NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH COURT VI

Item No. P-2

C.P. (IB)/898/MB/2025

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **23.07.2026**

NAME OF THE PARTIES: **M/s. Uma Exports Limited**

Vs.

M/s. Epic Yarns Private Limited

Under Section 9 of the IBC, 2016.

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/-
NILESH SHARMA
MEMBER (JUDICIAL)

Sd/-
SAMEER KAKAR
MEMBER (TECHNICAL)

//AS//

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH-VI

C.P. (IB)/898/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]

M/s. UMA EXPORTS LIMITED

[CIN No.: L14109WB1988PLC043934]

Ganga Jamuna Apartment

28/1, Shakespeare Sarani, 1st Floor

Kolkata, West Bengal – 700072.

…Operational Creditor

V/s

M/s. EPIC YARNS PRIVATE LIMITED

[CIN No.: U17299MH2019PTC329724]

402, 4th Floor, Kamla Hub

CTS No. 35 Plot North South RD No.1

Juhu Scheme Nr. Aroma's Café, Vile Parle (W),

Mumbai City, Maharashtra – 400049.

...Corporate Debtor

Pronounced: 23.07.2026

CORAM:

HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)

HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)

Appearances: Hybrid

For Applicant: Adv. Zeba Khan, Adv. Saurav Jain, & Adv. Shreya Jain

For Respondent: Adv. Karan Grover, Adv. Shashank Pathak, Adv. Shashikant Gaikwad, Adv. Ashwini J.

ORDER

[PER: CORAM]

1. BACKGROUND

1.1 This C.P. (IB) No. 898 of 2025 (Application) was filed on 17.06.2025 by Uma Exports Limited, the Operational Creditor (OC) having CIN No.: L14109WB1988PLC043934, 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, seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Epic Yarns Private Limited, the Corporate Debtor (CD), having CIN No.: U17299MH2019PTC329724.

1.2 As per Part IV of the Application, the amount claimed to be in default is Rs.2,57,05,145/- (Two Crore Fifty-Seven Lakhs Five Thousand One Hundred Forty-Five Rupees) accrued on account of supply of bales of cotton. The date of default in Part IV is stated to be 12.08.2024 against the first invoice becoming due and payable.

1.3 The Applicant has proposed Klass Insolvency Resolution Professionals Private Limited, having Registration No. IBBI/IPE-0024/IPA-1/2024-25/50083, to act as the Interim Resolution Professional (IRP) in case the Application is admitted.

2. CONTENTIONS OF APPLICANT (OC)

2.1 The OC is engaged in the business of importing and exporting agricultural items. The CD is engaged in the business of cotton and yarn manufacturing.

2.2 The CD approached the Applicant for the supply of 1225 Bales of cotton bales through the agent namely M/s Ruchi Cotton Company represented by its proprietor Chiru Bhagwat Prasad Rungta and relying on the CD's representation, the Applicant had supplied the said 1225 Bales (2,03,245 kilo-grams) of cotton (for short "said goods') at the CD's Factory which is situated at Islampur Integrated Textile Park, NH-4, Peth Naka, Village Peth, Sangli, Maharashtra-415407 commencing from 30.06.2024 to 03.08.2024. The invoices so raised after dispatch made from Applicant’s warehouse on various dates have been duly received and acknowledged by the CD at its factory premises situated in Maharashtra without any dispute. Despite the agreed payment terms of 40 days from the date of unloading of the goods, CD have failed to settle the outstanding invoice amount of Rs.2,40,12,566/- against the total sales value of Rs.3,67,23,657/-. It is also pertinent to mention that the mutually agreed adjustment of payment was to be made on an on-account basis.

2.3 The Applicant, relying on the established and amicable business Relationship with the CD, continued to supply goods to the CD and raised invoices against the same. The said invoices were duly accepted, acknowledged and admitted by the CD at their factory premises without raising any objection whatsoever. Each invoice of the operational creditor was duly acknowledged and admitted by the CD.

2.4 The CD, following persistent demands and repeated reminders by the Applicant for the settlement of outstanding dues, issued a cheque for an amount of Rs.50,00,000/-. The said cheque was subsequently presented by the Applicant for encashment. However, astonishingly, the said cheque got dishonoured with the remark 'Account Closed', which tantamounts to fraud and misrepresentation on the part of the corporate debtor.

2.5 The Applicant made multiple requests and undertook repeated follow-ups with the CD, seeking repayment of the outstanding amount due and payable. Following repeated reminders and numerous follow-ups by the Applicant, the CD issued a cheque bearing number 307808, dated 25.10.2024, for an amount of Rs.21,00,000/- which was drawn on the State Bank of India. However, this cheque too got dishonoured with the remark 'Funds Insufficient'. Post this, the CD had released two payments by way of RTGS, amounting to Rs. 18,00,000/- and Rs.3,31,651/- on 07.11.2024 and 08.11.2024, respectively. It is pertinent to mention here that upon the assurance of the CD, the Applicant re-presented the same cheque, numbered as 307808, amounting to Rs.21,00,000/- on December 13, 2024, which was again dishonoured, this time with the remark 'Payment Stopped by Drawer'.

2.6 As the Applicant did not receive the payment of the outstanding Invoices as assured by the CD, the Applicant issued emails requesting the CD to make payment of the pending Invoices. The CD neither replied to the said email nor made payment of the outstanding invoices. All such efforts went into a vain.

2.7 The Applicant served a legal notice dated 24.12.2024, which also remained unanswered by the CD. The operational creditor's claim has never been disputed, nor has the CD ever chosen to reply to the several reminder e-mails/letters, including the legal notice dated 24.12.2024.

2.8 Despite persistent reminders and repeated requests, the CD failed to discharge its payment obligations for the outstanding dues. As the CD did not make payment of the invoices as requested from time to time, the OC issued a demand notice dated 16.01.2025, in Form-3 under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, to the CD under Section 8 of the IBC, 2016, as a measure of last resort.

2.9 The CD has sent a bogus reply as an afterthought on 10.02.2025, dated 01.02.2025, to the demand notice sent by the OC. As a matter of fact, the reply has been issued after the stipulated time of 10 days from the receipt of the demand notice. Further, it is an attempt to insinuate a pre-existing dispute, which is completely false, as no such dispute was made during or after the goods were delivered. Furthermore, no such documentary evidence has been annexed to the reply, which will depict whether the CD ever had an issue with the goods delivered to it. This shows the *mala fide* conduct and intention of the CD to shy away from a legitimate claim.

2.10 Despite such *mala fide* conduct on the part of the CD, the verbal follow-ups continued from the operational creditor's end. After this, the CD had given four (4) post-dated cheques, the dates of which were distributed throughout the month of March. However, two of the cheques dated 07.03.2025 amounting to Rs.8,00,000/- and 14.03.2025 amounting to Rs.8,00,000/- were presented for encashment by the OC; however, the same were dishonoured with the remark 'Funds Insufficient' on 11.03.2025 and 18.03.2025, respectively. Thereafter, the remaining two cheques were not presented for encashment by the OC upon witnessing willful default on the part of the CD.

2.11 Meanwhile, an e-mail was also issued on 04.04.2025 by the OC annexing the revised ledger to be countersigned by the CD along with a debit note on account of interest charged on delayed payment. Simultaneously, the office personnel of the operational creditor visited the office of the CD once again for chase-up of the outstanding dues, and again, as a habitual pattern, 8 (eight) post-dated cheques were issued by them. The confirmation of books of accounts was also duly countersigned by the CD, acknowledging the debit note for the interest charged on delayed payment.

2.12 It is established that the CD has acknowledged each and every part of the debt. Furthermore, disputing an operational debt after the receipt of the demand notice is not legally viable. In connection to the statement made supra, OC states and pray before this Tribunal to initiate CIRP against the CD.

2.13 The calculation sheet for the amount due has been attached at page 37 of the Petition as under:

CALCULATION SHEET

Sl. No.	Name of Operational Creditor	Invoice No	Purchase Order Date	Date of Unloading /Receipt	Due Date	Invoice amount	Date of Default	Net Principal amount due	No. of days between the date of default to 31st March '2025	Gross Interest @ 15% p.a. receivable from the date of default to 31st March '2025	Total Outstanding as on 31st March '2025
1	EPIC YARNS (P) LTD	1593	30-06-2024	02-07-2024	11-08-2024	45,88,388.00	12-08-2024	1,72,500.00	231	16,375.68	1,88,875.68
2		1594	30-06-2024	02-07-2024	11-08-2024	38,67,236.00	12-08-2024	3,684.00	231	349.73	4,033.73
3		2037	19-07-2024	21-07-2024	30-08-2024	44,35,876.00	31-08-2024	4,225.00	212	368.10	4,593.10
4		2070	19-07-2024	22-07-2024	31-08-2024	45,29,457.00	01-09-2024	45,29,457.00	211	3,92,759.76	49,22,216.76
5		2201	26-07-2024	28-07-2024	06-09-2024	36,14,633.00	07-09-2024	36,14,633.00	205	3,04,520.45	39,19,153.45
6		2208	27-07-2024	29-07-2024	07-09-2024	38,21,937.00	08-09-2024	38,21,937.00	204	3,20,414.44	41,42,351.44
7		2289	03-08-2024	05-08-2024	14-09-2024	29,37,071.00	15-09-2024	29,37,071.00	197	2,37,782.05	31,74,853.05
8		2290	03-08-2024	05-08-2024	14-09-2024	44,87,560.00	15-09-2024	44,87,560.00	197	3,63,307.94	48,50,867.94
9		2291	03-08-2024	05-08-2024	14-09-2024	44,41,499.00	15-09-2024	44,41,499.00	197	3,59,578.89	48,01,077.89
			TOTAL			**3,67,23,657.00**		**2,40,12,566.00**		**19,95,457.05**	**2,60,08,023.05**
			Add :	GST on Interest (as per debit note No: DN/EY/01/2024-25)			31-03-2025				99,773.00
											2,61,07,796.05
			Less :	Corporate debtor directly paid to Bharat Transport Services						1,72,500.00	
				Tax Deducted AT Source						2,30,151.02	4,02,651.02
			TOTAL OUTSTANDING OPERATIONAL DEBT:								**2,57,05,145.03**

2.14 The Applicant has attached the following supporting documents along with the Application:

a) Master data of the OC & the CD.

b) Copy of the Board Resolution dated 15.01.2025 authorising Mr. Manmohan Saraf as the authorised signatory.

c) Copy of Written communication in Form 2 by the proposed interim resolution professional, Certificate of Registration of proposed Insolvency Professional Entity (IPE) along with its AFA.

d) A detailed calculation sheet showing details of the transaction on account of which such debt fell due, along with the interest calculation for goods supplied.

e) Copy of letter of requisition from agent (Ruchi Cotton Company) on behalf of the CD.

f) Copy of the invoices of goods supplied, E-way Bills and the details of challans used for the Transportation.

g) Copy of the cheques deposited and its return slips.

h) Copy of the reminder letter/e-mail sent to the director and the agent to repay the outstanding dues dated 16.12.2024 along with track acknowledgement.

i) Copy of the legal notice dated 24.12.2024 along with track consignment.

j) Copy of the demand notice under Section 8.

k) Copy of the speed post acknowledgement receipt dated 16.01.2025 along with e-mail delivery to the corporate debtor's e-mail on 17.01.2025 evidencing servicing of the demand notice.

l) Copy of the reply to the demand notice received on 10.02.2025, dated 01.02.2025.

m) Copy of the Post-dated cheques along with their return memo.

n) Copy of the post-dated cheques along with the email dated 04.04.2025, confirmation of books of accounts and debit note.

o) Copy of the Form C generated from NESL.

p) Copy of the bank statement reflecting the transactions between operational creditor and corporate debtor along with Form 5A under Section 9(3) of the Code.

q) Copy of the ledger of the CD in the books of the OC.

3. <u>CONTENTIONS OF CD</u>

3.1 Affidavit-in-Reply dated 27.11.2025 was filed and affirmed by one Mr. Ramesh Pandey, who is stated to be an authorized representative of the CD *vide* Board Resolution dated 29.10.2025.

3.2 It is submitted that the Petitioner is also wrongfully claiming interest to the tune of Rs.14,47,203/- as a part of the debt and default amount.

3.3 It is submitted that the interest as claimed by the Petitioner was never agreed between the parties. Nothing has been produced on record by the Petitioner to show that interest was agreed by the Respondent Company as claimed. The Petitioner has claimed interest at the rate of 18% p.a., without there being any document showcasing agreement of payment or charging of interest on any alleged delayed payment, let alone agreement of payment of interest @ 18% p.a.

3.4 It is further submitted that even the Petitioner is also aware that interest was never agreed between the parties and only for the said reason, interest was never demanded by the Petitioner in its email, dated 16.12.2024, 23.12.2024, 24.12.2024 (@pg.115-118, Vol-I of Petition) and letter, dated 16.12.2024 (@pg.113-114, Vol-I of Petition) where in the attached ledger, it clearly appears that no interest has been demanded by the Petitioner. In all the above emails and letters, the Petitioner has nowhere mentioned the charging of any interest. Thus, even the act of the Petitioner clearly demonstrates that there was no agreement between the parties for payment of interest.

3.5 Further, the definition of 'financial debt' provided under Section 5(8) of Code, expressly includes the term 'interest' to be a part of the debt, however, in the definition of 'operational debt' under Section 5(21), the term 'interest' has not been specifically mentioned as a part of the debt, unlike in the definition of 'financial debt'. This deliberate difference in the language by the legislation clearly provides that interest could not have been accepted as a part of the debt for triggering CIRP under Section 9 of the IBC.

3.6 Admittedly, there is no agreement between the parties for the levy of any interest on any payment. The Petitioner has failed to provide any agreement wherein the Respondent company has agreed to levy interest in case there is any alleged delay in payment. Thus, this clearly demonstrates that Corporate Debtor never agreed to payment of any interest; therefore, the same cannot be made part of the alleged debt under Section 9 of the Code. The Respondent herein places reliance on the judgments of the Hon'ble Appellate Tribunal, being *Mr. Maulik Kiritbhai Shah Vs. United Telecoms*

Ltd. (Company Appeal (AT) (CH) (Ins) No. 26812023), decided on 15.09.2023, *Rohit Motawat v. Madhu Sharma, Proprietor, Hind Chem Corporation & Anr.* (Comp. App. (AT) (Ins) No. 1152of2022), decided on 03.02.2023, *Swastik Enterprises v. Gammon India Limited* (Company Appeal (AT) (Insolvency) No. 144, 145, 146, 147 & 148 of 2018), *SS Polymers v. Kanodia Technoplast Limited* (Company Appeal (AT) (Insolvency) No. 1227 of 2019), Company Appeal(AT) (Insolvency) No. 1881 of 2024 & *Rishabh Infra Through Hari Mohan Gupta Vs Sadbhav Engineering Ltd.* (para 9), *Shitanshu Bipin Vqra, Suspended Director of Exclusive Linen Fabrics Pvt Ltd Vs. Shree Hari Yarns Pvt. Ltd. and Anr.,* being Company Appeal (AT)(Jns) No.2204 of 2024, (2025) ibclaw.in 35 NCLAT *Comet Performance Chemicals Pvt. Ltd. Vs Aarvee Deninis and Exports Ltd*. (para 18).

3.7 The Hon'ble NCLAT in the aforementioned judgments have not considered the interest component as part of debt under Section 9 of the IBC; therefore, it is prayed that the submission of the Petitioner that interest was agreed between the parties and therefore, the same forms part of the debt, is clearly in the teeth of the law as it prevails today.

3.8 It is further submitted that the petition under reply is not only legally untenable but is also factually incorrect, and the Respondent Company vehemently denies any liability towards the Petitioner and that too to the tune of Rs.2,57,05,145/-.

3.9 It is submitted that the invoices as annexed by the Petitioner with the captioned Petition are denied by the Respondent. It is submitted that the

Petitioner has annexed invoices which were never raised by the Petitioner upon the Respondent.

3.10 Further, no receipt or proof of acknowledgement whatsoever has been produced by the Petitioner showcasing delivery of invoices to the Respondent. Even many of the transport carrier receipts annexed by the Petitioner along with the Petition, such as one annexed at Page 93 of the Petition, also do not have any receipt from the Respondent admitting receipt of cotton bales as alleged by the Petitioner. Thus, the Petitioner has failed to prove before this Hon'ble Tribunal its own case of delivery of goods and invoices to the Respondent; hence, the present petition ought to be dismissed on this count itself.

3.11 It is further submitted that the Petitioner is relying upon 'Cotton Sale-Purchase Confirmation Advice' ('sale-purchase advice') as annexed at pages 38 to 41 of the Petition to showcase the purchase order of the Respondent. The Petitioner has very cleverly misled this Hon'ble Tribunal into believing that the Petitioner has delivered the cotton bales in terms of the sale-purchase advice, whereas, the Petitioner, as required under the said advice, was required to provide cotton bales of the following parameters: 29.5rnm+ HVI Mic: 3.7-4.2, Trash :3%, Rd 76+, Moisture: 9%. However, the Petitioner has miserably failed to provide any certification showing that the cotton bales supplied by it were of the above-agreed parameters. Hence, in the absence of any evidence showing that the Petitioner itself has acted within the four corners of the agreement between the parties, the captioned petition ought to be dismissed.

3.12 It is further submitted that the Petitioner, in terms of the sale-purchase advice, was also required to provide the weight of every supply being made by it to the Respondent; however, the same were never provided by the Petitioner to the Respondent along with the goods supplied. Now, at the time of filing of the captioned frivolous petition, the Petitioner has annexed unclear and frivolous weighing slips (@pg.59, 67, 75, 98, 105 (self-manufactured) which clearly demonstrates that the Petitioner to assist its illegal claim has now manufactured documents only with the sole motive of misleading this Hon'ble Tribunal as well as arm twist the Respondent herein into paying amounts, which are not due to the Petitioner.

3.13 It is further very imperative to mention here that the sale-purchase advice (@pg.38 to 41 of the Petition) required delivery of only 950 bales by the Petitioner to the Respondent. However, the Petitioner in the Petition under reply is falsely claiming payment of invoices for 1225 bales(@pg.42 (150 bales), pg.48 (125 bales), pg.55 (150 bales), pg.63 (150 bales), pg.71 (125 bales), pg.78 (125 bales), pg.86 (100 bales), pg.94 (150 bales), pg.101 (150 bales), whereas the bales delivered by the Petitioner are only 950 bales, quality of which were also not as per agreed standard. Thus, the Petitioner, while approaching this Tribunal, has wrongfully claimed invoices which were never raised by the Petitioner, nor were any goods supplied by the Petitioner in respect of the said invoices. Even the absence and failure of the Petitioner to produce supporting documents with respect to each and every invoice, such as weighing slips, etc also demonstrates that the invoices have been manufactured by the Petitioner only to support its unlawful claim.

3.14 It is further an admitted fact that the Respondent herein has time and again raised issues with regard to the quality and size of the yarn supplied by the Petitioner. Prior to supply of yam by the Petitioner, the Respondent had precisely and distinctively provided specification of the yams required by the Respondent. However, the yarn/cotton bales supplied by the Petitioner lacked the agreed quality, which was pre-decided between the parties. The Respondent clearly pointed out to the Petitioner that the length of the product was not specific to the arrangement which has taken place with the respect to the cotton bale. The quality of cotton, so dispatched by Petitioner were also not satisfactory, let alone the standard of quality promised by the Petitioner while promising to deliver the high standard cotton bales.

3.15 The Respondent in its Reply, dated 01.02.2025 (@pg. No.231 of Petition) has also clearly and elaborately explained the quality and size issue pertaining to the material supplied. Thus, the above submission of the Respondent clearly provides that there is pre-existing dispute in regard to the quantity and quality of cotton bales supplied by the Petitioner, thus, the captioned petition is an abuse of process of law by the Petitioner, therefore, the petition under reply ought to be dismissed with heavy cost.

3.16 Owing to the above deficiency and disputes between the parties, including the issue of sub-standard quality and size of the cotton bales, it was amicably decided that the Petitioner is liable for payment of an amount of Rs.71 lacs for the goods supplied by it; therefore, two cheques for a total amount of Rs.71 lacs were issued by the Respondent. However, owing to an issue with the banking facility, the said cheques were dishonoured, and *in lieu* of the same, the Respondent made a payment of Rs.21,31,651/- to the Petitioner through RTGS and also promised to pay the balance amount of Rs.50 lakhs after getting the banking issue fixed through its banker. However, the Petitioner, acting in line with its mala fide intent, wrongfully issued Demand Notice, dated 16.12.2024 (@pg.113 of Petition) and Notice u/s 8 of IBC, dated 16.01.2025 (@pg. 127 of Petition), demanding an inflated amount of Rs.2,40,12,566/- as opposed to the agreed remainder amount of Rs.50 lacs.

3.17 The Petitioner, instead of demanding the remaining amount of Rs.50 lacs, made a wrongful and inflated demand of Rs.2.40 crores only with the sole motive of crossing the threshold of Rs.1 crore as provided under Section 4 of IBC.

3.18 Further, even the cheques, as being produced by the Petitioner (@pg.234-239 of the Petition), were not issued by the Respondent for presentation or encashment but were provided for security purposes. Evidently, even the amount claimed in the said cheques does not in any manner reflect an equivalent frivolous amount of Rs.2.40 crores being claimed in the captioned petition. Hence, the present Petition filed by the Petitioner is nothing but a gross abuse of process as provided under the IBC, and thus, the captioned petition ought to be dismissed with high cost.

3.19 Thus, in terms of Section 8(2)(a) of IBC, there already exists a pre-existing dispute between Petitioner and Respondent Company.

3.20 It is further submitted that the Respondent has duly replied to the Demand Notice of the Petitioner and has also enclosed elaborate evidence showing the disputes and deficiency of services. However, the Petitioner has very clearly concealed the above pre-existing dispute and filed the Petition under reply, thereby abusing the provisions of the IBC.

3.21 It is further submitted that in terms of Section 9(3) (d) of the IBC, the Petition ought to be accompanied by the record of default with the information utility. However, the Petitioner has misled this Hon'ble Tribunal into believing that the Information Utility records the default of the Respondent in its report as annexed along with the Petition (@pg.248 Vol-II of Petition). The Annexure P (@pg.248) only provides the information submitted by the Petitioner with NeSL (i.e., Form C) and does not in any manner provide any default recorded by NeSL. Hence, in light of the deliberate non-production of a record of default with Information Utility, this Petition ought to be dismissed.

3.22 Therefore, the petition under reply ought to be dismissed not only for concealment and misleading this Tribunal, but also for the fact that pre-existing dispute exists between the parties, hence, the petition under section 9 of IBC is not maintainable. The Respondent in this respect places its reliance upon the celebrated judgment of Hon'ble Supreme Court in ***Rajratan Babulal Agarwal v. Solartex India (P) Ltd***., cited as (2023) 1 SCC 115, wherein it has been held that if a pre-existing dispute is established before issuance of notice under Sec. 8 IBC or before the Ld. Adjudicating Authority, then the Ld. Adjudicating Authority ought to reject the Section 9 application filed by the Operational Creditor.

3.23 It is further submitted that the Respondent Company is a robust, active and compliant going concern and it employs many people directly, and several other workmen indirectly. Thus, the Respondent Company provides livelihood to hundreds of employees, workmen and their families. The

Respondent Company pays several crores in taxes and other government dues to the exchequer.

3.24 It is submitted that the petition under reply has been filed against the Respondent company only for the sole purpose of recovery and the same has also been admitted by the petitioner in its demand notice dated 16.12.2024 (@pg.113 of Petition). Thus, there is enough material on record demonstrating that the Petitioner has approached this Hon'ble Tribunal for the sole purpose of recovery of its unlawful demand. Thus, this Hon'ble Tribunal ought to dismiss the petition under reply. The Respondent places its reliance on the trite law laid down by the Hon'ble Supreme Court in *Mobilox Innovations Private Ltd vs Kirusa Software Private Ltd* cited as 2018 (1) SCC 353, *S. S. Engineers v Hindustan Petroleum Corporation Ltd. & Ors.*, Civil Appeal No. 4583 of 2022 and *Tottempudi Salalith vs State Bank of India & Ors*. Civil Appeal No.2348 of 2021, wherein it has been held that the IBC is not a debt recovery mechanism.

3.25 In view of the aforesaid, it is submitted and prayed that this Tribunal be pleased to dismiss the present Application *in limine* with compensatory costs.

4. <u>REJOINDER</u>

4.1 Rejoinder dated 31.01.2026 has not been taken on record, and the interim order dated 04.02.2026 records as follows:

> *"1. Pursuant to the order dated 19.12.2025, a Rejoinder dated 31.01.2026 has been filed.*

2. It is observed that as per the directions issued at the hearing held on 13.11.2025, the Rejoinder was directed to be filed within a period of 14 days.

3. However, it has been filed by an approximate delay of 30 days.

4. Ld. Counsel for the Applicant requests the Tribunal not to consider the said Rejoinder as there are no additional facts as well as there are attachments along with the same.

5. Considering the request made by the Ld. Counsel for the Applicant, the Rejoinder dated 31.01.2026 is not taken on record.

6. We direct the Registry to remove the same from the DMS.

7. At the request of Applicant's Counsel, the physical copies of the Rejoinder are hereby returned.

8. We direct both the parties to file short synopsis of their arguments not exceeding 3 pages, along with citation, if any, after exchanging the same with each other, within 10 days from the date of this order.

9. Relist this matter on 12.03.2026."

5. <u>WRITTEN NOTES (OC) dated 24.02.2026</u>

5.1 The CD, through its agent M/s Ruchi Cotton Company, approached the Operational Creditor for the supply of cotton bales. Acting upon such requisitions and commercial understanding, the Operational Creditor supplied 1,225 bales (2,03,245 kgs) of cotton to the Corporate Debtor at its factory in Maharashtra. (Annexure F, Pg. 38-41)

5.2 All supplies were made pursuant to purchase orders and were accompanied by tax invoices, e-way bills, transportation challans and bill receipts, which were duly received and acknowledged by the Corporate Debtor without protest. (Annexure G, Pg. 42-106)

5.3 As per agreed commercial terms, payment was to be made within 40 days from unloading of goods (refer to page 42 of Application). However, despite the expiry of the credit period, the Corporate Debtor failed to clear the outstanding dues.

5.4 The total operational debt due and payable amounts to Rs. 2,57,05,145/-, arising out of the supply of cotton bales along with interest on delayed payment. (Pg. 13)

Date of Default – 12.08.2024. Computation Sheet for the Amount claimed to be in Default and Date on which the default occurred has been annexed at (Pg. 37 of the Petition).

5.5 The FC has also disclosed the Record of Financial Information in Form C filed with NeSL (at Pg. 248 to 249 of the Petition), mentioning the date of default to be 12.08.2024.

5.6 In partial discharge of liability, the CD issued several cheques, including cheque no. 307808 dated 25.10.2024 for 21,00,000/-, which was dishonoured for "Funds Insufficient." (Pg. 109-110)

5.7 The said cheque was re-presented upon assurance of payment but was again dishonoured with the remark "Payment Stopped by Drawer." (Pg. 111-112)

5.8 Thereafter, the CD made part payments via RTGS:

- Rs.18,00,000/- on 07.11.2024(Pg. 260)

• Rs.3,31,651/- on 08.11.2024 (Pg. 263)

Despite such part payments, a substantial amount remained outstanding.

5.9 Subsequently, the CD issued multiple post-dated cheques in March 2025, two of which (Rs.8,00,000/- each) were dishonoured for "Funds Insufficient." (Pg. 235-236)

5.10 Apart from other documents, dishonour of cheques and part payments constitute clear acknowledgment of liability and default thereto.

5.11 The OC issued repeated reminders through emails and a legal notice dated 24.12.2024 calling upon the CD to pay the dues. (Pg.121-126, Annexure J)

5.12 Upon failure of make payment, a statutory Demand Notice dated 16.01.2025 under Section 8 of the Code was duly issued and served upon the CD through speed post and email. (Pg.127-228, Annexure K)

5.13 The CD failed to respond within the statutory period of 10 days. A belated reply on 01.02.2025 was subsequently issued, which is beyond limitation and hence legally untenable. Further, in its reply, the CD raised allegations regarding the quality and specifications of cotton supplied, which itself is contrary to the documents on record. Such allegations are false, frivolous and constitute an afterthought. (Page 231-233, Annexure M)

5.14 It is settled law that a dispute must be pre-existing and not a sham defence raised post demand notice. The CD has failed to produce any contemporaneous document evidencing rejection, inspection report, or complaint regarding quality. The CD further acknowledged liability by Issuance of post-dated cheques, RTGS payments, countersigning confirmation of accounts, accepting debit note towards interest.

5.15 On 04.04.2025, the OC addressed an email to the CD enclosing the revised ledger account along with a debit note towards interest levied on delayed payments, and requested the CD to countersign and return the same in acknowledgement. Pursuant thereto, and contemporaneously, representatives of the OC personally visited the office of the CD to follow up on the outstanding dues. At that stage, and in continuation of its consistent conduct acknowledging liability, the CD issued eight (8) post-dated cheques towards part payment of its admitted outstanding dues. Additionally, the CD duly countersigned and furnished confirmation of its books of accounts, thereby unequivocally acknowledging not only the principal outstanding amount but also the debit note raised towards interest on delayed payment. (Pg 240-247, Annexure O). In any event, even excluding interest, the principal debt exceeds the statutory threshold under Section 4 of the Code.

5.16 IRP consent (Pg 32-36, Annexure D) and Board resolution authorising Mr. Manmohan Saraf as authorised signatory to sign the petition (Pg 31, Annexure C).

<u>Rebuttal to The Contentions Raised By The CD In Their Reply Affidavit:</u>

a) <u>On allegation of Pre-Existing Dispute</u>: The CD has failed to place on record material showing that a dispute existed prior to issuance of the Demand Notice. No correspondence or complaint was raised before receipt of the demand notice. The alleged defence is an afterthought and has been manufactured only upon receipt of the demand notice. It is settled law that a dispute must be real, genuine and not illusory or spurious.

- Hon'ble Supreme Court in ***Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd.***: clearly held that the dispute must be *bona fide* and supported by evidence. A mere assertion without proof does not qualify as a pre-existing dispute.

- ***M/s. Saraswati Wire and Cable Industries v. Mohammad Moinuddin Khan***: The Hon'ble Supreme Court reaffirmed the principles laid down in Mobilox and categorically held that ledger confirmations issued by the CD constitute a clear acknowledgment of debt and cannot be brushed aside lightly; further, continued payments even after issuance of a demand notice under Section 8 negate the plea of any pre-existing dispute.

b) On Contradictory Stands Taken by CD: The CD, in reply to the demand notice, admitted the transactions and further issued post-dated cheques and made part payments, however in the Affidavit in Reply filed in the instant Petition, denied the invoices and delivery. Such contradictory pleas negate the existence of any *bona fide* dispute. It is well settled that a self-contradictory defence cannot constitute a genuine dispute, and the Hon'ble NCLAT has consistently held that shifting stands reflect absence of a real pre-existing dispute. Additionally, the CD has received and enjoyed the materials for their consumption. They have neither raised any objection nor returned the goods received.

c) On Allegation of non-compliance with Agreed Specifications: There is no contemporaneous correspondence or document evidencing any rejection of the goods supplied by the Petitioner. On the contrary, the CD has duly accepted and utilized the goods/services without raising any protest, dispute, or reservation at the relevant time. No material whatsoever has been annexed by the CD to substantiate its belated allegation of rejection.

The conduct of the CD, including continued acceptance and utilisation, unequivocally demonstrates acknowledgement and admission of liability.

d) On the Unsubstantiated Plea of Settlement of Rs. 71 Lakhs: The alleged settlement of Rs. 71 lakhs is unsupported by any written agreement or documentary proof and is totally denied. Issuance of multiple cheques and part payments through RTGS clearly establishes acknowledgement of a higher liability. The said Cheques were not "security cheques"; they were issued towards discharge of admitted liability. Dishonour of cheques with the remark 'Funds Insufficient' constitutes clear evidence of default.

e) On the Inclusion of Interest in Operational Debt: The CD has contended that interest cannot form part of "operational debt." The said contention is wholly misconceived. The IBC, 2016 does not prohibit inclusion of interest; rather, it is well settled through various decisions of the NCLAT that interest, when payable either under contractual terms, statutory provision, or established commercial understanding between the parties, forms an integral part of operational debt. Without prejudice to the above, it is submitted that even excluding interest, the admitted principal amount itself exceeds the statutory threshold prescribed under Section 4 of the IBC. Hence, the present Petition is maintainable on this ground alone. It is further submitted that on 04.04.2025, the Operational Creditor addressed an email to the CD enclosing the revised ledger account along with a debit note towards interest levied on delayed payments, and requested the CD to countersign and return the same in acknowledgement. Pursuant thereto, and contemporaneously, representatives of the Operational Creditor personally visited the office of the CD to follow up on the outstanding dues. At that stage, and in continuation of its consistent conduct acknowledging liability, the CD issued eight (8) post-dated cheques towards part payment of its admitted outstanding dues. Additionally, the CD duly countersigned and furnished confirmation of its books of accounts, thereby unequivocally acknowledging not only the principal outstanding amount but also the debit note raised towards interest on delayed payment. These acts constitute a clear, conscious, and unequivocal acknowledgement of debt. Such contemporaneous admissions are wholly inconsistent with, and destructive of, the belated and untenable pleas of dispute, denial of liability, or alleged settlement now sought to be raised in the Counter Affidavit.

f) On CD’s contention of Inflated quantity claim: It is emphatically denied that the Petitioner was required to supply only 950 bales or that the claim of 1225 bales is false, fabricated, or inflated, as wrongly alleged. It is submitted that the initial consignments were supplied pursuant to verbal assurances and mutual understanding arrived at between the parties, acting in good faith and in the ordinary course of business, and thereafter, Sale-Purchase Confirmation Advice were issued covering the subsequent supplies. It is further submitted that the Respondent, through its authorised agent, not only placed repeated requisitions for supply but also duly accepted and acknowledged delivery of the entire 1225 cotton bales without any demur, protest, or reservation whatsoever.

g) On CD's contention of Inflated quantity claim: The allegation that the Operational Creditor has "inflated" the claim to cross the threshold under Section 4 of the IBC is entirely false, vexatious, and a deliberate attempt to mislead this Hon'ble Tribunal. The amount of Rs. 2.40 Crores is not a contrived or arbitrary figure but represents the actual outstanding operational debt arising from duly raised invoices, acknowledged supplies, and the running ledger account maintained in the ordinary course of business. The CD has not produced a single contemporaneous document to demonstrate that only Rs. 50 Lakhs was payable. A bald assertion, unsupported by accounts, correspondence, or reconciliation, cannot override documentary evidence placed on record by the OC.

h) <u>On Record of Default from Information Utility</u>: The CD has contended that production of a record of default from the Information Utility is mandatory. It is respectfully submitted that such a requirement is only directory and not mandatory in nature. The Hon'ble Supreme Court in ***Suresh Kumar Reddy v. Canara Bank & Ors***. has clarified that non-filing of an Information Utility record does not render a petition defective, provided the debt and default are otherwise established. It is well settled that debt and default can be proved through independent documentary evidence, including invoices, ledger accounts, bank statements, and dishonoured cheques. In the present case, the OC has placed sufficient material on record to demonstrate the existence of debt and occurrence of default, and therefore, the objection raised by the CD is wholly misconceived and liable to be rejected.

i) <u>Rebuttal to Allegation of Abuse of IBC / Recovery Mechanism</u>: The Petition is not filed as a recovery proceeding but upon occurrence of default. Further, it is stated that Insolvency proceedings are triggered upon default and not upon inability to recover. The Hon'ble Supreme Court has held that once debt and default are established, admission is mandatory unless a genuine dispute exists. The CD cannot escape insolvency merely by labelling the petition as recovery-oriented.

6. WRITTEN SUBMISSIONS (CD)

6.1 Despite repeated opportunities as sought by the CD itself, it did not file its Written Submissions. The Interim Order dated 04.06.2026 records as under:

> *"1. Ld. Counsel for the Applicant states that pleading in this matter are complete and the matter may be heard today. She further states that written submission has been filed by the Applicant. However, Respondent has not filed the same in spite of the fact that at the hearing held on 12.03.2026, at their request, further time period of seven days was provided to them."*

7. ANALYSIS AND FINDINGS

7.1 We have perused the documents as placed before us and heard both the Ld. Counsels for the Applicant and the CD.

7.2 The following facts are substantially undisputed:

(i) the Applicant and the CD were engaged in commercial transactions for the supply of cotton bales during the period from 30.06.2024 to 03.08.2024.

(ii) the Applicant supplied cotton bales to the CD through M/s Ruchi Cotton Company and that several invoices were raised in respect of such supplies.

(iii) the CD made certain payments towards the running account maintained between the parties.

(iv) the CD issued several cheques in favour of the Applicant towards payment of the outstanding dues, many of which were dishonoured upon presentation.

(v) the CD made RTGS payments aggregating to Rs.21,31,651/- during November 2024.

(vi) the Applicant issued a legal notice dated 24.12.2024, followed by a demand notice under Section 8 of the IBC, 2016 dated 16.01.2025, to which the CD submitted its reply.

(vii) the present Application has been filed within the period of limitation prescribed under the IBC.

7.3 The following issues, however, remain contentious between the parties:

(i) Whether the Applicant supplied 1,225 cotton bales, as claimed, or only 950 cotton bales, as alleged by the CD.

(ii) Whether the goods supplied were in accordance with the agreed commercial specifications and whether any objections regarding quantity or quality had been raised before issuance of the demand notice.

(iii) Whether the alleged settlement restricting the liability of the CD to Rs.71,00,000/- was ever concluded between the parties.

(iv) Whether the defence raised by the CD constitutes a genuine pre-existing dispute under Section 8(2)(a) of the IBC, 2016.

(v) Whether the Applicant is entitled to maintain the present Application under Section 9 of the IBC.

7.4 Having considered the pleadings, documents placed on record and the submissions advanced by the learned counsel appearing for the parties, the first aspect which falls for consideration is whether the Applicant has established the existence of an operational debt and the occurrence of default to maintain the present Application under Section 9 of the IBC, 2016. The scope of enquiry at the stage of admission of a petition under Section 9 is no longer res integra. The Adjudicating Authority is required to satisfy itself that an operational debt exists, a default has occurred, the application is complete in terms of the statutory requirements and there is no genuine pre-existing dispute attracting Section 8(2)(a) of the IBC. The Tribunal is not expected to undertake a detailed adjudication of contractual disputes or conduct a full-fledged trial as would be undertaken by a Civil Court. The enquiry is confined to determining whether the debt and default are prima facie established and whether the defence raised by the CD is a real dispute supported by contemporaneous material or merely an illusory defence raised to avoid the insolvency process. This principle has been authoritatively laid down by the Hon'ble Supreme Court in *Mobilox Innovations Private Limited v. Kirusa Software Private Limited*, (2018) 1 SCC 353, and has been reaffirmed in *Transmission Corporation of Andhra Pradesh Ltd. v. Equipment Conductors and Cables Ltd.*, (2019) 12 SCC

697, and *Rajratan Babulal Agarwal v. Solartex India (P) Ltd*., (2023) 1 SCC 115.

7.5 The Applicant seeks initiation of the CIRP on the basis of an alleged operational debt of Rs.2,57,05,145/-, comprising a principal outstanding of Rs.2,40,12,566/- together with interest of Rs.14,47,203/-, arising from the supply of cotton bales during the period between 30.06.2024 and 03.08.2024. The Applicant relies upon invoices, e-way bills, transportation records, ledger accounts, bank statements, confirmation of accounts, dishonoured cheques and other contemporaneous commercial documents to establish the debt and the consequent default. The CD, while disputing the extent of its liability, does not dispute that commercial transactions had taken place between the parties. It also does not dispute that payments were made from time to time or that several cheques were issued in the Applicant's favour. The principal defence is that the quantity supplied was less than claimed, the goods were not up to the agreed specifications, and the liability was subsequently settled at a lower amount. It is, therefore, necessary to examine whether these objections are sufficient to invalidate the documentary material relied upon by the Applicant for the limited purpose of admission under Section 9.

7.6 An operational debt, as defined under Section 5(21) of the IBC, includes a claim arising out of the provision of goods or services. Consequently, where an operational creditor establishes, through contemporaneous commercial records, that goods were supplied and the corresponding consideration has remained unpaid, the foundational requirement of Section 9 stands satisfied unless the CD can demonstrate the existence of a genuine dispute. In the present case, the invoices relied upon by the Applicant are supported by corresponding e-way bills, transportation documents and entries in the ledger account maintained in the ordinary course of business. These documents have been produced as part of the regular commercial records maintained between the parties. Significantly, the CD has not alleged that these documents are fabricated or forged. The dispute raised is not regarding the genuineness of the documents themselves but relates to the quantity and quality of the goods supplied. Such objections, by themselves, do not negate the existence of the underlying commercial transactions.

7.7 Equally significant is the subsequent conduct of the CD. The record reflects that after the supplies were effected, the CD issued several cheques towards the discharge of the outstanding liability. A cheque for Rs.50,00,000/- was returned unpaid with the endorsement "Account Closed". Another cheque bearing No. 307808 dated 25.10.2024 for Rs.21,00,000/- was dishonoured on the ground of "Funds Insufficient" and, upon being re-presented at the request of the CD, was again dishonoured on 13.12.2024 with the endorsement "Payment Stopped by Drawer". Thereafter, the CD made RTGS payments of Rs.18,00,000/- on 07.11.2024 and Rs.3,31,651/- on 08.11.2024, aggregating to Rs.21,31,651/-. Subsequently, two further post-dated cheques of Rs.8,00,000/- each, dated 07.03.2025 and 14.03.2025, were also dishonoured on presentation. These facts are borne out from the banking records placed on record and have not been specifically denied by the CD. The repeated issuance of cheques, followed by part-payments through banking channels, is a relevant circumstance while considering whether the liability was acknowledged during the course of commercial dealings.

7.8 The Applicant has further relied upon the confirmation of accounts countersigned by the CD as well as the revised ledger account forwarded on 04.04.2025. While the CD disputes the amount reflected therein, it has not produced any contemporaneous reconciliation statement or correspondence demonstrating that the accounts were objected to at the relevant time. Similarly, although it is contended that the parties had agreed to restrict the outstanding liability to Rs.71,00,000/-, no written settlement agreement, email correspondence, minutes of meeting or other contemporaneous record evidencing such settlement has been produced. Whether such a settlement was actually concluded is a matter that will have to be examined while considering the plea of pre-existing dispute. At this stage, however, the absence of any contemporaneous documentary support weakens the defence sought to be raised.

7.9 The Hon'ble Supreme Court in Mobilox (supra) has clearly held that the Adjudicating Authority is not required to determine whether there exists a plausible dispute requiring further investigation and whether such dispute is supported by material which existed prior to the issuance of the demand notice. The Hon’ble Court observed in paragraph 45 that the Tribunal must distinguish between a genuine dispute and "a patently feeble legal argument or an assertion of fact unsupported by evidence." The same principle has been reiterated in Rajratan Babulal Agarwal (supra), wherein the Hon'ble Supreme Court held that the Tribunal is not expected to examine the correctness of the rival claims in depth but only to ascertain whether the defence is bona fide and supported by contemporaneous material.

7.10 Applying the aforesaid principles to the facts of the present case, this Tribunal is of the prima facie view that the Applicant has produced sufficient material to establish the existence of an operational debt arising out of commercial transactions between the parties and the occurrence of default. The documentary evidence relied upon by the Applicant is supported by banking records and the admitted conduct of the CD in issuing cheques and making part-payments. The objections relating to the quantity and quality of the goods, the alleged settlement and the extent of liability require an examination to determine whether they constitute a genuine pre-existing dispute within the meaning of Section 8(2)(a) of the IBC. It is, therefore, to those objections that this Tribunal shall now advert.

7.11 The CD has also disputed the inclusion of interest amounting to Rs.14,47,203/- in the operational debt. It is contended that there was no contractual stipulation for payment of interest, that the debit note towards interest was raised subsequently, and that interest does not automatically form part of an operational debt under Section 5(21) of the IBC. Reliance has been placed on various decisions of the Hon'ble NCLAT in support of the said contention. Upon perusal of ‘Annexure O’ to the Application ‘Copy of the post-dated cheques along with the e-mail dated 04.04.2025, confirmation of books of accounts and debit note ’, we find that the CD had indeed signed/stamped on the Debit Note dated 31.03.2025 for the interest component of the debt.

We do not consider it necessary to adjudicate this issue at the stage of admission. Even excluding the interest component, the principal amount claimed is Rs.2,40,12,566/-, which independently exceeds the threshold prescribed under Section 4 of the IBC. Accordingly, the dispute regarding the Applicant's entitlement to interest does not affect the maintainability of the present Application. The exact quantum of the claim, including the admissibility of interest, shall be subject to collation during the CIRP.

7.12 The principal defence raised by the CD is that disputes relating to the quantity, quality and specifications of the cotton bales existed prior to the issuance of the demand notice dated 16.01.2025, and therefore the present Application is barred under Section 8(2)(a) of the IBC. According to the CD, only 950 cotton bales were agreed to be supplied, whereas the Applicant has raised invoices for 1,225 cotton bales. It is further contended that the goods supplied did not conform to the agreed specifications regarding fibre length, micronaire value, trash percentage and moisture content, and that the liability of the CD was ultimately restricted to Rs.71,00,000/- under a mutual understanding between the parties.

7.13 The law relating to pre-existing disputes is well settled. In Mobilox (*supra*), the Hon'ble Supreme Court further observed that the Tribunal must separate genuine disputes from mere bluster or moonshine defences. The relevant observations in paragraph 40 of the judgment are as follows:

> *"…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..."*

The aforesaid principles have subsequently been reiterated by the Hon'ble Supreme Court in *Rajratan Babulal Agarwal v. Solartex India (P) Ltd.*, (2023) 1 SCC 115, wherein it was held that the Tribunal is not expected to adjudicate the correctness of the rival claims but is only required to ascertain whether the dispute is *bona fide* and supported by contemporaneous material. Likewise, in *Transmission Corporation of Andhra Pradesh Ltd. v. Equipment Conductors and Cables Ltd.*, (2019) 12 SCC 697, the Hon'ble Supreme Court held that where the material placed on record demonstrates a genuine dispute existing prior to the demand notice, the application under Section 9 deserves to be rejected. Conversely, where the defence is unsupported by contemporaneous evidence and appears to have been raised only after receipt of the demand notice, such defence cannot defeat an otherwise maintainable insolvency application.

7.14 Examining the present case in the light of the above principles, this Tribunal finds that the CD has not produced any contemporaneous correspondence prior to 16.01.2025 evidencing that objections regarding the alleged short supply of cotton bales or defective quality were raised at the relevant point of time. No email, letter, inspection report, laboratory analysis, rejection note, debit note, complaint addressed to the Applicant, or communication issued through the alleged agent, M/s Ruchi Cotton Company, has been placed on record to demonstrate that the goods were rejected or that the Applicant was called upon to replace defective goods. In commercial transactions involving supplies valued at more than Rs.3.67 crores, any serious dispute regarding quantity or quality would ordinarily be reflected in contemporaneous business records. The absence of such material assumes considerable significance.

7.15 The conduct of the CD subsequent to the alleged defects also does not support the plea of a genuine pre-existing dispute. Instead of rejecting the goods or withholding the transactions on account of defective quality, the CD admittedly issued several cheques towards payment of the outstanding dues, made RTGS payments aggregating to Rs.21,31,651/-, and thereafter continued to issue further post-dated cheques. The record further indicates that the CD countersigned the confirmation of accounts forwarded by the Applicant along with the revised ledger account. Such conduct is inconsistent with the case of a purchaser who had already rejected the goods on account of defective quality or short supply.

7.16 The CD has further contended that the parties had amicably settled the outstanding liability at Rs.71,00,000/-, of which Rs.21,31,651/- was paid through RTGS and the balance was proposed to be discharged through cheques. However, apart from a bare assertion in the reply affidavit, no written settlement agreement, minutes of meeting, email correspondence, reconciliation statement or acknowledgment executed by the Applicant has been produced to substantiate the existence of such settlement. In commercial transactions of this magnitude, any settlement modifying the outstanding liability by more than Rs.1.69 crores would ordinarily be evidenced by contemporaneous documentation. In the absence of any such material, the plea of settlement cannot, at this stage, be accepted as constituting a genuine pre-existing dispute.

7.17 The CD has also sought to contend that the cheques relied upon by the Applicant were issued merely as security and not towards discharge of any admitted liability. This contention is equally unsupported by any contemporaneous document. On the contrary, the repeated issuance of cheques over different periods, followed by part payments through banking channels and subsequent issuance of fresh post-dated cheques after earlier dishonour, *prima facie* indicates that the parties were attempting to liquidate the outstanding dues. Had the cheques been issued merely as security, it is difficult to appreciate why fresh cheques were repeatedly issued after earlier cheques were dishonoured or why part payments continued to be made. These surrounding circumstances diminish the credibility of the defence now sought to be raised.

7.18 Reliance has also been placed by the CD on *S. S. Engineers v. Hindustan Petroleum Corporation Ltd.*, 2023 SCC OnLine SC 82, to contend that the IBC is not a substitute for recovery proceedings. There can be no quarrel with this proposition. However, the said judgment also recognises that where a genuine contractual dispute exists, the insolvency process ought not to be invoked. In the present case, for the reasons already recorded, the alleged disputes relating to quality, quantity and settlement are not supported by contemporaneous material existing prior to the demand notice and therefore do not satisfy the test laid down in *Mobilox* and the subsequent judgments of the Hon'ble Supreme Court.

7.19 In view of the foregoing discussion, this Tribunal is unable to hold that the objections relating to quantity, quality, contractual specifications, alleged settlement and the so-called security cheques constitute a genuine pre-existing dispute within the meaning of Section 8(2)(a) of the IBC. The defence appears to have been raised in the absence of contemporaneous supporting material and is inconsistent with the subsequent conduct of the CD in repeatedly acknowledging the transactions through issuance of cheques, part payments and confirmation of accounts. Consequently, the objection raised by the CD on the ground of a pre-existing dispute does not merit acceptance. Accordingly, in our view, the defence raised by the CD on pre-existing dispute is a mere "bluster" and is rejected as "moonshine".

7.20 In view of the foregoing discussion, this Tribunal is satisfied that the Applicant has established the existence of an operational debt exceeding the threshold prescribed under Section 4 of the IBC, that default has occurred, that the statutory demand notice dated 16.01.2025 was duly issued, and that the CD has failed to establish the existence of a genuine pre-existing dispute within the meaning of Section 8(2)(a) of the IBC. The Application is otherwise complete in all material particulars. Accordingly, this Tribunal is of the considered view that the present Application satisfies the requirements of Sections 8 and 9 of the IBC, 2016, and deserves to be admitted.

7.21 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, being C.P. (IB) 898/MB/2025, filed under Section 9 of IBC, 2016, by Uma Exports Limited, the OC, for initiating CIRP in respect of Epic Yarns Private 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 CD 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 CD 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 CD in respect of its property, including any action under the Securitisation 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 CD.

II. That the supply of essential goods or services to the CD, 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 CD 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.

V. That this Bench hereby appoints **Klass Insolvency Resolution Professionals Private Limited**, having Registration No. as **IBBI/IPE-0024/IPA-1/2024-25/50083** and **e-mail** **jitulohia@knjainco.com,** having valid Authorisation for Assignment up to 30.06.2027, from the panel as provided by the IBBI, as the IRP in this matter.

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 CD 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 CD are directed to provide effective assistance to the IRP as and when he takes charge of the assets and management of the CD. Coercive steps will follow against them under the provisions of the IBC read with Rule 11 of the NCLT Rules, 2016 for any violation of the law.

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

IX. In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the OC 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 OC 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. Order to be communicated to all the Statutory Authorities by the IRP.

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 OC, the CD 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/-	**Sd/-**
NILESH SHARMA	**SAMEER KAKAR**
MEMBER (JUDICIAL)	**MEMBER (TECHNICAL)**

//AS//