site, immediately after realisation of above mentioned amount of INR,92,65,790/- (Rupees Ninety Two Lacs Sixty Five Thousand Seven Hundred Ninety Only) from TMPL and receipt of Debit Note of INR.8,05.5201- (Rupees Eight Lacs Five Thousand Five Hundred Twenty Only) from RKPL by or before 15' May 2024 which is the main essence of this Account Settlement Agreement.*

...

RELEASE AND DISCHARGE

*The entire above mentioned settled amount shall be paid by TMPL to BNRN and Debit Note shall be raised and sent to BNRN on or before 15/May/2024 [ 15th day of May Two thousand twenty four]. Party-I RKPL confirms that Debit Note, shall uploaded on GST portal so that*

*the same should be reflecting in party-2 BNRN GSTIN 2A portal.*

*That, in case party-3 TMPL fails to make payment to Party-2 BNRN within the stipulated time period by or before 15' May 2024 then Party-2 BNRN reserves the rights to commence the legal proceedings against both parties, i.e. Party-1 RKPL and Party-3 TMPL for the entire recovery of cost of unreturned hired materials along with entire outstanding hire charges amount plus applicable GST."*

As such, as per the MoU, the CD and RKPL were jointly and severally liable to repay the OC for the entire due amount in case of failure of the CD to make payment to the OC by or before 15.05.2024. The CD herein expressly acknowledged its liability towards the OC and having agreed to take over the entire project along with all materials and thereafter admitting having actually received the materials.

5.7 The defence of pre-existing dispute raised by the Respondent also does not satisfy the test laid down by the Hon'ble Supreme Court in ***Mobilox Innovations Private Limited vs. Kirusa Software Private Limited***, (2018) 1 SCC 353, which states that:

*"40. ... all that the adjudicating authority is to see at this stage is whether there is a plausible contention which requires further investigation and that the "dispute" is not a patently feeble legal argument or an assertion of fact unsupported by evidence. It is important to separate the*

*grain from the chaff and to reject a spurious defence which is mere bluster. However, in doing so, the Court does not need to be satisfied that the defence is likely to succeed.*

*The Court does not at this stage examine the merits of the dispute except to the extent indicated above. So long as a dispute truly exists in fact and is not spurious, hypothetical or illusory, the adjudicating authority has to reject the application."*

The alleged disputes relied upon by the Respondent pertain to reconciliation and valuation of materials and were followed by negotiations culminating in the execution of the MoU dated 24.04.2024. Such correspondence cannot be construed as a real and *bona fide* dispute. Moreover, the defence raised is a patently feeble legal argument and falls within the category of illusory or moonshine defences, which cannot be a ground to reject a Section 9 application.

5.8 As regards default, the same stands clearly established. The last date of default is 15.05.2024, being the agreed date for payment under the MoU. No payment was made by the said date. Consequently, the OC became entitled to recover the entire original outstanding. As on 30.09.2024, the amount due and payable stood at Rs.2,11,15,169/-, which is well above the threshold prescribed under Section 4 of the IBC. The contention that only the settlement amount should be considered is contrary to the express terms of the MoU and settled law.

5.9 We find that all pre-requisites of Section 9 of the IBC are fulfilled and, accordingly, we are satisfied that the instant Application is fit for admission

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under Section 9 of the IBC. The Applicant has attached all the documents as required and therefore the Application is complete. We also note that a Demand Notice dated 04.09.2024 was served upon the Respondent and was replied to by the Respondent *vide* its letter dated 07.10.2024.

5.10 We make it clear that at this stage we have not crystallised the amount as claimed in this Application; the same is left to be collated by the IRP.

**ORDER**

In view of the aforesaid findings, this Application bearing C.P. (IB) No. 265/MB/2025 filed under Section 9 of IBC, 2016, Baij Nath Ram Nath (India) Private Limited, the Applicant (OC) for initiating CIRP in respect of Trivenimudrai Projects Limited, the CD, is **admitted**.

We further declare a moratorium under Section 14 of IBC, 2016 with consequential directions as mentioned below:

- I. We prohibit:
  - a) the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor, including the 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, and;

- d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- II. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- III. That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under Section 31(1) of the IBC or passes an order for the liquidation of the Corporate Debtor under Section 33 thereof, as the case may be.
- IV. That the public announcement of the CIRP shall be made immediately as specified under Section 13 of the IBC read with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other Rules and Regulations made thereunder.
- V. That this Bench hereby appoints **Mr. Mahesh Kumar Gupta**, having **Registration No.** as **IBBI/IPA-001/IP-P00478/2017-2018/10866**, and **e-mail address** [camkg59@gmail.com](mailto:camkg59@gmail.com), having a valid AFA till **31.12.2026**, (from the panel of IPs maintained by the IBBI) as the IRP to carry out the functions under the IBC.
- VI. That the fee payable to IRP/RP shall be in accordance with such Regulations/Circulars/ Directions as may be issued by the IBBI.

VII. That during the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of the IBC. The officers and managers of the Corporate Debtor are directed to provide all assistance to the IRP as and when he takes charge of the assets and management of the Corporate Debtor. Coercive steps will follow against them under the provisions of the IBC read with Rule 11 of the NCLT Rules for any violation of law.

VIII. That the IRP/IP shall submit to this Tribunal monthly reports with regard to the progress of the CIRP in respect of the Corporate Debtor.

IX. In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the Operational Creditor is directed to deposit a sum of Rs.3,00,000/- (Three Lakh Rupees) with the IRP to meet the initial CIRP cost arising out of issuing public notice and inviting claims, etc. The amount so deposited shall be interim finance and paid back to the Operational Creditor on priority upon the funds becoming available with IRP/RP from the Committee of Creditors (CoC). The expenses incurred by IRP out of this fund are subject to approval by the CoC.

X. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai for updating the Master Data of the Corporate Debtor.

XI. The IRP is directed to issue notice of admission upon all the statutory authorities of the Corporate Debtor without fail.

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XII. A copy of the Order shall also be forwarded to the IBBI for record and dissemination on their website.

XIII. The Registry is directed to immediately communicate this Order to the Operations Creditor, the Corporate Debtor and the IRP by way of Speed Post, e-mail and WhatsApp.

XIV. **Compliance report of the order by Designated Registrar is to be submitted today.**

**Sd/-**

**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

//AS & C.Sarkar//

**Sd/-**

**NILESH SHARMA**  
**MEMBER (JUDICIAL)**