



**NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH, COURT – II
CHENNAI**

**ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL
COMPANY LAW TRIBUNAL, CHENNAI BENCH, HELD ON 29.05.2026 AT
2.30 P.M. THROUGH VIDEO CONFERENCING:**

**PRESENT: SHRI. JYOTI KUMAR TRIPATHI, HON'BLE MEMBER (JUDICIAL)
SHRI. VENKATARAMAN SUBRAMANIAM, HON'BLE MEMBER (TECHNICAL)**

APPLICATION NUMBER : --
PETITION NUMBER : CP/IBC/200/CHE/2023
NAME OF THE PETITIONER : Arjun Saikumar
NAME OF THE RESPONDENT(S) : Danalakshmi Paper Mills Pvt Ltd
UNDER SECTION : Sec 9 Rule 6 of IBC, 2016

ORDER

Present: Ld. Counsel Mr.B.Dhanraj for the Respondent.

Vide separate order pronounced in open court, petition is allowed.

**Sd/-
VENKATARAMAN SUBRAMANIAM
Member (Technical)**

**Sd/-
JYOTI KUMAR TRIPATHI
Member (Judicial)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL,
SPECIAL BENCH – II, CHENNAI
CP(IBC)/200(CHE)/2023**

*(Filed under Section 9 of the Insolvency and Bankruptcy Code, 2016, R/w, Rule 4 of the
Insolvency and Bankruptcy Rules, 2016)*

In the matter of Danalakshmi Paper Mills Private Limited

ARJUN SAIKUMAR,

Proprietor of M/ s. S J International Trading
Having Office at: New No. 108, Old No. 85,
Perambur Eigh Road, Perambur,
Chennai – 600 011.

... Petitioner/ Operational Creditor

V/s

DANALAKSHMI PAPER MILLS PRIVATE LIMITED,

Having Office at: 10 Z Temple View, Krishnaswamy Naidu Layout,
Saibaba Mission Post, Coimbatore – 641 011.

... Respondent/ Corporate Debtor

Order pronounced on 29.05.2026

CORAM:

SHRI. JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)

SHRI. VENKATARAMAN SUBRAHMANIAM, MEMBER (TECHNICAL)

Present:

For Applicant: Rohan Rajasekaran & Ashlin Christo P R, Advocates

For Respondent: B. Dhanaraj, Advocate

ORDER

(Heard through Hybrid Mode)

Under consideration is a petition under Section 9 of IBC filed by

Mr. Arjun Saikumar, Proprietor of M/s. S J International Trading,

Petitioner/ Operational Creditor herein, against **Danalakshmi Paper**

Mills Private Limited, Respondent/ Corporate Debtor herein for

*CP(IBC)/200/(CHE)2023 In the matter of Danalakshmi Paper Mills Private Limited
Arjun Saikumar v/s Danalakshmi Paper Mills Private Limited*



initiating Corporate Insolvency Process (CIRP) against the Corporate Debtor.

2. SUBMISSIONS OF THE APPLICANT

2.1. Part I of the Application contains the particulars of the Applicant Arjun Saikumar, Proprietor of M/s. S J International Trading. Part II of the Application sets out the details of the Corporate Debtor. It was incorporated on 23.01.1980 with its nominal share capital of Rs. 21,00,00,000/- and paid up share capital of Rs. 14,51,54,560/- and address at 10 Z Temple View, Krishnaswamy Naidu Layout, Saibaba Mission Post, Coimbatore – 641 011, within the jurisdiction of this Tribunal. In Part III of the application, the Operational Creditor has not proposed anyone as the IRP. Part IV of the application sets out the details of the debt being Rs.1,25,95,497/- (Rupees one crore twenty five lakhs ninety five thousand four hundred and ninety seven only) being principal of Rs.89,78,530/- (Rupees eighty nine lakhs seventy eight thousand five hundred and thirty only) plus Rs. 36,16,967/- (Rupees thirty six lakhs sixteen thousand nine hundred and sixty only) along with interest at 24% per annum, as on 22.03.2022. This application has been filed on 20.11.2023.



2.2. The Applicant submits that it is engaged in the business of trading commodities, including coal products, and possesses experience in supply and procurement activities.

2.3. It is submitted that during the course of business dealings, the Corporate Debtor approached the Applicant and placed purchase orders for supply of various quantities of “Non-cooking steaming coal” and “Non-cooking coal”. Acting upon the assurances, representations and purchase orders issued by the Corporate Debtor, the Applicant supplied the materials from time to time and raised invoices in respect of the supplies made.

2.4. It is submitted that despite receipt of goods and continuation of business transactions, the Corporate Debtor failed to make complete payment towards the invoices raised. According to the Applicant, a principal amount of Rs.89,78,530/- remained due and payable by the Corporate Debtor. Interest was claimed at the contractual rate of 24% per annum from the respective dates of default, and as on the date of issuance of demand notice, the total claim amount stood at Rs.1,25,95,497/-, comprising principal and accrued interest.



2.5. It is further submitted that the liability of the Corporate Debtor is evidenced through purchase orders, unpaid and partly paid invoices, ledger accounts, e-mail correspondence exchanged between the parties, and cheques issued by the Corporate Debtor which were subsequently dishonoured upon presentation. The Applicant relies upon the said documents in support of the operational debt and occurrence of default.

2.6. It is submitted that a demand notice under Section 8(1) of the Code dated 16.10.2023 was duly issued and served upon the Corporate Debtor. However, despite service of notice, neither payment of the outstanding amount nor any notice raising a pre-existing dispute was received from the Corporate Debtor.

2.7. It is submitted that there exists a clear operational debt, which is due and payable, and that the Corporate Debtor has committed default within the meaning of Section 3(12) of the Code. There is no pre-existing dispute in respect of the operational debt claimed.

3. SUBMISSIONS OF THE RESPONDENT

3.1. The Respondent submits that the present petition is not maintainable either in law or on facts, and states that it is liable to be dismissed as the Applicant has suppressed material facts and initiated



the proceedings with a mala fide intention of subjecting the Corporate Debtor to CIRP.

3.2. It is contended that the claim amount of Rs.1,25,95,497/- comprising principal and interest has been grossly exaggerated and is contrary to the parties' own records.

3.3. It is stated that the Applicant filed the present Petition without disclosing the Reply Notice dated 08.11.2023 issued by the Corporate Debtor in response to the demand notice under Section 8 of the Code. According to the Respondent, the said reply had specifically disputed the claim and was served upon the Applicant prior to filing of the Petition. The Respondent contends that non-disclosure of the same amounts to suppression of a material document.

3.4. It is also stated that it had regular business dealings with the Applicant since the year 2021 and had placed orders for supply of "Non-cooking steaming coal". Though invoices were raised and payments were periodically made, disputes arose regarding the quality of goods supplied. It is stated that even during difficult market conditions and the Covid period, the Respondent had continued making payments to the Applicant.



3.5. It is contended that the Applicant's claim for interest at the rate of 24% per annum is untenable, as there was no agreement or contractual understanding between the parties providing for such interest. The invoices relied upon by the Applicant are stated to be unilateral in nature and not binding upon the Corporate Debtor. Accordingly, the Respondent disputes liability towards interest claimed by the Applicant.

3.6. It is further stated that there existed a pre-existing dispute regarding the quality of coal supplied by the Applicant. According to the Respondent, the goods supplied were substandard in quality and complaints in this regard had been communicated through telephone calls and emails, which were also acknowledged by the Applicant. It is stated that delay in payment occurred due to inferior quality of goods and the Applicant had allegedly promised adjustment of the corresponding losses.

3.7. It is specifically disputed that the account statement relied upon by the Applicant and contended that several entries were omitted or wrongly included. It is submitted that TDS amount of Rs.3,60,384/- paid by the Respondent was not accounted for and the Letter of Credit interest of Rs.8,06,397/- was wrongly debited to the Respondent though the same



was to be borne by the Applicant under the agreed terms. It was also submitted that losses on account of substandard coal amounting to Rs.35,19,360/- were not adjusted and also the differences existed in opening balances and overdue interest of Rs.36,16,967/- was wrongly debited. According to the Respondent, a sum of Rs.83,06,031/- had been incorrectly reflected in the Applicant's account.

3.8. It is finally stated that serious disputes regarding liability and quantum existed much prior to the issuance of demand notice and therefore the present Petition under Section 9 of the Code is not maintainable.

4. SUBMISSIONS OF THE APPLICANT IN REJOINDER

4.1. The Applicant has denied the averments made in the Reply filed by the Respondent/ Corporate Debtor and submitted that the allegations regarding suppression of facts and exaggeration of the claim amount are false and baseless.

4.2. It is contended that even according to the Respondent's own pleadings and ledger account, there is an admitted principal liability of Rs.78,08,826/- payable as on 31.10.2023, which itself establishes the subsistence of operational debt.



4.3. It is further submitted that apart from the principal outstanding amount, the Respondent is also liable to pay interest at the rate of 24% per annum in terms of the invoices raised. It is stated that a debit note dated 16.10.2023 for contractual interest amounting to Rs.36,16,967/- had been raised and the same was admittedly received by the Respondent, as evident from the documents annexed to the Reply itself.

4.4. It is contended that in commercial transactions, delayed payments ordinarily attract interest and therefore the total operational debt would include both the principal sum and accrued interest, thereby crossing the statutory threshold under the Code.

4.5. It is further submitted that in response to the Respondent's contention regarding suppression of the reply notice, the demand notice under Section 8 dated 16.10.2023 was served upon the Corporate Debtor on 21.10.2023 and no reply was received within the statutory period of ten days. Consequently, a no-dispute affidavit dated 11.11.2023 was sworn and the present petition under Section 9 was filed thereafter.

4.6. It is contended that even assuming the alleged reply notice was served subsequently, the contents thereof do not disclose any genuine



pre-existing dispute and the disputes now sought to be raised are only an afterthought.

4.7. The Applicant has denied the Respondent's contentions regarding debit notes and alleged adjustments. It is submitted that no debit notes relating to TDS, quality difference, or Letter of Credit interest were ever served upon the Applicant. According to the Applicant, the documents produced by the Respondent do not establish service of such debit notes and appear to have been created belatedly for the purpose of raising artificial disputes in the present proceedings.

4.8. It is further submitted that the Letter of Credit interest charges are solely attributable to the Respondent, as the Letter of Credit arrangements were entered into by the Respondent with its banker and the Applicant had no role in the same. Therefore, the Applicant disputes any attempt to shift such liability upon it.

4.9. It is further stated that cheques issued by the Respondent constitute acknowledgment of liability and once a cheque is issued, a presumption operates in favour of the holder and even where payment has been stopped by the drawer, the Respondent remains liable for the cheque amount and consequences under the law would follow.



4.10. It is finally clarified that the debit note for interest on delayed payments had been raised in accordance with invoice terms and issuance of such debit note would not dilute the contractual liability of the Respondent to pay interest at 24% per annum. On the above grounds, the Applicant submits that the debt amount clearly exceeds the statutory threshold and seeks admission of the present Petition and initiation of CIRP against the Corporate Debtor.

5. WRITTEN SUBMISSIONS OF THE APPLICANT

5.1. The Applicant submits that the objections raised by the Respondent regarding suppression of material facts and non-production of the earlier demand notice are misconceived.

5.2. It is contended that there was no requirement to file all previous notices, particularly when no dispute had been raised pursuant to the earlier notice and subsequent part-payments were made by the Respondent while continuing business transactions.

5.3. It is further submitted that the earlier demand notice was subsequently placed on record through affidavit dated 02.07.2024.



5.4. It is submitted that the Respondent's reliance upon the debit note pertaining to overdue interest and alleged reversal through GST returns is misplaced.

5.5. It is also submitted that the debit note was never relied upon in Form-5 or in the documents filed in support of operational debt and default. According to the Applicant, issues relating to GST compliances do not affect adjudication of default under Section 9 of the Code when there exist sufficient materials evidencing debt and default, including acknowledgements of liability by the Respondent.

5.6. It is further submitted that the Respondent had categorically acknowledged its liability and guaranteed payment of the outstanding dues with interest through email dated 19.05.2023.

5.7. It is contended that the Respondent had expressly agreed to delayed payment interest at 24% per annum and therefore the liability towards interest is contractual and enforceable.

5.8. It is submitted that the decisions relied upon by the Respondent including Mobilox and other authorities are distinguishable on facts. According to the Applicant, there was no pre-existing dispute prior to issuance of the statutory demand notice and the allegations now raised



are mere afterthoughts and moonshine defences intended to reduce the claim below the statutory threshold.

5.9. It is contended that unlike the cited cases, the present case involved clear acknowledgements of debt and a specific interest clause providing for “24% p.a.” on delayed payments.

5.10. It is further submitted that during pendency of the proceedings, this Tribunal had directed parties to explore settlement as the principal amount stood substantially admitted by the Respondent. However, despite seeking repeated adjournments under the guise of settlement, no genuine efforts were made by the Respondent.

5.11. It is submitted that on 13.01.2026, the Respondent offered to pay the principal amount of approximately Rs.89 lakhs and undertook to pay Rs.5 lakhs by 31.03.2026 along with a repayment schedule, but failed to honour the said undertaking.

5.12. It is finally submitted that the conduct of the Respondent and its group concerns demonstrates repeated abuse of the insolvency process and continued default in payment obligations.

6. WRITTEN SUBMISSIONS OF THE RESPONDENT



6.1. The Respondent submits that the present Company Petition is liable to be dismissed at the threshold as the Applicant/ Operational Creditor has not approached this Tribunal with clean hands and has suppressed material facts with an intention to mislead the Tribunal. It is contended that suppression of material particulars disentitles a party from seeking relief under the Code.

6.2. It is further submitted that the Applicant deliberately suppressed receipt of the Reply Notice dated 08.11.2023, wherein the debt had been disputed on various grounds. According to the Respondent, the reply notice had been delivered to the counsel for the Applicant on 11.11.2023, prior to filing of the Petition.

6.3. It is stated that despite having sufficient opportunity, the Applicant allegedly failed to disclose the same and proceeded to aver that no reply had been received, while also filing an affidavit under Section 9(3)(b) of the Code asserting absence of any dispute.

6.4. It is further stated that in view of the law laid down in *Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd.* and subsequent judgments, existence of a genuine dispute prior to issuance of the statutory demand notice is sufficient for rejection of an application under



Section 9 of the Code and the Tribunal is not required to examine the merits of such dispute.

6.5. Reliance is also placed on decisions including *Kay Bouvet Engineering Ltd. v. Overseas Infrastructure Alliance (India) Pvt. Ltd.*, *OPGS Power Gujarat Pvt. Ltd. v. R.L. Steels & Energy Ltd.*, and *Mangalam Timber Products Ltd. v. Shree Distributors Pvt. Ltd.*, to contend that suppression of a notice of dispute and failure to disclose the same in an affidavit under Section 9(3)(b) are sufficient grounds for dismissal.

6.6. It is additionally stated that the Applicant's claim towards interest is legally unsustainable in the absence of any contractual agreement or corresponding clause in the purchase orders. In this regard, reliance is placed on *Pramod Kumar Jain v. Mangesh Vitthal Kekre, IRP of Aryan Ispat & Power Pvt. Ltd. and Shitanshu Bipin Vora v. Shree Hari Yarns Pvt. Ltd.*, wherein it was held that unilateral interest clauses contained in invoices cannot be treated as enforceable operational debt under Section 5(21) of the Code.

7. FINDINGS OF THE TRIBUNAL



7.1. We have heard the Learned Counsel appearing for the Applicant / Operational Creditor and the Learned Counsel appearing for the Respondent / Corporate Debtor, and perused the documents placed on record by both sides.

7.2. The present Petition has been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 seeking initiation of Corporate Insolvency Resolution Process against the Corporate Debtor on account of default in payment of amounts arising from supply of coal made by the Applicant in the ordinary course of business.

7.3. It is not disputed that commercial transactions exists between the parties concerning supply of coal pursuant to purchase orders placed by the Corporate Debtor. The Applicant has produced invoices, account statements, correspondence and documents evidencing supply of goods. The Corporate Debtor itself does not dispute the business relationship or supply transactions between the parties.

7.4. The Applicant has relied upon invoices, statement of accounts, correspondence exchanged between the parties and other supporting documents to establish the operational debt and default. The materials on record further indicate that payments had been made by the



Corporate Debtor on various occasions and that the business relationship between the parties continued over a considerable period.

7.5. The primary defence of the Corporate Debtor is that disputes existed regarding the quality of goods supplied and that various adjustments towards TDS, Letter of Credit charges and other accounting entries are liable to be given effect to. According to the Corporate Debtor, the existence of such dispute bars admission of the present Petition.

7.6. We have carefully examined the said contention. Significantly, no contemporaneous material has been placed before this Tribunal to demonstrate that any dispute regarding quality of goods had been raised prior to issuance of the demand notice under Section 8 of the Code. Apart from the assertions made in the Reply Notice and subsequent pleadings, no correspondence, inspection report, rejection note, debit note acknowledged by the Applicant, or any other contemporaneous record has been produced evidencing existence of such dispute before initiation of proceedings under the Code. The dispute only be treated as a dispute if it is brought to the notice of applicant in initial stage, but not as an afterthought.



7.7. The Hon'ble Supreme Court in *Mobilox Innovations Private Limited v. Kirusa Software Private Limited* has held that the Adjudicating Authority is required to ascertain whether there exists a real dispute and whether such dispute was in existence prior to receipt of the demand notice. The dispute must be genuine and supported by material and cannot be a mere bluster, assertion or afterthought raised to avoid insolvency proceedings.

7.8. In the facts of the present case, the objections relating to quality of goods and consequential adjustments appear to have been raised only after receipt of the statutory demand notice. The materials placed before this Tribunal do not establish existence of any genuine pre-existing dispute as contemplated under Sections 8 and 9 of the Code.

7.9. It is also relevant to note that the record reflects acknowledgment of outstanding liability by the Corporate Debtor during the course of dealings between the parties. Even during pendency of the proceedings, attempts at settlement were undertaken and proposals for payment of the outstanding dues were discussed. Such conduct is inconsistent with the stand that bona fide of debt itself is disputed.



7.10. The Corporate Debtor has also questioned the Applicant's claim towards interest. However, irrespective of the rival contentions concerning the exact quantification of the claim, the materials available on record clearly establish the existence of operational debt and default. The objections raised by the Corporate Debtor do not, in our considered view, constitute a genuine pre-existing dispute sufficient to defeat an application under Section 9 of the Code.

7.12. This Adjudicating Authority is mindful of the settled principle that the Insolvency and Bankruptcy Code is not intended to serve as a substitute for recovery proceedings. Equally, a Corporate Debtor cannot avoid the rigours of the Code by raising unsupported disputes after receipt of a statutory demand notice. The defence raised must be real, substantial and supported by contemporaneous material.

7.13. It is also relevant to note that the Applicant has claimed interest on delayed payments arising out of the transactions between the parties. The Hon'ble NCLAT in *Prashant Agarwal v. Vikash Parasrampuriah, Company Appeal (AT) (Ins) No. 690 of 2022*, has observed that interest on delayed payment may form part of the debt claim under the provisions of the Code. In the facts of the present case, however, this



Bench need not enter into a detailed adjudication regarding the exact quantification of such interest in view of the materials on record establishing operational debt and default and the absence of any genuine pre-existing dispute.

7.14. Having considered the entire factual matrix and the documents placed on record, we are satisfied that the Applicant has established the existence of operational debt and occurrence of default and that no genuine pre-existing dispute has been demonstrated by the Corporate Debtor.

7.15. Therefore, the present Company Petition deserves to be admitted under Section 9 of the Insolvency and Bankruptcy Code, 2016 and Corporate Insolvency Resolution Process be initiated against **Danalakshmi Paper Mills Private Limited.**

7.16. In the present case, the Operational Creditor has not named the Insolvency Resolution Professional in Part – III of the Application. Hence, this Tribunal appoints **Krishnasamy Vasudevan**, having Reg No: **IBBI/ IPA-001/IP-P00155/2017-2018/10324**, (email id: **cavasu1967@gmail.com**) who is having **AFA till 30.06.2027** as the “Interim Resolution Professional” (IRP) in respect of the Corporate Debtor. The IRP appointed shall take in



this regard such other and further steps as are required under the Code, more specifically in terms of Section 15,17,18 of the Code and file the report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

7.17. As a consequence of the Application being admitted in terms of Section 9(5) of the Code, the moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:

- “a. The institution of suits or continuation of pending suits or proceedings against the respondent 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 respondent 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 respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*
- d. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the respondent.*



Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;”

7.17. However, during the pendency of the moratorium period in terms of Section 14(2) (2A) and 14(3) as extracted hereunder:

“(2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.

(3) The provisions of sub-section (1) shall not apply to



(a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;

(b) a surety in a contract of guarantee to a corporate debtor.”

7.18. The duration of the period of moratorium shall be as provided in Section 14(4) of the Code and for ready reference reproduced as follows:

“(4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process: Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be.”

7.19. The Operational Creditor is directed to pay a sum of Rs.2,00,000/- (Rupees Two lakh only) to the Interim Resolution Professional upon the Interim Resolution Professional filing the necessary declaration form as required under the provisions of the Code to meet out the expenses to perform the functions assigned to her in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.



7.20. Based on the above terms, the Application stands admitted in terms of Section 9(5) of IBC, 2016 and the moratorium shall come in to effect as of this date. A copy of the Order shall be communicated to the Operational Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named be also furnished with copy of this Order forthwith by the Registry, who will also communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.

7.21. Accordingly, **CP(IBC)200/(CHE)2023** is **allowed**.

-Sd-
VENKATARAMAN SUBRAHMANIAM
MEMBER (TECHNICAL)

-Sd-
JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)