



**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

CP (IB) NO.49/ALD/2024

(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:

JAIPRAKASH ASSOCIATES LIMITED

CIN: L14106UP1995PLC019017

Registered Office At:

Sector 128, Noida,
Uttar Pradesh- 201304

.....Operational Creditor

Versus

FAIRSTREET SPORTS PRIVATE LIMITED

CIN: U92419UP2022PTC163990

Registered Office At:

No.5/588, Vikas Khand, Gomtinagar,
Lucknow, Uttar Pradesh- 226010, IN.

Also At:

1612-A, World Trade Tower,
Sector 16, Noida, Uttar Pradesh- 201301, IN.

.....Corporate Debtor

Order Pronounced On: 09.05.2025

Coram:

Ms. Reeta Kohli : Member (Judicial)

Mr. Ashish Verma : Member (Technical)



Appearances:

Ms. Gunjan Jadwani with : *For the Operational Creditor*
Sh. Anoop Rawat, Sh. Sagar Dhawan,
Sh. Aditya Marwah & Ms. Anushri Joshi, Advs.

Ex-parte v.o.d. 07.05.2025 : *For the Corporate Debtor*

ORDER

1. The present Application was filed on 04.06.2024 under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as “the Code/IBC”) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as “the Rules”) by M/s Jai Prakash Associates Limited (hereinafter referred to as "Applicant/Operational Creditor/JAL") to initiate the Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") against M/s Fairstreet Sports Private Limited (hereinafter referred as "Respondent/Corporate Debtor/FSS") as on 16.02.2024, wherein the date of default is mentioned as 24.07.2023. Now, the Operational Creditor is being represented through the Resolution Professional (hereinafter referred to as “RP”) after it is put under CIRP vide order dated 03.06.2024.
2. The Corporate Debtor approached the Operational Creditor with a proposal to organize the MotoGP race annually from the year 2023 till 2029 at the Buddh International Circuit (hereinafter referred to



“BIC”). Pursuant to the said proposal and in accordance with the business understanding between the parties, a Memorandum of Understanding (MoU) was executed on 20.06.2023, between both parties, whereby the parties mutually agreed to the terms and conditions mentioned therein.

3. As per the terms and conditions of the MoU dated 20.06.2023, the Operational creditor provided the services and infrastructure to the Corporate Debtor and periodically raised demands for payment, including invoices, debit notes, as and when amounts became due and payable. However, despite availing the services and infrastructure to its full satisfaction, the Corporate Debtor was highly irregular in making payments against the raised invoices.
4. As per the MoU, the Operational Creditor periodically raised demand for payment, including invoices, debit notes and debit advices to the Corporate Debtor against the supply of services and infrastructure as and when the payments became due and payable. Despite receiving the services and infrastructure as provided by the Operational Creditor, the Corporate Debtor did not make payments regularly against the invoice raised. In particular, with respect to the first invoice bearing No. 230912700069 dated 22.07.2023, the Corporate Debtor committed a default which became due and



payable on 24.07.2023, and wherein out of the amount of Rs. 3,61,08,000/-, the Corporate Debtor has made part payment of Rs. 2,00,00,000/-, while an amount of Rs. 1,61,08,000/- remained outstanding and payable to the Operational Creditor. The Operational Creditor in the present application, has also annexed the tax invoices dated 22.07.2023, 03.08.2023, 01.09.2023, 30.11.2023, and 15.02.2024, collectively marked as Annexure P-6 (Colly) to the present application, along with the debit note dated 07.10.2023, marked as Annexure P-7 to the present application, in support of its claim towards the outstanding dues, giving total outstanding amount of Rs. 18,22,11,629/- in a tabular form in Annexure P-6 of the present application as below:

61
18.02.2024

ANNEXURE A: Tabular statement containing working of computation of default alongwith respective date of default

S. No.	Particulars	MOU Clause	Particulars of Invoices				Total	Amount received from FSS		Amount due from FSS	Date on which Debt Fell Due
			Invoice No.	Date	Amount	GST		Date	Amount		
1.	Track Rental	5	230912700055	23.06.2023	5,00,00,000.00	90,00,000.00	5,90,00,000.00	28.06.2023	3,00,00,000.00	-	-
				Total (1)	5,00,00,000.00	90,00,000.00	5,90,00,000.00	12.07.2023	2,90,00,000.00	-	-
2a	Revenue Share for June 2023	4	230912700066	05.07.2023	2,04,00,000.00	36,72,000.00	2,40,72,000.00	24.07.2023	5,90,00,000.00	-	-
b	Revenue Share for July 2023	4	230912700069	22.07.2023	3,06,00,000.00	55,08,000.00	3,61,08,000.00	06.09.2023	2,00,00,000.00	1,61,08,000.00	24.07.2023
c	Revenue Share for November 2023	4	230912700134	30.11.2023	2,55,00,000.00	45,90,000.00	3,00,90,000.00		-	3,00,90,000.00	22.12.2023
d	Revenue Share for December, 2023	4	230912700221	15.02.2024	2,55,00,000.00	45,90,000.00	3,00,90,000.00		-	3,00,90,000.00	15.02.2024
				Total (2)	10,20,00,000.00	1,83,50,000.00	12,03,60,000.00	-	4,40,72,000.00	7,62,88,000.00	
3a	BIC holding charges from 14.07.2023 to 31.07.2023	3	230912700079	03.08.2023	50,75,805.94	9,13,645.06	59,89,451.00	-	-	59,89,451.00	04.08.2023
B	BIC holding charges from 01.08.2023 to 31.08.2023	3	230912700080	01.09.2023	90,00,000.00	16,20,000.00	1,06,20,000.00	-	-	1,06,20,000.00	05.09.2023
				Total (3)	1,40,75,805.94	25,33,645.06	1,66,09,451.00	-	-	1,66,09,451.00	
4	Reimbursement of electricity charges for the month of September 2023	6	Debit Note No. JIS/DN/23-24/001	07.10.2023	1,77,98,104.00	-	1,77,98,104.00	-	-	1,77,98,104.00	07.10.2023
				Total (4)	1,77,98,104.00	-	1,77,98,104.00	-	-	1,77,98,104.00	
				Total (1-4)	18,36,73,909.94	2,98,33,645.06	21,37,67,555.00	-	10,30,72,000.00	11,06,95,555.00	
5	80% of Expenditure incurred towards repairing, upgradation of Buildings, Plants & Machinery, Elevators safety and security equipment	2								7,15,16,074.00	11.08.2023 & 28.09.2023
Total (1 - 5)										18,22,11,629.00	



5. It is submitted that, in accordance with the agreed payment terms, the Corporate Debtor was irregular in making payments, which compelled the Operational Creditor to issue several reminders through emails, phone calls, and messages demanding payment of the outstanding dues. Copies of the email correspondence exchanged between the Operational Creditor and the Corporate Debtor have been compiled and annexed as Annexure P-8 (Colly) to the present application. However, despite repeated follow-ups, no payment was made by the Corporate Debtor towards the outstanding amount.
6. In an effort to recover the outstanding dues, the Operational Creditor, through its letter dated 11.11.2023 and subsequent email dated 22.12.2023, called upon the Corporate Debtor to clear the overdue payments in accordance with the terms of the MoU, and also provided an updated details detailing the outstanding amounts with respect to the invoices, debit notes, and debit advices.
7. Pursuant to the continued defaults, the Operational Creditor issued a demand notice dated 06.03.2024 in Form 3 under Section 8 of the Code, demanding payment of the outstanding amount of Rs. 18,22,11,629/- within 10 days from the date of receipt of the said notice. The date of default is stated to be 24.07.2023.



8. In response to the demand notice dated 06.03.2024, the Corporate Debtor, in its email dated 08.03.2024, acknowledged its liability towards the operational debt claimed by the Operational Creditor and admitted its inability to repay the said amount at that time. The Corporate Debtor further requested additional time for repayment, assuring that the outstanding dues would be cleared once requisite funding was secured.
9. Pursuant to the aforesaid email dated 08.03.2024, the Operational Creditor issued a letter dated 27.03.2024, wherein it was stated that, in order to establish its bona fide intention to repay, the Corporate Debtor should make payment of 50% of the operational debt within ten days from the receipt of the said letter. It was further conveyed that the remaining 50% of the total outstanding amount could be paid within 21 days thereafter.
10. Despite having earlier acknowledged the entire crystallized operational debt as set out in the demand notice dated 06.03.2024, the Corporate Debtor, vide its email dated 27.03.2024, while acknowledging receipt of the said demand notice, disputed the amount claimed by the Operational Creditor based on erroneous interpretation of the clauses of the MoU dated 20.06.2023. In the said



email, the Corporate Debtor admitted to outstanding dues of only Rs. 5.99 crores, expressing its willingness to pay by June 2024.

11. In view of the above, the Operational Creditor submitted that the said email demonstrates the mala fide intent of the Corporate Debtor in attempting to manufacture a dispute which did not exist prior to issuance of notice u/s 8, and notably, the said email was issued after the expiry of the 10-day period prescribed under Section 8 of the Insolvency and Bankruptcy Code, 2016, for responding to the demand notice dated 06.03.2024.
12. In response to the email dated 27.03.2024 issued by the Corporate Debtor, the Operational Creditor, through its letter sent through email dated 16.04.2024, submitted that the Corporate Debtor, in its earlier email dated 08.03.2024, had acknowledged that all outstanding dues of the Operational Creditor were accounted for in its budget. However, through the subsequent email dated 27.03.2024, the Corporate Debtor attempted to reduce its admitted liability by advancing frivolous and baseless arguments. The Operational Creditor, therefore, reiterated that in terms of Clauses 4 and 19 read with Annexure 2 of the MoU, the Corporate Debtor remains fully liable to pay the entire amount claimed in the demand notice dated 06.03.2024.



13. Aggrieved by the delay in the clearing of debt by the Corporate Debtor and its continued failure to clear the outstanding payments, the Operational Creditor filed the present Application seeking initiation of CIRP against the Corporate Debtor.

REPLY ON BEHALF OF THE CORPORATE DEBTOR

14. In response to the above application, the Corporate Debtor has filed a reply, wherein the Corporate Debtor submits that it executed the MoU dated 20.06.2023 under the belief that the infrastructure provided by the Operational Creditor would only require minor modifications. However, the infrastructure provided by the Operational Creditor was in dilapidated condition and required heavy investments to meet international standards.
15. It is also submitted by the Corporate Debtor that in terms of clause 11 of the MoU, the Operational Creditor failed to provide any Structural Safety Report. This establishes that the Corporate Debtor had to rely on its own independent analysis of the track and related infrastructure and bring it to the standards required by Fédération Internationale de Motocyclisme (FIM) for conducting the Moto GP race.
16. Further, the Corporate Debtor employed a team to prepare a Snag Report highlighting the deficiencies in the already existing



infrastructure in the BIC for organising MotoGP Race. This snag report was forwarded to the Operational Creditor vide emails dated 01.09.2023, 04.09.2023, 05.09.2023, 08.09.2023 and 17.09.2023 and the same has been annexed as Annexure No. CA-2 (Colly) with this reply affidavit.

17. The Corporate Debtor informed about the deficiencies in the infrastructure facilities to the Operational Creditors several times and stated that such inadequate infrastructure and substandard facilities at the premises would make the organizing of the MotoGP race difficult and would not generate the projected revenue.
18. Due to the aforesaid reasons, the Corporate Debtor contends that it was bound to make heavy investments to improve not only the track and related services as were agreed in the MoU but also had to make major renovations in the already existing structure, such as the pit stops, viewing gallery, and stay houses. The additional work not only mismanaged the budget of the Corporate Debtor but also created an environment where it became increasingly difficult to organize the race on time.
19. For the purpose of identifying pre-existing disputes, the Corporate Debtor has placed reliance on the judgment passed by the Appellate Tribunal in *Kirosa Software (P) Limited Vs. Mobilox Innovations*



Pvt. Ltd [2017] ibclaw.in 22 NCLAT. The Appellate Tribunal observed and held as follows-

"The definition of "dispute" is "inclusive" and not "exhaustive." The same has to be given wide meaning provided it is relatable to the existence of the amount of the debt, quality of good or service or breach of a representation or warranty. Once the term "dispute" is given its natural and ordinary meaning, upon reading of the Code as a whole, the width of "dispute" should cover all disputes on debt, default etc. and not be limited to only two ways of disputing a demand made by the operational creditor, i.e. either by showing a record of pending suit or by showing a record of a pending arbitration. "

20. The Corporate Debtor contends that the Operational Creditor has misinterpreted the provisions of MoU for revenue sharing. MoU clearly envisages a "rental plus revenue sharing" model, wherein the rental component for the use of the BIC and other facilities was fixed, while the revenue-sharing component was variable and contingent upon the actual revenue generated by the Respondent. It is further stated that the Respondent, in response to the Demand Notice issued by the Applicant, has already shared the relevant invoices and financial documents indicating the actual revenue earned, in support of its interpretation of the revenue-sharing mechanism under the MoU.

Regarding revenue sharing, the clause 4 of the MoU states as under:-



"FSS agrees to pay to Jaypee each year, revenue share towards broadcasting right (pro-rata for the India round) at 25%, sponsorship rights and branding at 5%, ticket sales at 10% , corporate boxes revenue at 10% as per Annexure no. I"

21. In view of the above clause of the MoU, the Corporate Debtor submits that it unequivocally provides for revenue sharing on a percentage basis, as mutually agreed upon by the parties. Consequently, any contrary interpretation sought to be advanced by the Operational Creditor is not only misconceived but also perverse and contrary to the express terms of the MoU.
22. The Respondent further relies upon the judgment of the Hon'ble Supreme Court in *M/s. Invent Asset Securitisation and Reconstruction Private Limited v. Mis. Girnar Fibres Limited /Civil Appeal No. 3033/2022* observing that time and again, it has been expressed and explained by this Court that the provisions of the Code are essentially intended to bring the Corporate Debtor to its feet and are not of money recovery proceedings as such.
23. The Corporate Debtor further submits that it has already made payments amounting to Rs. 4,40,72,000/- under the revenue sharing head, as evidenced by the tabular statement annexed at Page 61 of the Section 9 Petition filed by the Operational Creditor. It is submitted that this amount exceeds the actual dues under this head,



which stand at Rs. 1,47,26,159/-. Further, the Corporate Debtor received Rs. 30,00,000/- from Hakuodo Wyng Private Limited and Rs. 17,34,10,168/- from Invest UP towards sponsorship services. After adjusting the same, the net dues under this head amount to Rs. 2,35,46,667.80/-, thereby resulting in an excess payment of Rs. 2,05,25,332/- made by the Corporate Debtor under this clause.

- 24.** It is further submitted that the calculation of the aforementioned figures under each sub-head can be derived from the reply to the Demand Notice dated 27.03.2024, which is annexed at Page 224 of the Section 9 Petition filed by the Operational Creditor. For the sake of clarity and transparency, a tabular summary showing the receipts under the revenue sharing head from various partners of the Corporate Debtor, along with the corresponding bank entries, is annexed as Annexure CA-5 with the reply affidavit.
- 25.** The Corporate Debtor also contends that as per clause 5 of the MoU, the Corporate Debtor was required to pay to the Operational Creditor track rental dues. As per the demand notice, an invoice no. 230912700055 dated 23.06.2023 amounting to Rs 5,00,00,000/- along with GST amounting to Rs 90,00,000/- was raised in respect of the track rental dues. The said total amount was paid in two tranches to the Operational Creditor on 28.06.2023 and 12.07.2023.



This can be verified by the Tabular statement as annexed by the Operational Creditor as Annexure No. 4 to the Section 9 Petition. Therefore, there are no pending dues under the head of track rental charges.

26. Further, the Corporate Debtor contends that they were under the assumption that the understanding executed between the parties, would get a return on investments which shall be used towards refurbishment of the facilities at the race circuit as well as the track for a period of 6 years, which is also reflected in the 2nd Para of the Clause 2 of the MoU. However, due to the cancellation of the MotoGP Grand Prix in 2024, wherein the Corporate Debtor was also thwarted by the constant efforts of the Operational Debtor to liaison with the government authorities in not allowing the Corporate Debtor to organize the MotoGP, the Corporate Debtor could not utilize the 'credits' for the refurbishments carried out by it and the same has to be taken into account while calculating the final amount owed by the Corporate Debtor to the Operational Creditor.
27. Furthermore, the Corporate Debtor contends that this application filed by the Operational Creditor is not maintainable as the Operational Creditor is undergoing CIRP and an Insolvency Professional has already been appointed by this Tribunal.



28. The Corporate Debtor also avers that the IBC was not intended to be a substitute for a recovery forum and that whenever there is the existence of a real dispute, the IBC provisions cannot be invoked.
29. Lastly, it was submitted by the Corporate Debtor that they had completely paid off the rental charges, which is in excess of the amounts as per the revenue-sharing model. However, the operational creditor is still demanding amounts which is in contravention of the provisions of the MoU.

REJOINDER FILED BY THE APPLICANT

30. In response to the Reply Affidavit filed by the Corporate Debtor, a Rejoinder has been filed by the Applicant, countering all the contentions raised in the Reply of the Corporate Debtor, on the following grounds:

- a. The Applicant submits that Corporate Debtor has unequivocally admitted its liability towards the outstanding dues in its reply to the demand notice. Reliance is specifically placed on the email dated 27.03.2024, wherein the Respondent has categorically acknowledged the following amounts as payable to the Applicant:
- (a) an amount of INR 1,66,09,451 is due from the Respondent towards holding charges for the periods 17 July 2023 to 31 July 2023 and 1 August 2023 to 31 August 2023 (Clause 3 of MoU);



(b) an amount of INR 1,77,98,104 is due as reimbursement of electricity charges for the month of September 2023 (Clause 6 of MoU); and (c) an amount of INR 7,15,16,074 is due from the Respondent towards 80% share of actual expenditure by JAL towards repairing, upgradation of buildings, plants & machinery, elevator safety and security equipment (Clause 2 of MoU).

- b.** In view of the above admission, the Respondent has clearly acknowledged an undisputed operational debt of Rs.8,93,14,178/-, which is well above the threshold limit prescribed for initiation of proceedings under Section 9 of the Insolvency and Bankruptcy Code, 2016. The Applicant places reliance on the judgment of the Hon'ble National Company Law Appellate Tribunal in *Naresh Choudhary v. Sterling Enamelled Wires Private Limited [Company Appeal (AT)(Ins) No. 39 of 2023]*, and on the decision of the Hon'ble Supreme Court in *Mobilox Innovations Private Limited v. Kirusa Software Private Limited [Civil Appeal No. 9405 of 2017]*, wherein it was held that the Adjudicating Authority must ensure that any dispute raised is not a patently feeble legal argument or an assertion of fact unsupported by evidence.



- c. The Applicant asserts that it is an admitted fact that the Respondent, in its reply, did not raise any specific objections to the MoU or to the rights of the Applicant in its reply to the demand notice dated 06.03.2024. Rather, the Respondent, through its email dated 08.03.2024, acknowledged its liability towards the dues claimed and subsequently sought time to repay the amount. It is only at a later and belated stage that the Respondent has attempted to raise unsubstantiated and frivolous disputes. Reliance is placed on the case of *Writers and Publishers Pvt. Ltd. v. M/s Oriental Coal Corporation & Anr., CA (AT) (Ins.) No. 1170 of 2022* passed by Hon'ble NCLAT.
- d. With respect to the contention raised by the Corporate Debtor regarding alleged unsatisfactory infrastructure, the Operational Creditor contends that prior to the execution of the MoU dated 20.06.2023, the infrastructure at the BIC was duly inspected by the FIM, pursuant to which certain modifications were recommended. It is an admitted fact that the Corporate Debtor itself approached the Operational Creditor and agreed to bear the entire cost of such modifications, which has been expressly recorded at Point D of the Recitals of the MoU. Furthermore, the inspection was conducted in the presence of the Respondent's



directors, and the infrastructure at BIC was duly evaluated and found suitable for hosting the MotoGP event.

- e. Further, under Clause 2 of the MoU dated 20.06.2023, the Respondent agreed to bear 80% of the costs towards repairing, upgrading of buildings, plants, machinery, elevator safety and security equipment, up to a maximum of Rs. 10 Crore. Moreover, the Applicant submits that the entire process undertaken by them was in accordance with the responsibilities mutually agreed upon under the MoU and also ensured that the execution of the said works was supervised by an independent third-party agency to maintain conformity with international standards.
- f. With respect to the contention raised by the Corporate Debtor regarding the Snag report highlighting deficiencies in the existing infrastructure, the Operational Creditor contends that the inspection report relied upon by the Corporate Debtor only pointed out minor deficiencies such as paint touch-ups, replacement of spray jets, and other small fittings. It is asserted that all such minor issues were promptly rectified by the engineering team of the Operational Creditor, and the infrastructure was handed over only after the snag list was duly attended to the full satisfaction of the Corporate Debtor. Also, the



Respondent did not raise any concerns or objections subsequent to the final handover. The Applicant further submits that the emails relied upon by the Respondent to substantiate its claims were all exchanged prior to the said final handover.

- g. Further, in adherence to the terms of the MoU, the Corporate Debtor was solely responsible for undertaking payments and expenses related to the track and track-related services. Consequently, any expenditure incurred beyond the express scope of the MoU was undertaken at the sole discretion of the Corporate Debtor, based on its independent business requirements. Such additional expenses were neither mandated under the MoU nor communicated to the Operational Creditor.
- h. With respect to the allegation regarding structural safety, the Applicant vehemently denies the same and submits that the Operational Creditor had duly engaged a qualified expert agency to carry out reinforcement of the metallic structures and obtained structural safety certifications from an authorised expert company for all spectator stands. It is submitted that at no point prior to the present proceedings did the Corporate Debtor ever raise any concern or request such certification reports and the present



contention is a frivolous afterthought raised solely to evade liability under the MoU.

- i. As regards the issue of revenue sharing, the Applicant strongly refutes the contention of the Corporate Debtor and submits that Clause 4 of the MoU dated 20.06.2023 clearly sets out the agreed percentage of revenue sharing between the parties. The relevant clause is already discussed in para 20 of this order.
- j. The Applicant submits that the financial values assigned for each year under the MoU, though estimated, were duly negotiated, agreed upon, and signed by both parties as minimum guaranteed amounts under each head, including broadcasting rights, sponsorship rights & branding, ticket sales, and corporate boxes revenue. These amounts were expressly made payable by the Respondent to the Applicant each year, irrespective of the actual earnings generated by the Respondent in these categories. Therefore, the Respondent is contractually bound to pay these guaranteed amounts as per the terms of the MoU, irrespective of any fluctuation in actual revenues.
- k. Further, Clause 19, read along with Annexure 2 of the MoU, also provides a detailed schedule of amounts that are payable by the Corporate Debtor to the Operational Creditor.



- l. The Applicant acknowledges that the Respondent has made the payment towards the track rental for 2023, as outlined in the present application. However, a total operational debt of Rs. 18,22,11,629, calculated up to 16.02.2024, still remains unpaid by the Respondent.
- m. With respect to the contention of the Corporate Debtor regarding the maintainability of the present application due to the Applicant undergoing CIR Process, the Operational Creditor submits that under Section 17(2)(a) of the Code, the Resolution Professional is authorized to act on behalf of the Corporate Debtor. Additionally, Section 25(2)(b) of the Code empowers the RP to represent the Corporate Debtor in legal proceedings. Therefore, the petition is maintainable and complies with the provisions of the Code.
- n. The applicant places reliance on the case of *Vikas Prakash Gupta RP Man Tubinox Ltd. v. Basant Marketing Ltd.*, CP (I.B)/1136(KB)2020 vide order dated 03 May 2023 passed by Hon'ble NCLT Kolkata, wherein it was held:

“12. While coming to the second issues, Explanation III of Section 11 of the Code has made it explicit that nothing prevents a Corporate Debtor undergoing a CIRP to initiate a CIRP against its own Debtor for the loan or service provided by the former Corporate Debtor to the latter.”



o. The Applicant further submits that the Respondent was responsible for generating revenue through ticket sales, corporate box sales, sponsorships, rights, and branding. Thus, the shortfall in revenue can be attributed to the Respondent's failure to adequately promote, market, or distribute information regarding the MotoGP. Moreover, the Respondent did not engage in sufficient advertising or promotion across media platforms, except for limited communication on their social media pages with restricted reach. The Applicant further submits that public records indicate that the Respondent has been found in default of payments to other vendors and contractors also, as reported by the Yamuna Expressway Industrial Development Authority.

31. After completion of pleading, this matter was taken up for arguments on 21.02.2025 but as informed by the proxy counsel appearing for the Corporate Debtor that the Ld. Arguing Counsel was not well, and on his request, the matter was adjourned for further hearing on 02.04.2025. None appeared on 02.04.2025 from the side of the Corporate Debtor, and hence to give last opportunity to the Corporate Debtor to argue the matter, adjournment was provided for final hearing on 07.05.2025. Again on 07.05.2025, none appeared for the Corporate Debtor despite fixing of the matter for final hearing.



Therefore, considering the fact that IBC matter is a time bound matter, the Corporate Debtor is set *ex-parte* and the matter has been heard to decide it on merit after hearing the Ld. Counsel for the Operational Creditor advancing her arguments and also examining the reply filed by the Corporate Debtor as well as the Application and Rejoinder filed by the Applicant/Operational Creditor.

FINDINGS AND ORDER

32. We have heard the arguments of the Learned Counsels appearing for Applicant/Operational Creditor, and perused the pleadings, submissions, records, and exhibits/annexures marked thereto. Having heard the Learned Counsels appearing for the Operational Creditor, and on perusal of the records, exhibits/annexures and after considering the arguments advanced by the Learned Counsel for the Operational Creditor, we find that the following issues are to be decided for admissibility or otherwise of this Application u/s 9 of the Code.

- a.** Whether there is a Debt and Default
- b.** Whether there is any Pre-Existing Dispute



a. Debt and Default

33. As per the present Application filed by the Operational Creditor in Form 5, seeking initiation of CIRP against the Corporate Debtor is based on the outstanding dues mentioned in Part-IV of the Application amounting to Rs. 18,22,11,629/-, with the date of default being 24.07.2023. The facts leading to the above debt and default are that the Corporate Debtor approached the Applicant/Operational Creditor with a proposal to organize the MotoGP race annually from 2023 to 2029 at the BIC, leading to execution of a MoU on 20.06.2023. The obligations of the Corporate Debtor under the said MoU are as follows: -

- A.** Clause 3 of the said MoU stipulates that FSS agrees to pay to JAL closure charges of BIC during repairs and maintenance period @ Rs. 0.90Cr per month based on past trends of monthly revenue actuals on pro rata basis on month-to-month basis, minus the actual revenue booked by BIC, If any, for the month as per mutual agreement by the Parties.
- B.** Clause 4 of the said MoU stipulates that FSS agrees to pay to JAL each year, revenue share towards broadcasting rights (pro-rata for the India round) at 25%, Sponsorship Rights &



branding at 5%, ticket sales at 10%. corporate boxes revenue at 10% as per Annexure 1.

- C. Clause 5 of the said MoU stipulates that FSS agrees to pay JAL Rentals of BIC at the rate as shown in Annexure 1. towards utilization of BIC for 30 days in continuation in a calendar year for the duration of MotoGP.
- D. Clause 6 of the said MoU stipulates that FSS agrees to pay for the actuals of electricity charges (consumed) for the period of 30 days of the rental period and Air-conditioning and power backup provided by JAL will be paid by FSS on actuals during the rental period of 30 days.
- E. Clause 19 of the said MoU stipulates that for 2023 MotoGP race FSS shall pay to JAL as per the schedule in Annexure 2 of this MOU.
- F. Clause 20 of the said MoU stipulates that pursuant to the Terms and Conditions of this MOU commencing in the year 2024 and for each subsequent calendar year, FSS shall remit to JAL the agreed Track rent no later than one hundred twenty (120) days prior to the scheduled date of the MotoGP event for the given year. Pursuant to the Terms and Conditions of this MOU, commencing in the year 2024 and for each



subsequent calendar year, FSS shall remit to JAL an amount equal to seventy-five percent (75%) of the estimated revenue share attributable to JAL for the respective year. Such payments shall be due and payable not later than one hundred twenty days (120) days prior to the scheduled date of the MotoGP race for the given year.

34. It is observed that in line with the terms of the MoU, the Operational Creditor duly provided the services and raised the following invoices and debit note, as under:

<u>SL No.</u>	<u>Date</u>	<u>Invoice No.</u>	<u>Amount (In Rs.)</u>	<u>Pending Amount (In Rs.)</u>
1	22.07.2023	230912700069	3,61,08,000	1,61,08,000
2	03.08.2023	230912700079	59,89,451	59,89,451
3	01.09.2023	230912700080	1,06,20,000	1,06,20,000
4	30.11.2023	230912700134	3,00,90,000	3,00,90,000
5	15.02.2024	230912700221	3,00,90,000	3,00,90,000
Total A				9,28,97,451

<u>SL No.</u>	<u>Date</u>	<u>Debit Note No.</u>	<u>Amount (In Rs.)</u>	<u>Pending Amount (In Rs.)</u>
1	07.10.2023	JIS/DN/23-24/001	1,77,98,104	1,77,98,104
Total B				1,77,98,104
Total A+B				11,06,95,555

35. It is observed that the first invoice dated 22.07.2023, amounting to Rs. 3,61,08,000/-, was only partly paid by the Corporate Debtor, with the remaining Rs. 1,61,08,000/- being in default. Subsequently, the



Operational Creditor sent various emails, made phone calls and messages for payment of outstanding dues, which are annexed as Annexure P-8 of the present application. However, no payment was made by the Corporate Debtor, resulting in the issuance of a statutory demand notice dated 06.03.2024 under Section 8 of the Code for Rs. 18,22,11,629/-, demanding the payment within 10 days from the date of receipt of the notice.

36. Further, it can be seen that after the issuance of the demand notice, the Corporate Debtor, through its e-mail dated 08.03.2024, acknowledged its liability, which is stated as follows:

“Subject:

Date:

*Re: Demand Notice to Fairstreet Sports Pvt. Ltd. under
Insolvency & Bankruptcy Code 2016*

From: Vaibhav Sinha

To:

CC:

Friday, 8 March 2024 at 5:42:15 AM India Standard Time

*S M Azmat, Pushkar Nath, Promoters, Amit Sandill, Sibtain
Baqri, Sushant Srivastava*

navneet.saxena, anupam.chaudhary@castuslegal.com

*Attachments: image001.jpg, image002.jpg, image003.png,
image004.png, image005.jpg, image006.jpg, Image007.jpg*

Dear Azmat ji,

*At the outset, I'd like to apologize for the continued delay in
obtaining the required funding to settle your dues. As
previously communicated, we have been working tirelessly to
raise the funds ever since the event.*



As you are aware, we only received a fraction of the forecasted sponsorship and ticketing revenue. We also had to directly spend a lot of money in repairing the racetrack to bring it to a condition to host the event and that, along with the umpteen expenses in organizing the race, completely depleted all our resources.

Your outstanding dues are in our budget and have been communicated to every prospective investor we have been speaking to. Please rest assured that we will cover it to the best of our ability as soon as we receive the requisite funding.
Your patience and understanding is greatly appreciated. Please allow us a little more time.

*Regards,
 Vaibhav”*

37. Subsequently, in response to the demand notice dated 06.03.2024, the Corporate Debtor, through its email dated 27.03.2024, admitted its liability with respect to certain adjustments in the debt amount.

The relevant excerpts of the email dated are as follows:

*“From "Karskey Saha <kartikey @fairstreetsports.com>
 To
 “smazmat@jaypee-hotels.com”
 <smaznataypee-hotels.com>,
 "navneet.saxena @jalindia.co.in
 <navneet.saxena@jalindia.co.in>
 "nishant.sivastavajalindia.co.in”
 <nishant.srivastava@jalindia.co.in>,
 "ashok.khera@jalindia.co.in"
 <ashok.khera@jalindia.co.in>
 Cc:
 "Pushkar Nath” <Pushkarfairstreetsports.com>,
 "Sibtain Baqri” <Sibtain@fairstreetsports.com,
 "Vaibhav Sinha” <vaibhav@fairstreetsports.com>
 "Sarvagna G” <sarul@fairstreetsports.com,*



"Amit Sandill" <Amit@fairstreetsports.com>,

"Sushant Srivastava" <Sushant@fainstreetsports.com>

Date 03/27/2024 03:32 PM

Subject Reply to the Demand Notice issued by JAL against FSS

.....

From the above tabular data, the following can be clearly culled out

1 Track rental under Clause 5-No dues remaining of FSS towards JAL under this clause.

2. Holding charges under Clause 3-INR 1,66,09,451/- is due and pending from FSS towards JAL.

3 Revenue sharing under Clause 4-FSS had already paid an amount of INR 4,40,72,000/- under this clause, however, the actual dues under this clause is INR 1,47,26,159/-. Hence, FSS has overpaid an amount of INR 2,93,45,841/- under this clause to JAL.

Repairing and upgradation under Clause 2-INR 7,15,16,074/- is due and pending from FSS towards JAL

5. Electricity charges under Clause 6 INR 1,77,98,104/- is due and pending from FSS towards JAL.

With respect to Clause 2 and Clause 6 dues, it is stated on behalf of FSS that FSS is ready and willing to settle the dues of JAL in respect of the corresponding clauses in the Mou, which is a sum of INR 8,93,14,178/- (Indian Rupees Eight Crores Ninety Three Lakhs Fourteen Thousand One Hundred and Seventy Eight Only). With respect to the dues under Clause 4, it is stated on behalf of FSS that the actual revenue under Clause 4 of the MoU totals to INR 1,47,26,159/- (Indian Rupees One Crore Forty Seven Lakhs Twenty Six Thousand One Hundred Fifty Nine Only). Out of the said amount, an amount of INR 4,40,72,000/- (Indian Rupees Four Crores Forty Lakhs Seventy Two Thousand Only) has already been paid by FSS, as per the records of the Demand Notice itself. Hence, on account of Clause 4, FSS has overpaid an amount of INR 2,93,45,841/- (Indian Rupees Two Crores Ninety Three Lakhs Forty Five Thousand Eight



Hundred Forty One Only). Hence, the aggregate dues under Clause 2, 4 and 6 of JAL against FSS is INR 5,99,68,337/- (Indian Rupees Five Crores Ninety Nine Lakhs Sixty Eight Thousand Three Hundred Thirty Seven Only).

With respect to the BIC holding charges for July and August, 2023 due under Clause 3 of the Mou, it is stated that as JAL is aware, FSS only received a fraction of the forecasted sponsorship and ticketing revenue. FSS also had to directly spend a lot of money in repairing the racetrack to bring it to a condition to host the event and that, along with the umpteen expenses in organizing the race, completely depleted all our resources, JAL's outstanding dues are in the budget of FSS and have been communicated to every prospective investor the representatives of FSS have been speaking to. Please rest assured that we will cover it to the best of our ability as soon receive the requisite funding. FSS agrees and is willing to work out a mechanism owing to which this model can be made mutually profitable and for that FSS requests the cooperation of JAL for adjusting the BIC holding charges for the said two months during the next event scheduled to be held in September, 2024, This will not only help FSS in ensuring that it meets all of its obligations but will also ensure a mutually beneficial model for JAL so that its association with FSS can bear fruits for it in the long run.

It is also stated on behalf of FSS that FSS had faced considerable losses in conducting the 2023 Moto GP race, however FSS is hopeful that this year's race can cover up such losses faced by FSS. FSS is also strongly committed in ensuring that its partners enjoy an efficient and a mutually profitable partnership with FSS and FSS requests for cooperation from its valuable partner for the time being.

FSS is ready and willing to clear the aggregate dues under Clause 2, 4 and 6 of JAL amounting to INR 5,99,68,337/- in two monthly instalments of INR 3,00,00,000/- and INR 2,99,68,337/- from the revenue earned by FSS from the 2023 race, the instalments of which shall be paid for and cleared



till June, 2024, or any other date as mutually agreed upon between the parties.

In light of the said contentions, it is requested of you to withdraw the aforesaid Demand Notice issued by JAL against FSS so that we can settle the dues of JAL in a timely manner and as per a mutually acceptable timeline of payment. Looking forward to hearing from you to work out the modalities of the settlement offer.

Regards,

Kartikey Sahai

Manager Legal,

FairStreet Sports Private Limited.”

38. Therefore, a bare perusal of the above e-mails dated 08.03.2024 and 27.03.2024 sent by the Corporate Debtor would reveal that the Corporate Debtor, in an unequivocal term, has accepted that there was a debt and further that the debt is under default. It is also noted that through subsequent emails dated 10.10.2023 and 29.05.2024 also, the Corporate Debtor has also admitted its debt and expressed its inability to pay the same, therefore, it can reasonably be concluded that the present company petition is fit for admission. The relevant excerpts of the email dated 10.10.2023 and 29.05.2024 are as follows:

(i) Email dated 10.10.2023

“From: Vaibhav Sinha <vaibhav@fairstreetsports.com>

Sent: Tuesday, October 10, 2023 4:32 AM

To: S M Azmat <smazmat@jaypee-hotels.com>; Pushkar

Nath <Pushkar@fairstreetsports.com>; Promoters

<promoters@fairstreetsports.com>



Cc: ashok.khera <ashok.khera@jalindia.co.in>; rs.kuchhal <rs.kuchhal@jalindia.co.in>

Subject: Re: Details of payments to Contractors, Vendors and Service Providers made / processed by JAL till 20.09.2023 - MotoGP

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you can c

Dear Azmat ji,

We are in the process of reconciling your bills with our MoU and will send our results out to you soon. Please note that our revenue from the event has been a fraction of what was projected and included in the MoU

Furthermore, due to some severe delays in our incoming payments, we are also significantly constrained and do apologize for the delays. Please bear with us since we do expect these payments to come in very soon.

Regards, Vaibhav”

(ii) Email dated 29.05.2024

“From: Pushkar@fairstreetsports.com

To: ashok.khera@jalindia.co.in, smazmat@jaypee-hotels.com

Cc: Amit@fairstreetsports.com

Date: 29 May 2024, 1:10:53 PM

Subject: Indian GP 2024

Dear Sir,

We would like to inform you that 2024 Indian GP is rescheduled to March 2025.

We will continue working with you for a grand 2025 MotoGP.

Meanwhile we are working on to clear your all dues by June end to July first week.

Regards,

Pushkar”

39. It is relevant to further discuss the email dated 29.03.2024 as well as

the reply dated 15.11.2024 filed by the Corporate Debtor, wherein



the Corporate Debtor has submitted that dues with respect to track rentals and revenue sharing have been paid and only dues with respect to the holding charges, repairing and upgradation and electricity charges is due and pending. It is noted that the dues pending for such services as per the invoices raised by the Operational Debtor amount to Rs. 8,93,14,178/-. Therefore, it is evident that the outstanding liability, as stated by the Corporate Debtor, remains above the threshold limit prescribed under the Code and thus constitutes a debt as defined under Section 3(11) of the Code.

40. In view of our above findings, it is evident that a debt is due, as inferred from five invoices (22.07.2023 till 15.02.2024) and a debit note dated 07.10.2023 raised by the Operational Creditor, discussed in detail in para 34 of this order. Further, the Corporate Debtor, in an unequivocal manner, has acknowledged the default as well as the inability to clear the settled dues through its email dated 10.10.2023, 08.03.2024, 27.03.2024 and 29.05.2024. Thus, the Corporate Debtor's failure to make payments for the invoices raised by the Operational Creditor constitutes a clear default, establishing that there is a valid debt in existence above the threshold and default has occurred in paying the said debt.



41. Also, as per Section 9(3)(b) of the Code, the Operational Creditor, through its affidavit dated 03.06.2024, has submitted that no dispute has been received by the Operational Creditor within the statutory period of 10 days.
42. As per section 4 of the Code, the minimum threshold for initiating a CIRP application is Rs. 1 Crore. In the present case, the Applicant has placed sufficient documents to show that a debt more than Rs. 1 crore, as also mentioned in Part IV of the Application, is due and that there has been a default in payment on the part of the Corporate Debtor. Therefore, we are satisfied that there is a debt of more than Rs. 1 Crore and also a default has occurred on the part of the Respondent/Corporate Debtor to pay this debt.

b. Whether there is any Pre-Existing Dispute

43. After examining the record and in the background of our foregoing discussions, it is relevant to notice that the Corporate Debtor, in its email dated 27.03.2024, issued in response to the demand notice, raised a dispute regarding the quantum of outstanding debt, referring to the terms of the MoU dated 20.06.2023. Additionally, in its reply to the present application, the Corporate Debtor has alleged deficiencies in the infrastructure provided by the Operational Creditor, citing prior communications dated 01.09.2023, 04.09.2023,



05.09.2023, 08.09.2023, and 17.09.2023. The Corporate Debtor claims that it was compelled to incur substantial additional expenditure to upgrade both the track-related services, as contemplated under the MoU, and the existing infrastructure.

44. It has been further asserted by the Corporate Debtor that the arrangement between the parties was structured on a “rental plus revenue sharing” model, wherein only the rental component was fixed, and the revenue sharing was variable and contingent upon the actual revenue realized. Accordingly, the Corporate Debtor contends that the claim raised by the Operational Creditor under the head of revenue sharing is not justified or fair in light of the agreed terms.
45. As per the submissions made by the Operational Debtor, stating that the infrastructure at the BIC was duly inspected by the Fédération Internationale de Motocyclisme (FIM) and found suitable for conducting the MotoGP event. Further, under Clause 2 of the MoU dated 20.06.2023, the Corporate Debtor had agreed to bear 80% of the costs for repairs and upgrades to buildings, plant, machinery, elevator safety systems, and security equipment, capped at Rs.10 Crore. In line with this, the Corporate Debtor was responsible for undertaking such repair-related expenses. The relevant Clause 2 of the MoU is as follows:



“2. To bring the infrastructure up to the level desired, FSS agrees to bear 80% of cost towards repairing, upgrade of buildings, plants machinery, elevators safety and security equipment, up to a maximum of Rs 10.00 Cr.”

46. It is further submitted by the Operational Creditor that only minor issues were flagged in the snag report, all of which were promptly resolved by the Operational Creditor’s engineering team. The infrastructure was handed over only after these issues were addressed to the Corporate Debtor’s full satisfaction, and no further concerns or objections were raised post-handover.
47. Further with respect to the expenses incurred apart from track-related services by the Corporate Debtor, the Operational Creditor submits that any such expenditure was solely at the Corporate Debtor’s discretion, driven by its independent business requirements. These additional expenses were neither required by the MoU nor communicated to the Operational Creditor. The Operational Creditor also clarifies that they engaged a qualified expert agency to reinforce the metallic structures and obtained the necessary structural safety certifications for all spectator stands, in compliance with Clause 11 of the MoU. Furthermore, emails dated 14.06.2023 and 07.06.2023 suggest that all the terms and conditions of the MoU were mutually agreed upon prior to its execution on 20.06.2023.



48. On perusal of the record submitted before us, we find that all the details of disputes being cited by the Corporate Debtor in its reply after issuing of the demand notice were never raised before issuing of the notice u/s 8 by the Corporate Debtor, and hence such disputes now being raised by the Corporate Debtor cannot come under the category of pre-existing dispute. Moreover, even after taking into account all these factors now pointed by the Corporate Debtor, the admitted liability of the Corporate Debtor towards the Operational Creditor still comes to more than Rs. 1 crore, exceeding the threshold which they have also acknowledged to pay.
49. Considering the above facts and circumstances, we find that the pre-existing dispute alleged by the Corporate Debtor is legally untenable, particularly in view of the submissions made by the Operational Creditor and the adherence to the terms of the MoU dated 20.06.2023 and also, considering the fact that no such objection was taken by the Corporate Debtor while responding to the Section 8 demand notice issued by the Operational Creditor, rather the outstanding demand much in excess of threshold was acknowledged by the Corporate Debtor and inability was expressed to pay immediately due to its financial condition not being good as MotoGP could not organised in 2024. It is pertinent to note that in its email dated 27.03.2024, sent



in response to the demand notice, the Corporate Debtor did not raise any issue regarding deficiencies in infrastructural facilities and, in fact, admitted its liability. Moreover, as recorded in the order dated 07.05.2023, there has been no appearance on behalf of the Corporate Debtor to argue the matter, and accordingly, this Tribunal proceeded ex-parte. The relevant portion of the order dated 07.05.2025 is reproduced below:

“ ORDER
Ld. Counsel representing the Operational Creditor present through VC. However, none present for the Corporate Debtor.
1. Ld. Counsel representing the Operational Creditor submits that vide order dated 02.04.2025, the last opportunity was granted to the Corporate Debtor to advance his arguments.
2. Today, also there is no representation on behalf of the Corporate Debtor.
3. In view of the fact that there is no representation today on behalf of the Corporate Debtor, we deem it appropriate to proceed ex-parte.”

- 50.** Also, with respect to the maintainability of the petition as raised by the Corporate Debtor on the ground that the present petition is filed by the Operational Creditor that itself is under CIRP, we are of the view that such an objection is without merit. It is a well-settled position in law, clarified by the explanation to Section 11 of the IBC, 2016, that a corporate person undergoing insolvency proceedings is



not barred from initiating insolvency proceedings against another Corporate Debtor. The relevant portion of Section 11 reads as under:

*“ 11. Persons not entitled to make application. -
Explanation II.- For the purposes of this section, it is hereby clarified that nothing in this section shall prevent a corporate debtor referred to in clauses (a) to (d) from initiating corporate insolvency resolution process against another corporate debtor.”*

51. Therefore, in view of the above facts and circumstances, the contention of the Corporate Debtor that there is any pre-existing dispute has not been found tenable, hence, the same is rejected.
52. After finding that in the present case, there is debt more than the threshold limit of Rs. 1 crore, there is a default in repayment of the said debt and there is no pre-existing dispute with respect to this debt, and also the application is filed within limitation as the date of default being 24.07.2023 and the date of filing of application being on 04.06.2024, which is within three years of the limitation period. Further, all other conditions for admission of application under Section 9(5)(i) of the I & B Code 2016 against the Corporate Debtor, have also been found to be fulfilled and the Application is complete in all respect, thus, we find this application as being fit for admission under Section 9(5)(i) of the I & B Code, 2016 for starting CIRP against the Corporate Debtor.



53. We note that the Operational Creditor has not proposed any Insolvency Professional for appointment of an Interim Resolution Professional (IRP) for the present matter. Therefore, this Tribunal appoints Mr. Debashis Nanda from the panel provided by the IBBI, having Registration No. IBBI/IPA-003/IP-N00040/2017-2018/10316, Email: dnanda.cma@gmail.com, as IRP. The verification of the said IRP has been carried out by Law Research Associate of this Tribunal, Ms. Kriti Kaushal, and it is found that there is no proceeding pending against the appointed IRP and it is also found that this insolvency professional holds valid authorization till 31.12.2025, and therefore, he is found fit to be appointed as IRP.
54. **Accordingly, this application is admitted u/s 9 of the Code, 2016 under the following terms and conditions.**
- i. The application filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 for initiating the Corporate Insolvency Resolution Process against the Corporate Debtor i.e., **M/s Fairstreet Sports Private Limited** is hereby admitted.
 - ii. We hereby declare a moratorium and public announcement in accordance with Sections 13 and 15 of the I & B Code, 2016.
 - iii. This Adjudicating Authority hereby appoints Mr. Debashis Nanda to act as the IRP under Section 13(1)(c) of the Code as decided by us in para 52 above.



- iv. The IRP shall cause a public announcement for the initiation of the Corporate Insolvency Resolution Process against the Corporate Debtor and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of the Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- v. Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following: -
 - 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 (54 of 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.
- vi. Apart from above prohibitions in respect of the corporate debtor, it is further directed that the supply of essential goods or services to the corporate debtor as may be specified, shall



not be terminated or suspended or interrupted during the moratorium period.

- vii. The provisions of Section 14(3) shall, however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a corporate debtor.
- viii. The order of moratorium shall have effect from the date of this order till completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of the corporate debtor under Section 33 as the case may be.
- ix. The IRP is directed to take steps as mandated under section 13 and 15 of the IBC for making public announcement about the commencement of CIRP against the Corporate Debtor and moratorium against it u/s 14, and also take necessary actions as per sections 17, 18, 20 and 21 of IBC, 2016.
- x. The IRP shall after collation of all the claims received against the Corporate Debtor and the determination of the financial position of the Corporate Debtor and to constitute a Committee of Creditors (hereinafter referred as “**COC**”) and shall file a report certifying the constitution of the COC to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene the first meeting of the COC within seven days of filing the report of the constitution of the COC.



- xi.** The COC in its first meeting shall appoint a Resolution Professional (hereinafter referred as “**RP**”) as per the provision of section 22(2) and file an application before this Tribunal for confirmation of the appointment of the RP.
- xii.** The Suspended Board of Directors of the corporate debtor is directed to give to IRP/RP complete access to the Books of Accounts of the corporate debtor maintained under section 128 of the Companies Act. In case, the books are maintained in the electronic mode, the Suspended Board of Directors are to share with the IRP/RP all the information regarding maintaining the Backup and regarding service provider kept under Rule 3(5) and Rule 3(6) of the Companies Accounts Rules, 2014 respectively as effective from 11.08.2022, especially the name of the service provider, the internet protocol of the service provider and its location, and also address of the location of the Books of Accounts maintained in the cloud. In case, accounting software for maintaining the books of accounts is used by the corporate debtor, then IRP/RP is to check that the audit trail in the same is not disabled as required under the notification dated 24.03.2021 of the Ministry of Corporate Affairs.
- xiii.** The Statutory Auditor is directed to share with the Resolution Professional the audit documentation and the audit trails, which they are mandated to retain pursuant to SA-230 (Audit Documentation) prescribed by the Auditing and Assurance Standards Board ICAI.
- xiv.** The IRP/RP is directed to take custody and control of all the records of information relating to assets of the Corporate



Debtor, its Books of Account in physical form or the computer systems storing the electronic records at the earliest in accordance with the provision of Regulation 3A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as “CIRP Regulations, 2016”).

- xv. The Operational Creditor shall also provide necessary assistance to IRP/RP in obtaining the necessary information about the Corporate Debtor as envisaged in Regulation 4(3) of the CIRP Regulations, 2016.
- xvi. In case of any non-cooperation by the Suspended Board of Directors or the Statutory Auditors, IRP/RP may take the help of the police authorities to enforce this order. The concerned police authorities are directed to extend help to the IRP/RP in implementing this order for the retrieval of relevant information from the systems of the corporate debtor.
- xvii. The IRP/RP may take the assistance of Digital Forensic Experts empanelled with this Bench/IBBI/MCA for this purpose.
- xviii. The Suspended Board of Directors is also directed to hand over all user IDs and passwords relating to the corporate debtor, particularly for government portals, for various compliances.
- xix. The IRP/RP is also directed to make a specific mention of non-compliance, if any, in this regard in his status report filed before this Adjudicating Authority immediately after a month of the initiation of the CIRP.



- xx. The IRP/RP is directed to approach the Government Departments, Banks, Corporate Bodies and other entities with requests for information/documents available with those authorities'/institutions/ others pertaining to the Corporate Debtor which would be relevant in the CIR proceedings.
- xxi. The Government Departments, Banks, Corporate Bodies and other entities are directed to render the necessary information and cooperation to the IRP/RP to enable him to conduct the CIR Proceedings as per law.
- xxii. The IRP/RP shall collate the data obtained from (a) the claim(s) made before it and (b) information gathered from the records including those maintained by the Corporate Debtor.
- xxiii. The IRP/RP is further directed to send regular progress reports to this Tribunal every month.
- xxiv. We direct the Operational Creditor to deposit a sum of Rs.1,00,000/- with the Interim Resolution Professional, to meet out the expenses 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 amount, however, is subject to adjustment by the Committee of Creditors as accounted for by the Interim Resolution Professional on the conclusion of CIRP.

55. A certified copy of the order shall be communicated to both the Applicant Operational Creditor and the Respondent Corporate Debtor. The learned counsel for the Applicant Operational Creditor



shall deliver a certified copy of this order to the IRP forthwith. The Registry is also directed to send a certified copy of this order to the IRP at his e-mail address forthwith.

- 56.** List the **CP (IB)No.49/ALD/2024** on 12.06.2025 for filing of the progress report/further proceedings.

-Sd-
(Ashish Verma)
Member (Technical)

-Sd-
(Reeta Kohli)
Member (Judicial)

Date: 09.05.2025