

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: MS. REETA KOHLI,
HON'BLE JUDICIAL MEMBER
MS. KAVITA BHATNAGAR
HON'BLE TECHNICAL MEMBER

CP No. (IB)- 83/9/JPR/2025

(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:

M/S PARMOD SHARMA CONTRACTORS

...Operational Creditor/ Petitioner

VERSUS

SBCC INFRA PRIVATE LIMITED

...Corporate Debtor/ Respondent

MEMO OF PARTIES

M/S PARMOD SHARMA CONTRACTORS,
Through Partner Sh. Pramod Sharma,
R/o: - 70-B, Sudama Nagar, Indore,
Madhya Pradesh- 452009.

... Petitioner

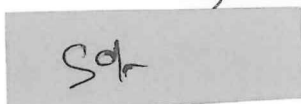
VERSUS

SBCC INFRA PRIVATE LIMITED
R/o: 81-82/194, Banar Road, Madan
Mohan Vihar Khakkroya, Jodhpur,
Rajasthan- 342027.

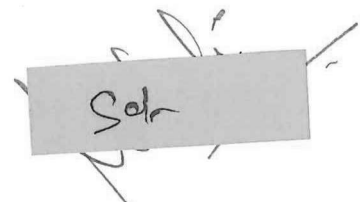
... Respondent

For the Petitioner

: Amol Vyas, Adv.
Abhishek Purohit, Adv.



CP No. (IB)- 83/9/JPR/2025



Order Pronounced On: 14.10.2026

ORDER

Per: Ms. Kavita Bhatnagar, Technical Member

1. The present Petition has been filed by *M/s Parmod Sharma Contractors Through its Partner Shri Pramod Sharma* ('Operational Creditor'/ 'Petitioner') seeking to initiate Corporate Insolvency Resolution Process ('CIRP') against *SBCC Infra Private Limited* ('Corporate Debtor'/ 'Respondent') under Section 9 of the Insolvency and Bankruptcy Code, 2016 ('IBC' / 'Code') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 ('Rules').
2. The Respondent, *SBCC Infra Private Limited*, is a private limited company incorporated on 11.05.2018, having CIN: U45309RJ2018PTC061218. The Respondent has an Authorised Share Capital of Rs. 25,00,00,000/- (Rupees Twenty-Five Crores Only) and Paid-Up Share Capital of Rs. 14,07,25,300/- (Rupees Fourteen Crores Seven Lakhs Twenty-Five Thousand Three Hundred Only).
3. The details of the transactions leading to the filing of this Application as averred by the Applicant are as follows:

3.1 It is stated that the Respondent, *SBCC Infra Private Limited* was awarded a tender by the *West Central Railways* bearing *Tender No. DYCE-C-III-BPL-01-2020*. Owing to a non-availability of full

Sd/-

CP No. (IB)- 83/9/JPR/2025

Sd/-

resources, the Respondent sub-contracted the said project, valued at Rs. 72,07,06,277/-, to the Petitioner vide Letter of Award (LOA) dated 10.06.2023 for the construction of a 23 km railway line between Km 188 to Km 211 under *Biaora* and *Narsinghgarh* stations, Madhya Pradesh. To execute the assigned earthwork and mobilization of plant and machinery, the Petitioner made substantial financial investments, including funds borrowed from financial institutions.

- 3.2 It is submitted that the Operational Creditor diligently executed the awarded work in good faith and raised invoices upon the Respondent from time to time based on the work completed. However, the Respondent made only partial payments against the said invoices, leaving substantial operational dues unpaid.
- 3.3 It is averred that on account of such default, the Operational Creditor suffered severe financial losses, including idle machine time, mobilization expenses, and standing charges, the detailed tabular statement of which is annexed as Annexure A7 of this Petition.
- 3.4 It is further submitted that on 15.03.2025, the Operational Creditor issued a formal email to the Corporate Debtor requesting clearance of the pending dues and reiterating the significant capital expenditure incurred on machinery mobilization.

Sd/-

Sd/-

3.5 The Operational Creditor also submitted representations dated 26.01.2025 and 20.03.2025 to the *Dy. Chief Project Manager (Dy. CPM), Railways*, seeking intervention; however, vide response dated 26.03.2025, the Railway Authority clarified that no direct contractual relationship existed between the Railways and the Operational Creditor, and advised the Operational Creditor to directly approach the Corporate Debtor, in whose favour the project debits had been allocated.

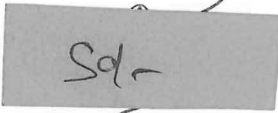
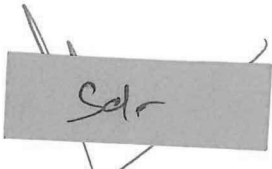
3.6 It is stated that while the Corporate Debtor deducted Tax Deducted at Source (TDS) on the payments made, it failed to clear the principal outstanding balance for the completed work. To further avoid payment obligations, the Corporate Debtor removed the Operational Creditor from the project's official communication WhatsApp group immediately upon completion of the work, thereby acting in bad faith while remaining indebted to the Operational Creditor to the extent of a principal amount of Rs. 4,41,64,402.72/-.

3.7 It is averred that the Operational Creditor is an enterprise registered under the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006, and has claimed interest under Section 16 of the MSMED Act, 2006, quantified at Rs. 72,42,567/- as on the date of filing.

Sd/-

Sd/-

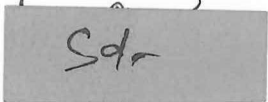
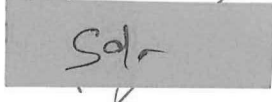
- 3.8 It is submitted that following the date of default on 28.12.2024, the total operational debt due and payable by the Corporate Debtor stands at Rs. 5,14,04,969/- (inclusive of principal and interest), as detailed in the computation chart annexed as Annexure 12 of this Petition. The statutory Demand Notice was issued by the Petitioner on 07.07.2025. However, it is alleged the same was refused to receive by the Respondent. Further, the Petitioner vide affidavit dated 05.08.2025 has submitted the postal receipt and tracking report. It is submitted that the Corporate Debtor also stands served with the advance copy of the demand notice and Petition, through email.
- 3.9 The Petitioner vide affidavit dated 03.09.2025 submitted documents supporting the completion of work i.e. Allocation Statement by the Office of the Dy Chief Engineer, West Central Railways to the Respondent for the work done, and Contractors Measurement book.
- 3.10 The Form-C is submitted to the Information Utility (NeSL) is annexed as Annexure A-13 of the Petition and the Petitioner has proposed *Shri Satyendra Prasad Khorania* to act as Interim Resolution Professional in Part III of the Petition.
4. Despite service of notice and sufficient opportunities granted vide order dated 27.03.2026, 11.05.2026, the Respondent failed to file its reply within the time stipulated by this Adjudicating Authority and its right to file reply

Sd/-Sd/-

consequently stood forfeited vide order dated 26.05.2026. The Respondent further failed to appear and advance the arguments, constraining this Adjudicating Authority to proceed with the matter vide order dated 14.09.2026. Nevertheless, the absence of a reply does not relieve this Adjudicating Authority of its obligation to independently determine whether the essential ingredients for admission of a Petition under Section 9 of the Code are satisfied based on the material placed on record.

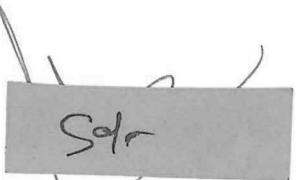
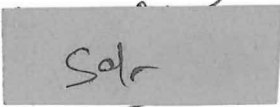
Analysis and Findings

5. We have heard the learned counsel for the Petitioner and perused the records to decide the matter on merits in accordance with the provisions of law.
6. The Respondent / Corporate Debtor, despite service of notice, failed to appear before this Adjudicating Authority to contest the matter. As such, the Corporate Debtor was directed vide order dated 31.08.2026, that *"in case the respondents wish to advance the arguments, they may do so on the next date of hearing or otherwise the Court shall be constrained to proceed with the matter"* and was proceeded vide order dated 14.09.2026. Nevertheless, this Adjudicating Authority deems it appropriate to examine the Petition on its merits based on the pleadings and documents placed on record.
7. The material placed before us shows that the Corporate Debtor was awarded the railway project bearing Tender No. *DYCE-C-III-BPL-01-2020* and thereafter, vide Letter of Award dated 10.06.2023, entrusted the Petitioner

SdrSdr

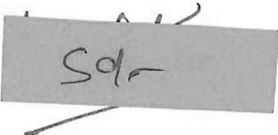
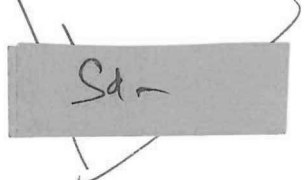
with execution of the specified work forming part of the said project. The Petitioner claims to have executed the work and raised bills from time to time, against which payments were admittedly received only in part. The Petition is supported, inter alia, by the Letter of Award, the ledger account, bank statement, Form 26AS reflecting deduction of tax at source, the record submitted to the Information Utility and the documents subsequently placed on record through affidavit dated 03.09.2025, including the Allocation Statement issued by the office of the concerned Railway authority and the Contractor's Measurement Book. The latter documents have been relied upon by the Petitioner in support of the work having actually been executed. The Form 5 itself records the principal outstanding operational debt at Rs. Rs. 4,41,62,402.72.

8. The Petitioner has stated the date of default as 28.12.2024, being the date on which the last part payment was received from the Corporate Debtor. The amount claimed in default in Form 5 is Rs. 5,14,04,969/-, comprising the principal amount claimed for the work executed together with interest claimed by the Petitioner under the MSMED Act, 2006. For the purpose of the present proceedings, it is not necessary for us to finally determine the Petitioner's entitlement to the entire interest component claimed under the MSMED Act. Even independently thereof, the principal operational debt



claimed at Rs. 4,41,62,402.72 is substantially above the minimum threshold prescribed under Section 4 of the Code.

9. The Petitioner has further placed reliance upon Form 26AS showing deduction of TDS by the Corporate Debtor in relation to payments made, correspondence seeking release of the outstanding dues, the ledger account and bank statement, besides the documents relating to measurement/allocation of the work. It is also material that when the Petitioner approached the Railway authorities, the response dated 26.03.2025 did not dispute the execution of the underlying railway project but clarified that there was no contractual relationship between the Railways and the Petitioner and that the Petitioner should approach the Corporate Debtor. The cumulative effect of these documents has to be considered together and not by treating any one of them, such as the TDS entries, as by itself constituting conclusive acknowledgment of the entire amount claimed.
10. The statutory demand notice under Section 8 of the Code was thereafter issued upon the Corporate Debtor. The Petitioner has placed on record the postal receipt and tracking report date of service and has also stated that the notice and advance copy of the Petition were transmitted through electronic mail. The Corporate Debtor did not make payment pursuant to the demand notice nor has replied to the demand notice nor any dispute been brought to our notice. The Corporate Debtor also failed to file its reply to the present

Sd/-Sd/-

Petition despite opportunities, resulting in forfeiture of its right to file reply and it was subsequently proceeded vide order dated 14.09.2026.

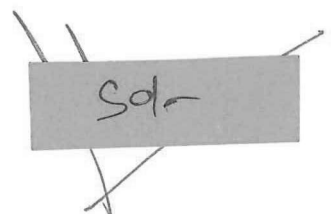
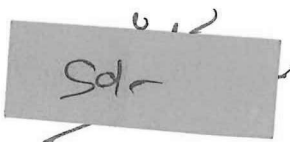
11. The legal position governing an application by an Operational Creditor is well settled. In *Mobilox Innovations Private Limited vs. Kirusa Software Private Limited, (2018) 1 SCC 353*, the Hon'ble Supreme Court explained that at the stage of considering an application under Section 9, the Adjudicating Authority is required to see whether there is a plausible contention requiring further investigation and whether the dispute raised is not a patently feeble legal argument or an assertion unsupported by evidence. Where a genuine dispute existed prior to receipt of the demand notice, the insolvency process cannot be invoked for its adjudication. The statutory scheme also requires the Section 8 demand notice or invoice demanding payment to precede the Section 9 application; *Macquarie Bank Ltd. vs. Shilpi Cable Technologies Ltd., (2018) 2 SCC 674*, reiterates the significance of compliance with this requirement.
12. Applying the aforesaid test to the present case, no material has been brought before us evidencing any dispute raised by the Corporate Debtor prior to issuance of the demand notice concerning the existence of the debt, the execution or measurement of the work, or the liability to make payment therefor. We are conscious that mere absence of a reply by the Corporate Debtor cannot by itself establish the debt and default. The Petition must

Sdr

Sdr

succeed on the strength of the Operational Creditor's own material. In the present case, however, the Letter of Award, documents relating to execution and measurement of the work, part payments, ledger and banking material, TDS material and the other documents placed on record, considered cumulatively, establish the underlying transaction and unpaid operational liability. There is equally no material on record disclosing a pre-existing dispute of the nature contemplated under Section 8(2) of the Code.

13. We are therefore satisfied that an operational debt is due and payable by the Corporate Debtor to the Operational Creditor; that default has occurred in payment thereof; that even excluding the interest claimed under the MSMED Act, the amount in default exceeds the threshold prescribed under Section 4 of the Code; that the requirements of Sections 8 and 9 stand complied with; and that there is no material on record evidencing the existence of a pre-existing dispute. The Petition is accordingly liable to be admitted under Section 9(5)(i) of the Code.
14. In the instant case, the Operational Creditor has proposed the name of *Mr. Satendra Prasad Khoriana*, bearing Registration No. IBBI/IPA-002/IP-00002/2016-2017/10002, as the IRP in the present matter. The said IRP has filed his written consent to act as an interim resolution professional in Form-2 provided under Rule 9 of the Insolvency and Bankruptcy Board of India



(Application to Adjudicating Authority) Rules, 2016. But on perusal of the assignment, it is seen that he is having assignment more than 10.

15. Therefore, we hereby appoint **Mr. Aman Vijay**, Insolvency Professional having Registration No. IBBI/IPA-001/IP-P-2831/2023-2024/14378, address; Flat No.102, Model Town Road / Jagatpura Road, Opposite Government nursery Jagatpura, Jaipur, Rajasthan-302017, Email: ipamanvijay@gmail.com, Mobile No. 9782097824 to act as the Interim Resolution Professional subject to verification from the IBBI website that his authorization for assignment is valid and that no disciplinary proceedings are pending against him as on the date of admission, we find no impediment to his appointment as Interim Resolution Professional.
16. Accordingly, **CP No. (IB)-83/9/JPR/2025** is **admitted** and the Corporate Insolvency Resolution Process of *SBCC Infra Private Limited* is hereby initiated. Consequent upon admission, moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 shall come into effect from the date of this order. The prohibitions contained in Section 14(1) shall operate during the period prescribed under the Code.
17. The personnel of the Corporate Debtor, its promoters and persons associated with its management shall extend all assistance and cooperation to the Interim Resolution Professional as contemplated under Section 19 of the Code. The Operational Creditor shall deposit with the Interim Resolution

✓
Sd/-

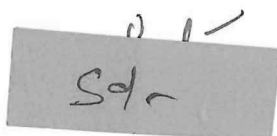
CP No. (IB)- 83/9/JPR/2025

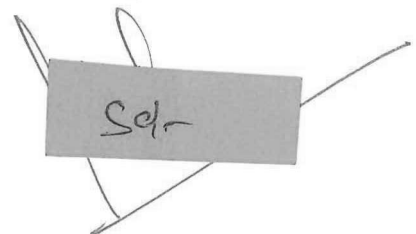
✓
Sd/-

Professional a sum of **Rs. 1,00,000/- (One lakh)** towards the initial CIRP expenses, subject to adjustment by the Committee of Creditors in accordance with law.

18. Consequences of initiation of CIRP shall be inter-alia as follows:

- a. The IRP appointed by the Adjudicating Authority, is directed to take over the affairs of the Corporate Debtor and duties as required to be performed by him under the provisions of Code including issue of publication in widely circulated Newspapers as contemplated under the provisions of the Code and calling for claims from the creditors of the Corporate Debtor; and collation of the same shall be done.
- b. Further, as a sequel of admission, moratorium as envisaged under Section 14 of IBC, 2016 is invoked concerning the Corporate Debtor, which will be in vogue during the Corporate Insolvency Resolution Process of the Corporate Debtor. The IRP shall carry out CIRP strictly as per the timelines specified and as envisaged under the provisions of IBC, 2016 in relation to the Corporate Debtor.
- c. The said IRP shall act strictly in compliance with the provisions of IBC, 2016 and defray his expenses to be incurred and fees on the account. The Petitioner is directed to act in accordance with Regulation 33(1) of the Insolvency and Bankruptcy (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Petitioner shall deposit an





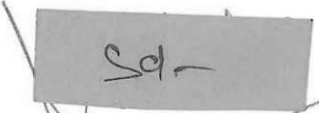
amount of Rs. 1,00,000/- (Rupees One Lakh Only) towards the initial CIRP expenses, subject to adjustment by the Committee of Creditors in accordance with law within three days from the date of this order. The IRP shall spend the above amount towards expenses and not towards fee till his fee is decided by CoC.

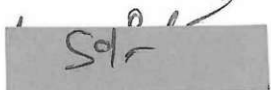
- d. In terms of Section 17 & 19 of IBC, 2016, all personnel of the Corporate Debtor including promoters and Board of Directors, whose powers shall stand suspended, shall extend all cooperation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP.
- e. Further, in term of Regulation 4(3) of the IBBI (Resolution Process For Corporate Persons), 2016 the creditors shall provide information in respect of assets and liabilities of the Corporate Debtor to the IRP and it is incumbent upon the IRP also to approach the Creditors to seek such information.
- f. The Interim Resolution Professional (IRP) is also directed to inform and forward a copy of this Order to all the statutory authorities such as Enforcement Directorate, Employees Provident Fund Organization (EPFO), Income tax department and concerned Electricity department about the initiation of CIRP against the Corporate Debtor within a period of three days.

0 1 ✓
Sdr

Sdr

- g. In terms of Section 9 of IBC, 2016, the Registry is directed to communicate this Order to the Petitioner, the Corporate Debtor, and the Interim Resolution Professional (IRP) appointed by this Adjudicating Authority within 3 days of passing of the Order.
- h. A Copy of this order shall also be communicated to IBBI for its record, and to any other body/entity to whom the Corporate Debtor is under legal/contractual obligation to inform/update.
19. Hence, **CP (IB) No. 83/9/JPR/2025 is admitted.**


REETA KOHLI
JUDICIAL MEMBER


KAVITA BHATNAGAR
TECHNICAL MEMBER

RR/LRA