

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – 1, AHMEDABAD

ITEM No.101
C.P.(IB)/409(AHM)2025

Proceedings under Section 9 IBC

IN THE MATTER OF:

Sarens Heavy Lifts India Pvt. Ltd.

.....**Applicant**

V/s

Demac Technologies Pvt. Ltd

.....**Respondent**

Order delivered on: 20/01/2026

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)

MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

P R E S E N T:

For the Applicant : Mr. Nandish H Shah, Adv.

For the Respondent : Mr. Biju A Nair, Adv.

O R D E R
(Hybrid Mode)

Today, we have heard Ld. Counsel for the parties and perused the record.

The order is reserved.

Be listed for pronouncement of order today at **2.30 P.M.**

At 2.30 PM

During the morning session, after hearing Ld. Counsel for the parties, the case was reserved for order and fixed for the time for pronouncement of order today at 2.30 P.M.

It is 2.30 P.M., the matter is again taken up for pronouncement of order in the open court. The order is pronounced in the open court, vide separate sheet.

Sd/-

**SANJEEV SHARMA
MEMBER (TECHNICAL)**

Sd/-

**SHAMMI KHAN
MEMBER (JUDICIAL)**

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, COURT-I, AHMEDABAD**

CP (IB) No.409/9/AHM/2025

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

In the Matter of:

Sarens Heavy Lift India Private Limited

(CIN: U29253DL2009PTC189026)

Registered office at 370, Mandawali Fazalpur,
Near Janta Cycle Shanti Marg Road,
Delhi, Delhi, India – 110092.

...Applicant/Operational Creditor

VERSUS

Demac Technologies Private Limited

(CIN: U30006GJ1990PTC014109)

Registered office at SB-21, Ivory Terrace,
R.C. Dutt Road, Alkapuri, Vadodara,
Gujarat, India – 390007.

...Respondent/Corporate Debtor

Order Pronounced On: 20.01.2026 at 2.30 P.M.

C O R A M:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)

SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

A P P E A R A N C E:

For the Applicant/OC : Nandish Shah, Advocate.

For the Respondent/CD : Biju Nair, Advocate.

O R D E R
Per Bench

1. This Petition is filed on 01.10.2025 by the Applicant- Sarens Heavy Lift India Private Limited (hereinafter referred to as 'Operational Creditor') against the Respondent- Demac Technologies Private Limited (hereinafter referred to as 'Corporate Debtor') under Section 9 of the IBC, 2016 read with Rule 6 of the IB (AAA) Rules, 2016 for initiation of CIRP, appointment of IRP and declaration of moratorium for default in payment of operational debt of Rs.2,39,51,037.60ps including interest arising from supply of goods/services.
2. On Perusal of Part-I of the Form-5, it shows that Operational Creditor - Sarens Heavy Lift India Private Limited is a company incorporated on 31.03.2009 under the Companies Act, 1956, with CIN - U29253DL2009PTC189026, registered office at 370, Mandawali Fazalpur, Near Janta Cycle Shanti Marg Road, Delhi, Delhi, India – 110092. This Petition is filed through Mr. Arindam Gon, authorised by Board Resolution dated 10.02.2025 which is annexed with the Petition as **Annexure-A**.
3. On perusal of Part-II of the Form-5, it shows that the Corporate Debtor is Demac Technologies Private Limited, having CIN No. U30006GJ1990PTC014109, a private limited company incorporated on 01.08.1990 under the Companies Act, 1956. The registered office is at SB-21, Ivory Terrace,

R.C. Dutt Road, Alkapuri, Vadodara, Gujarat, India-390007, with an authorized share capital Rs.85,00,000/- and paid-up share capital Rs.66,66,660/-, as per Master Data from Ministry of Corporate Affairs website which is annexed with the Petition as **Annexure-B**.

4. On Perusal of Part-III of Form-5, it shows that the Operational Creditor has not proposed any name for the appointment of IRP and sought the appointment of IRP by this Tribunal as per the empanelment list of IBBI made available at the time of the admission of this Petition.
5. On perusal of Part-IV of the Form-5, it shows that total operational debt as claimed by the Operational Creditor arising from the supply of goods/services to Corporate Debtor is Rs.2,39,51,037.60ps. consisting of Rs.2,01,62,666/- being principal and amount of Rs.37,88,371.60ps. as interest @ 18% p.a. up-to 25.08.2025. The date of default is stated to be 03.07.2024.
6. On perusal of Part-IV & Part-V of Form-5, the Operational Creditor has placed the facts through this Petition in the following manner: -
 - 6.1 The Operational Debt has arisen from services rendered by the Operational Creditor to the Corporate Debtor pursuant to a work order dated 22.01.2024 for hire of cranes at the project site at Barauni, Bihar, and the said work order forming the basis of the

Operational Debt is annexed with the Company Petition as Annexure "C".

- 6.2 In accordance with the terms of the said work order, the Operational Creditor deployed the agreed cranes at the project site and rendered services to the Corporate Debtor, and such services were rendered in the ordinary course of business without any objection raised at the relevant time.
- 6.3 Upon rendering of the services, the Operational Creditor raised invoices upon the Corporate Debtor for the amounts due and payable, and the copies of the invoices evidencing the Operational Debt are annexed collectively with the Company Petition as Annexure "D (Colly)".
- 6.4 Despite receipt of the invoices, the Corporate Debtor failed to make payment of the invoiced amounts within the agreed time, and the outstanding amounts remained unpaid, giving rise to the Operational Debt payable to the Operational Creditor.
- 6.5 The Operational Creditor made repeated requests and reminders to the Corporate Debtor for payment of the outstanding dues, and the email correspondence exchanged between the parties evidencing such requests is annexed with the Company Petition as Annexure "E (Colly)".
- 6.6 The Corporate Debtor acknowledged the Operational Debt and issued a repayment plan vide letter dated

10.06.2024 admitting its liability towards the Operational Creditor, and the said acknowledgment and repayment plan is annexed with the Company Petition as Annexure "F".

6.7 The Corporate Debtor failed to comply with the repayment plan and made only an adhoc payment, and the ledger account maintained by the Operational Creditor showing the outstanding balance of the Operational Debt is annexed with the Company Petition as Annexure "G".

6.8 The default in payment of the Operational Debt occurred on 03.07.2024 following non-payment under the repayment plan and continues thereafter despite subsequent acknowledgments, and the total amount due and payable by the Corporate Debtor to the Operational Creditor is Rs.2,39,51,037.60ps. inclusive of Principal Amount of Rs.2,01,62,666/- plus interest @ 18% p.a i.e. Rs.37,88,371.60ps. as on 25.08.2025.

6.9 On account of continued default, the Operational Creditor issued a Demand Notice dated 23.07.2025 under Section 8 of the Insolvency and Bankruptcy Code, 2016, and the Demand Notice along with proof of service upon the Corporate Debtor is annexed with the Company Petition as Annexure "H (Colly)".

6.10 After receipt of the Demand Notice, the Corporate Debtor acknowledged its liability and inability to clear the outstanding dues vide email dated 14.08.2025,

which is annexed with the Company Petition as Annexure "I.

- 6.11 The Operational Creditor has also filed affidavit dated 13.10.2025 in terms of provisions of Section 9(3)(b) of the Code and declared therein that Corporate Debtor was served Demand Notice dated 23.07.2025. However, no notice is given by the Corporate Debtor relating to a dispute of the unpaid operational debt within the time stipulated under the IB Code. Instead, Corporate Debtor acknowledged its liability and inability to clear the outstanding dues vide email dated 14.08.2025.
- 6.12 The Operational Creditor also filed a supplementary affidavit on 30.10.2025, vide inward diary No. D-7195, consisting of GSTR-1 and GSTR-Form 3B along with the Bank Statement of the OC to demonstrate and establish that no payment qua the raised invoices received from the Corporate Debtor.

7. That on issuance of the notice in the Company Petition and after due service of notice, the Corporate Debtor has appeared and filed reply to the Company Petition on 04.12.2025 vide Inward No. D-8121, denying various averments made in the Company Petition. The contentions of the Corporate Debtor are mentioned hereunder: -

- 7.1 The Respondent submits that the present Section 9 Petition is not maintainable and is liable to be dismissed in limine due to fundamental legal defects. The Demand Notice dated 23.07.2025 has been issued without proper authorization under Rule 5 of the IB Rules, 2016. The Board Resolution dated 10.02.2025 does not authorize issuance of the Demand Notice. Hence, the initiation of proceedings itself is void ab initio.
- 7.2 The Respondent states that even otherwise, the Board Resolution relied upon does not permit sub-delegation of authority. The Demand Notice has been issued by the Advocate without lawful authorization from the Applicant Company. The principle of delegatus non potest delegare squarely applies to the facts of the case. Consequently, the Demand Notice and proceedings based on it are legally untenable.
- 7.3 The undated authorization letter allegedly issued by Mr. Arindam Gon lacks validity and legal sanctity. The said letter neither establishes the authority of Mr. Arindam Gon to sub-delegate powers nor clarifies its issuance prior to the Demand Notice. Moreover, the authorization, even if assumed, is limited to recovery proceedings only. Insolvency proceedings under IBC are not recovery proceedings and hence not covered.
- 7.4 The Respondent further submits that a genuine and long-standing pre-existing dispute existed between the

parties much prior to the Demand Notice. The disputes relate to execution delays, technical infeasibility, and contractual non-compliance by the Operational Creditor. These disputes are evidenced through contemporaneous emails dated 05.04.2024 and other communications annexed as Annexure R-1 (Colly). Therefore, Section 9 proceedings are barred.

- 7.5 The Corporate Debtor states that mandatory insurance documents for the 600 MT crane were delayed by more than 10 days and approval was obtained only on 13.04.2024, contradicting the Operational Creditor's claim that delays were attributable to the Respondent, as evidenced from email correspondence annexed as Annexure R-2.
- 7.6 The Corporate Debtor states that the rigging plan for erection of equipment 451-E-003A/B was not submitted on time and the plan ultimately submitted was rejected for technical infeasibility, which was communicated by the Respondent's client prior to the demand notice, as relied upon in Annexure R-3.
- 7.7 The Corporate Debtor states that the Operational Creditor's claim that erection was feasible using a 250 MT crane was expressly rejected by the Respondent's client due to radius constraints and Safe Working Load limitations, which formed the basis of disputed idle charges, as reflected in Annexure R-4.

- 7.8 The Corporate Debtor states that delays were mutually alleged by both parties and internal correspondence attributes multiple delay periods to the Operational Creditor, establishing a reciprocal and unresolved contractual dispute, supported by documents annexed as Annexure R-5.
- 7.9 The Corporate Debtor states that there was a delay of 10–12 days in supply of slings and wire ropes by the Operational Creditor, which were essential for execution of work and such delay was not denied by the Operational Creditor, as recorded in emails annexed as Annexure R-6.
- 7.10 The Corporate Debtor states that a without-prejudice commercial offer for compensation of 10 days was made and rejected by the Operational Creditor, which does not amount to admission of liability or crystallisation of debt, as evident from correspondence relied upon as Annexure R-7.
- 7.11 The Corporate Debtor states that log-sheets and operational records were never mutually authenticated and remained disputed, and therefore no operational debt could be determined or crystallised under the Code, as supported by correspondence annexed as Annexure R-8.
- 7.12 The Corporate Debtor states that all discussions regarding compensation, extensions, measurements, and execution issues were ongoing much prior to

issuance of the demand notice dated 23.07.2025, establishing a pre-existing dispute, as evidenced by Annexure R-9.

8. The Operational Creditor filed a rejoinder on 12.01.2026 vide inward diary no. D-8461, denying most contentions raised by the Corporate Debtor in its reply. The contents of the Rejoinder are reproduced as follows: -

- 8.1 The Operational Creditor states that all averments, allegations and contentions made by the Corporate Debtor in the Affidavit in Reply are denied.
- 8.2 The Corporate Debtor has challenged the validity of the demand notice dated 23.07.2025. The challenge is limited to the issue of authorization for issuance of the demand notice. The said contention is contrary to the settled position of law.
- 8.3 The Corporate Debtor contended that the demand notice issued in Form 3 lacked proper authorization. It alleged that the Board Resolution dated 10.02.2025 did not authorize issuance of the demand notice. The Corporate Debtor also questioned the undated authorization letter relied upon by the Operational Creditor. The authorization was communicated to the advocate through email dated 22.07.2025. The said email is relied upon as Annexure A.
- 8.4 The Operational Creditor states that the Board Resolution dated 10.02.2025 authorized Mr. Arindam

Gon authorised to appear for and to represent the Company before the appropriate authorities, Tribunal, Courts in all legal matter/proceedings and to do all such acts, matters, deeds as may be required necessary. Pursuant to the said resolution, legal services were availed through the advocate. The demand notice under Section 8 of the Code was issued after instructions from the Operational Creditor. The authorization letter formed part of the demand notice served upon the Corporate Debtor. The objection regarding lack of authority is therefore unsustainable.

- 8.5 The issue of issuance of demand notice by an advocate is settled by judicial precedents. The Hon'ble Supreme Court in ***Macquarie Bank Limited versus Shilpi Cable Technologies Limited*** held that an advocate can issue demand notice. The Hon'ble NCLAT in ***Mohit Minerals Limited versus Nidhi Impotrade Private Limited*** followed the said principle. Both judgments clarify that a separate Board Resolution is not mandatory in such cases. Copies of the said judgments are relied upon as Annexure B.
- 8.6 The Corporate Debtor has raised a plea of pre-existing dispute between the parties. The Operational Creditor states that no dispute existed prior to issuance of the demand notice dated 23.07.2025. All issues between the parties were resolved prior to execution of the payment plan.

The payment plan dated 10.06.2024 acknowledged liability of Rs. 2,10,01,291.85. The plea of pre-existing dispute is therefore denied.

- 8.7 The Corporate Debtor admitted the outstanding liability through emails dated 05.07.2024 and 14.08.2025. In the said emails, time was sought for payment of admitted dues. The Corporate Debtor linked delay in payment to receipt from its principal. The principal is a separate legal entity and not liable under the work order. The admissions establish existence of operational debt and default.
- 8.8 The Corporate Debtor did not issue any notice of dispute prior to the demand notice. No contemporaneous document shows denial of liability before 23.07.2025. Acknowledgment of debt and assurances of payment continued even after the demand notice. The defence of pre-existing dispute was raised only in the Reply. Such defence is not supported by records.
- 8.9 The law relating to pre-existing dispute has been settled by judicial pronouncements. Acknowledgment of debt and part payments negate the existence of dispute. The Corporate Debtor failed to satisfy the test laid down for pre-existing dispute. The operational debt had become due and payable above the threshold limit. Default remained uncured despite repeated assurances.

8.10 The Corporate Debtor attempted to shift liability on its principal entity. The work order placed on record does not impose payment obligation on the principal. The obligation to pay rests solely with the Corporate Debtor. The admitted liability was not discharged within the promised timeline. The default therefore continued on the date of filing of the Company Petition.

8.11 The Operational Creditor states that all requirements under Sections 8 and 9 of the Code are fulfilled. The demand notice dated 23.07.2025 was validly issued and duly served. There exist an operational debt and a clear default on part of the Corporate Debtor. No valid pre-existing dispute exists in law or on facts. The Company Petition is therefore liable to be admitted.

9. The Operational Creditor filed written submissions on 12.01.2026 vide inward diary no. D282. The major contentions of the Operational Creditor are as follows: -

9.1 The Operational Creditor is a private limited company incorporated under the Companies Act, 1956 and the Corporate Debtor is also a private limited company incorporated under the Companies Act, 1956. The parties entered into a contractual relationship pursuant to a work order for hire of crawler cranes at the project site at Barauni, Bihar.

9.2 Pursuant to the work order dated 22.01.2024, the Operational Creditor deployed cranes and rendered services to the Corporate Debtor. In accordance with the work order, invoices were raised by the Operational Creditor. The Corporate Debtor failed to clear the invoice amounts despite repeated requests and reminders.

9.3 After discussions between the parties, the Corporate Debtor issued a repayment mechanism letter dated 10.06.2024 acknowledging its liability. The Corporate Debtor made an ad hoc payment on 02.07.2024 but failed to adhere to the repayment plan and defaulted in payment of the outstanding amount.

9.4 The total outstanding operational debt is Rs. 2,39,51,037.60ps. comprising principal amount of Rs. 2,01,62,666/- and interest of Rs. 37,88,371.60ps. calculated at 18% per annum. Due to non-payment, the Operational Creditor issued a demand notice under Section 8 of the Insolvency and Bankruptcy Code, 2016.

9.5 Despite receipt of the demand notice, the Corporate Debtor did not clear the outstanding amount and sought time till 30.09.2025 through email dated 14.08.2025. Upon failure to honour the assurance, the Operational Creditor filed the present Company Petition on 01.10.2025.

9.6 The Corporate Debtor filed its reply alleging defect in the demand notice, existence of pre-existing dispute, and misuse of the Insolvency and Bankruptcy Code as a recovery mechanism. The Operational Creditor filed a rejoinder denying the said allegations and reaffirming validity of the demand notice and absence of any dispute.

9.7 The authority to issue the demand notice and to initiate proceedings under the Insolvency and Bankruptcy Code, 2016 was validly granted by the Board Resolution dated 10.02.2025. The demand notice was issued with proper authorization and in compliance with the provisions of law.

9.8 The Operational Creditor relied upon the judgment of ***Macquarie Bank Limited versus Shilpi Cable Technologies Ltd., (2018) 2 SCC 674***, wherein the Hon'ble Supreme Court held that procedural defects in demand notice are not fatal if the debt and default are established. Reliance was also placed on ***Mohit Minerals Ltd. versus Nidhi Impotrade Pvt. Ltd.***, wherein it was held that acknowledgment of debt negates existence of pre-existing dispute.

10. The Corporate Debtor filed written submissions on 12.01.2026 vide inward diary no. D256, the submissions and judgment relied on by the Corporate Debtor are as follows: -

- 10.1 The Corporate Debtor states that the present petition filed under the Insolvency and Bankruptcy Code, 2016 is not maintainable and is liable to be dismissed at the threshold due to fundamental legal defects and statutory non-compliance in issuance of the demand notice under Section 8 of the Code.
- 10.2 The Corporate Debtor states that the demand notice dated 23.07.2025 is void as it was not issued by a person duly authorized by a valid Board Resolution dated 10.02.2025 and there was no authority or power of sub-delegation granted for issuance of such notice.
- 10.3 The Corporate Debtor states that the undated authorization letter relied upon does not establish authority to issue the demand notice nor does it confer any power to further delegate such authority, and therefore the principle of *delegatus non potest delegare* squarely applies.
- 10.4 The Corporate Debtor states that there existed genuine and pre-existing disputes between the parties much prior to issuance of the demand notice, arising out of performance of the work order, technical feasibility, rigging plans, lifting methodology, idle charges and responsibility for delay.
- 10.5 The Corporate Debtor states that contemporaneous email communications exchanged between 05.04.2024 and 14.05.2024 clearly establish disputes relating to insurance documents, TPI approvals, lifting tools,

measurements and rejection of rigging plans by the end client.

- 10.6 The Corporate Debtor states that its end client rejected the proposed rigging plan and recorded that the lift using a 250 MT crane was technically infeasible, giving rise to disputes on feasibility, attribution of delay and liability for idling charges.
- 10.7 The Corporate Debtor states that as held by the Hon'ble Supreme Court in ***Mobilox Innovations Private Limited v. Kirusa Software Private Limited, (2018) 1 SCC 353***, where a plausible contention requiring investigation exists and disputes are pre-existing and not spurious, the petition under IBC must be rejected.
- 10.8 The Corporate Debtor states that no operational debt has crystallized as the alleged claims are disputed, measurement logs were not mutually authenticated, liability is contingent upon determination of reciprocal delays, and the IBC cannot be used as a recovery mechanism for contractual disputes.

11. Today, we have heard the arguments of Ld. Counsel for the Applicant/Operational Creditor as well as Ld. Counsel for the Respondent/Corporate Debtor and perused the pleadings and material available on record.

12. The first objection raised by the Corporate Debtor relates to the validity of the demand notice issued under Section 8 of the Code. The record shows that the demand notice was issued in the prescribed form and was duly served upon the Corporate Debtor. Service of the demand notice has not been disputed. The Corporate Debtor did not issue any notice of dispute within the period prescribed under Section 8(2) of the Code. The objection pertains only to the authority of issuance.

13. The Board Resolution dated 10.02.2025 placed on record authorizes the concerned officers of the Operational Creditor which include Mr. Arindam Gon to act on behalf of the Company in all Legal Matters before the appropriate authorities, Tribunal, Courts in all legal matter/proceedings **and to do all such acts, matters, deeds as may be required necessary.** Pursuant to the said Board Resolution, legal services were rightly availed by Mr. Arindam Gon through the advocate for issuance of statutory Demand notice by issuing Authority Letter in favour of the Advocate. The authorization letter relied upon forms part of the record.

14. It is also evident from the material placed on record that the demand notice was issued by the Advocate under express instructions of the Operational Creditor, which is supported by the contemporaneous email dated 22.07.2025 and the authorization letter forming part of the notice itself. The Corporate Debtor has not disputed that the notice was issued on instructions, but has only questioned the internal authorization. Such an objection, in view of the settled legal position, cannot invalidate the demand notice.

15. The Corporate Debtor has specifically objected that the authority letter enclosed with the demand notice is undated. Mere absence of a date on the authority letter, however, that does not by itself invalidate the issuance of the demand notice, when contemporaneous record establishes due authorization.

16. In the present case, the contemporaneous email dated 22.07.2025, addressed by the officer of the Operational Creditor to its Advocate, forwarding the authority letter and confirming the outstanding figures, clearly evidences that the Advocate was duly instructed prior to issuance of the demand notice dated 23.07.2025. The Corporate Debtor has

not disputed the existence of such instructions. Once issuance under instructions is established, the objection founded solely on the authority letter being undated is hyper-technical and cannot defeat the statutory notice under Section 8 of the Code.

17. The Hon'ble Supreme Court in ***Macquarie Bank Limited v. Shilpi Cable Technologies Limited, (2018) 2 SCC 674***, has held that a demand notice issued by an advocate duly instructed by the operational creditor is valid in law. It was held that no specific board resolution in favour of the advocate is mandatory. The Court clarified that issuance of notice through an instructed advocate satisfies the requirement of Section 8.
18. The Hon'ble National Company Law Appellate Tribunal in ***Mohit Minerals Limited v. Nidhi Impotrade Private Limited, Company Appeal (AT) (Insolvency) No. 905 of 2020***, has reiterated that a demand notice issued by an advocate duly instructed by the operational creditor is legally valid. The Appellate Tribunal held that rejection of a Section 9 petition on the ground of lack of authorization is

not sustainable when the advocate is duly instructed. The ratio squarely applies to the present case.

- 19.** In view of the settled position of law, the objection of the Corporate Debtor regarding invalidity of the demand notice is not sustainable. The demand notice issued under Section 8 of the Code is valid. The requirement under the Code has been duly complied with. The Petition cannot be rejected on this ground. The contention raised by the Corporate Debtor is therefore rejected.
- 20.** The Corporate Debtor has raised a plea of pre-existing dispute. The emails relied upon by the Corporate Debtor relate to execution-stage discussions under the work order. These communications preceded the issuance of the repayment mechanism by the Corporate Debtor dated 10.06.2024. After such discussions, the Corporate Debtor issued a repayment mechanism acknowledging the outstanding amount. The issuance of the repayment mechanism dated 10.06.2024 quantifying the outstanding dues, followed by part payment and subsequent emails seeking time for payment, constitutes a clear acknowledgment of liability and negates the claims of any

dispute. Once the payable amount was admitted and structured for repayment, earlier execution-stage correspondence cannot be treated as a 'pre-existing dispute' within the meaning of Section 8(2) of the Code. Subsequent emails show requests for time to pay the admitted dues.

- 21.** A perusal of the email correspondence relied upon by the Corporate Debtor, particularly emails dated 05.04.2024, 08.04.2024, 16.04.2024, 17.04.2024, 18.04.2024, 04.05.2024, 06.05.2024 and 14.05.2024, shows that the communications pertain to coordination issues during execution of the work order, including submission of insurance and TPI documents, preparation and rejection of rigging plans, technical feasibility of lifting methodology, deployment of equipment and attribution of delays and are normal and obvious communication between parties concerning execution of project.
- 22.** However, none of these communications record any rejection of the invoices raised by the Operational Creditor, any denial of its obligation to payment, or any assertion that no amount was payable. Neither any invoice was questioned, nor any debit note raised. The correspondence

reflects operational and technical exchanges during performance of the contract, and not a dispute as to the existence of debt or liability to pay. These emails do not evidence a dispute in respect of the debt itself, but only reflect execution-stage issues, which, by themselves, do not constitute a 'pre-existing dispute' under Sections 8 and 9 of the Code.

23. The Hon'ble Supreme Court in ***Mobilox Innovations Private Limited v. Kirusa Software Private Limited, (2018) 1 SCC 353***, laid down the test for existence of dispute under Sections 8 and 9 of the Code. The Court held that the dispute must be real and existing prior to issuance of the demand notice. It was held that disputes raised after issuance of the demand notice cannot bar admission. The Adjudicating Authority is required to see only whether a plausible dispute exists.

24. In the present case, no notice of dispute under Section 8(2) of the Code was issued by the Corporate Debtor. The Corporate Debtor did not deny the liability in response to the demand notice. Instead, time for payment was sought. The repayment mechanism and subsequent emails show

acknowledgment of debt. The alleged disputes were not asserted at the relevant statutory stage.

25. Significantly, even after receipt of the demand notice dated 23.07.2025, the Corporate Debtor, instead of issuing any notice of dispute under Section 8(2) of the Code, addressed an email dated 14.08.2025 seeking time to clear the outstanding dues. The said communication does not deny liability, does not raise any execution or technical issues, and does not dispute the invoices, but on the contrary acknowledges the subsisting dues.
26. The plea of pre-existing dispute has been raised only after initiation of proceedings. The material on record does not show any contemporaneous denial of liability prior to issuance of the Demand Notice. The test laid down in ***Mobilox Innovations*** (Supra) is therefore not satisfied. The defence raised by the Corporate Debtor cannot be accepted as a valid pre-existing dispute under the Code.
27. The contention that no operational debt has crystallized has also been examined. The invoices raised by the Operational Creditor were not disputed at the relevant time. The repayment mechanism dated 10.06.2024 quantifies the

amount payable. The Corporate Debtor has not produced any contemporaneous document rejecting the invoices or disputing the computation of amounts prior to issuance of the demand notice. The operational debt, therefore, stood crystallised.

28. Bank statements and statutory returns show non-payment. The emails demonstrate acknowledgment of delay in payment. The debt had become due and payable prior to filing of the Petition. The Adjudicating Authority is not required to adjudicate the exact quantum at admission stage, as long as debt and default are established *prima facie*.

29. The Corporate Debtor has contended that measurement and execution issues prevented crystallization of debt. However, such contentions were not raised at the stage of Demand Notice. The repayment mechanism was issued after the alleged execution issues. Part payment was made on 02.07.2024. Such conduct amounts to acknowledgment of liability. The debt therefore falls within the definition of operational debt under Section 5(21) of the Code.

30. The plea that the Code is being used as a recovery mechanism has also been considered. The Code provides a statutory remedy upon occurrence of default. Once debt and default are established, admission cannot be denied on the ground of motive. The Operational Creditor has followed the procedure prescribed under the Code. The Petition has been filed only after compliance with Section 8. The contention is therefore rejected.

31. The Hon'ble NCLAT in ***Naresh Choudhary v. Sterling Enamelled Wires Pvt. Ltd., (2023) ibclaw.in 532 NCLAT***, decided on 16.08.2023, held that acknowledgment of debt and absence of dispute at the relevant time supports admission of a Section 9 petition. The ratio supports the case of the Operational Creditor. The acknowledgment in the present case is clear and unequivocal.

32. The Hon'ble NCLAT in ***Nandamuri Meenalatha v. Quality Steels and Wire Products, (2023) ibclaw.in 433 NCLAT***, decided on 04.07.2023, in Para 96 held that confirmation of debt and part payment constitute admission of debt and default. The facts of the present case are covered by the said

ratio. The part payment made and repayment mechanism issued support admission.

- 33.** The material on record establishes existence of operational debt exceeding the statutory threshold of Rs.1,00,00,000/- as prescribed under Section 4 of the IBC and default committed by the Corporate Debtor. The application filed under Section 9 of the Code is complete in all respects. The requirements under Section 9(5) of the Code are satisfied. No ground is made out for rejection of the Petition under Section 9(5)(ii).
- 34.** Hence, the Petition filed under section 9 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the Corporate Debtor deserves to be admitted.
- 35.** Accordingly, in light of the above facts and circumstances, it is, **hereby ordered** as under: -

 - (i) The Respondent/Corporate Debtor - **Demac Technologies Private Limited** is **admitted** in Corporate Insolvency Resolution Process under section 9(5) of the Code.
 - (ii) As a consequence thereof, a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 is

declared for prohibiting all of the following in terms of Section 14(1) of the Code.

- 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*
- d. *The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.*
- e. *The provisions of sub-Section (1) shall however, not apply to such transactions, agreements 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. The moratorium does not apply to transactions notified by the Central Government, as per Section 14(3)(a) of the IB Code, 2016.*

(iii) The order of moratorium under section 14 of the Code shall come to effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of the Corporate Debtor under Section 33 of the IBC 2016, as the case may be.

- (iv) However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the Corporate Debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period.
- (v) Since, the Operational Creditor has not proposed the name of any IRP. Therefore, from the IBBI Panel List dated 16.01.2026, we appoint **Chintan Kashyapkumar Shroff** having Registration No. IBBI/IPA-001/IP-P-02733/2023-2024/14282, having address: D-602, Samanvay Westfields, Bhayli, Opp. Rajpath Complex, B/H SWC Hub, Vadodara, Gujarat, 391410 (e-mail: chintan@gjc.co.in, Mobile No. 96015-51316) under section 13 (1)(c) of the Code to act as Interim Resolution Professional (IRP). He shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder. He shall submit his consent Form-2 along-with Form-B and Registration Certificate within three days.
- (vi) The IRP so appointed shall make a public announcement (e.g., newspapers, websites) under Regulation 6(2) of IBBI Regulations, 2016, of the initiation of the Corporate Insolvency Resolution Process and call for submissions of claims under section 15 within three days of appointment as per Regulation 6 of the IBBI (Insolvency Resolution Process

for Corporate Persons) Regulations, 2016, as required by Section 13(1)(b) of the Code.

- (vii) The IRP shall perform all his functions as contemplated, *inter-alia*, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel connected with the Corporate Debtor, its promoters, or any other person associated with the management of the Corporate Debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the Corporate Debtor, its promoters, or any other person required to assist or co-operate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
- (viii) The IRP is expected to take full charge of the Corporate Debtor's assets and documents without any delay whatsoever within seven days of this order. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
- (ix) The IRP shall be under a duty to protect and preserve the value of the property of the 'Corporate Debtor company' and manage the operations of the Corporate Debtor company as a going concern as a part of the obligation imposed by section 20 of the Code.

- (x) The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority a periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
- (xi) We direct the Operational Creditor to pay IRP a sum of **Rs.5,00,000/- (Rupees Five Lakh Only)** in advance exclusive of applicable taxes, within 7 days from the date of this order to meet the initial costs of the CIRP, including issuing public notice and inviting claims, as per Regulation 33(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. This amount shall be adjustable against the IRP's fees and expenses as approved by the Committee of Creditors (CoC) under Regulation 33(3), with any excess refundable to the Operational Creditor or shortfall recoverable from the Corporate Debtor's estate as CIRP costs.
- (xii) The Registry is directed to communicate this order to the Operational Creditor, Corporate Debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days, and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update the Corporate Debtor's Master Data on the MCA portal to reflect its status as 'under Corporate Insolvency Resolution Process' within 7

working days of receiving this order and submit a compliance report to the Registrar, NCLT, within 14 working days.

- (xiii) The public announcement under Regulation 6(2) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, shall be published in at least one English (national edition) and one vernacular newspaper with wide circulation in the state of the Corporate Debtor's registered office (Gujarat) and on the Corporate Debtor's website, if any, as per Form A of the said Regulations.
- (xiv) The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

36. Accordingly, this Petition being **CP (IB)**

No.409/9/AHM/2025 is hereby **admitted**. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd/-

**SANJEEV SHARMA
MEMBER (TECHNICAL)**

Aditi/LRA

Sd/-

**SHAMMI KHAN
MEMBER (JUDICIAL)**