IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH, (COURT NO.-II)

KOLKATA

C.P. (I.B)/6(KB)2026

Date of Order: 06.11.2026

Application under Section 9 of Insolvency and Bankruptcy Code, 2016

IN THE MATTER OF:

THENDIYAKAVO KOYAKUTTY HASSAN OF PROPRIETOR HASSAN BROTHERS having registered at 13/3A, Menambedu, Padi, Chennai, Tamil Nadu – 600050, India.

... Petitioner

And

IN THE MATTER OF:

HEAVY ENGINEERING CORPORATION PRIVATE LIMITED (CIN No. U27100JH1958GOI000630)(Formerly: Heavy Engineering Corporation Limited) having registered address at H.E.C. Administrative Building, Plant Plaza Road, Ranchi, Jharkhand – 834004, India

... Respondent

CORAM:

Shri. Labh Singh, Hon'ble Member (Judicial)

Ms. Rekha Kantilal Shah, Hon'ble Member (Technical)

Counsel appeared through physically or virtually

Mr. Sanjay Kumar Ruia, PCA] For Operational Creditor

Respondent Ex-parte vide order dated

O R D E R

(Heard Through Hybrid Mode)

LABH SINGH, MEMBER (JUDICIAL)

1. This is an application filed by, Mr. Thendiyakavo Koyakutty Hassan (Proprietor of Hassan Brothers) the applicant seeking initiation of CIRP against the Respondent company, Heavy Engineering Corporation Private Limited, under Section 9 of Insolvency and Bankruptcy Code, 2016 (Hereinafter referred as "IBC" or "The Code") for the alleged default on the part of the Corporate Debtor having an outstanding balance of Rs. 6,63,02,976.47/- on account of procurement, supply, and fabrication of Horizontal Sliding Doors (Hereinafter referred as "HSD") and erection and commissioning of 10 sets of Folding Platforms (Hereinafter referred as "FP") to the corporate debtor.

2. The details of transactions leading to the filing of this petition as averred by the applicant are as follows:

2.1 The applicant is a prominent player in the field of Mechanical Engineering, Located in the Ambattur Industrial Estate in Chennai, India, established in 1982 by Mr. T.K. Hassan, and is a Small Enterprise registered under MSME. The company specializes in undertaking challenging turnkey

projects and is one of the approved and recommended erection agencies by ISRO for the Launch of Second Launch Pad. The Corporate Debtor was incorporated on 31st December, 1958, and is classified as a Government of India Undertaking.

2.2 As per Part-IV of the application, an amount of Rs. 3,47,41,586.04 is still due and outstanding to be paid by the Corporate Debtor for the principal debt, with the total claim including interest amounting to Rs. 6,63,02,976.47 as of 15.07.2026. This debt arises from two work orders: Work Order No. HEC/MKTG/ISRO/HSD/2019-20/553 dated 11.07.2019 for the procurement, supply, and fabrication of HSD and Work Order No. HMB/MKTG/ISRO/FP/2019-20/2384 dated 01.05.2020 for the erection and commissioning of 10 sets of FP.

2.3 The Petitioner raised four tax invoices totalling Rs. 6,65,28,980/- on the Corporate Debtor, against which the Corporate Debtor released partial payments amounting to Rs. 2,17,87,393.96 including TDS. The date of default is 26.03.2021, being 30 days from the date of the first billing when the amount remained partly paid as per the 30-day credit period stipulated in the work orders.

2.4 The applicant issued a Demand Notice u/s 8 of the Code in Form 3 and Form 4 on 15.10.2025, which was served at the registered office of the Corporate Debtor and via email on 14.10.2025.

2.5 The chronology of events shows that the Petitioner received an advance of Rs. 29,28,000/- on 12.09.2019. During the execution of works, the Corporate Debtor issued Supply Completion Reports on 15.02.2021 and 18.02.2021, and the Petitioner raised the first Tax Invoice on 24.02.2021 for Rs. 2,95,55,226/-. However, on 16.03.2021, the Corporate Debtor deducted Liquidated Damages of Rs. 25,04,680/- plus IGST of Rs. 4,50,842/- for alleged delays in supplies during the pandemic period.

2.6 Subsequently, multiple Joint Inspection Reports and Erection Completion Reports were signed by both parties between 2022 and 2024, confirming the completion of Mechanical Erection Work for both HSD and FP. On 10.06.2023, the Petitioner raised and then cancelled two tax invoices (Tax Invoice Nos. HB/025/23-24 and HB/26/23-24) for non-payment of GST dues and previous outstanding dues by Heavy Engineering Corporation Private Limited. Finally, on 28.05.2025, the Petitioner re-raised tax invoices (Tax Invoice Nos. HB/020/25-26 and HB/021/25-26) for Rs. 1,04,45,205/- and Rs. 1,28,69,505/- following requests to reverse invoices for the release of retention money.

2.7 It is submitted that, as a MSME-based company, it is entitled to receive interest at three times the RBI Repo Rate at monthly rest in case of default, as per MSME guidelines. It is further submitted that interest on delayed

payment was clearly stipulated in the invoices and therefore forms a part of the "debt" under Section 3(6) of the IBC, a position supported by the Hon'ble NCLAT in the matter of Prashat Agarwal versus Vikash Parasrampuria & Ors. Company Appeal (AT)(Ins) No. 690 of 2022 [(2022) ibclaw.in 509 NCLAT].

2.8 It is submitted that there is no "dispute" as defined under Section 5(6) of the Code, as the Respondent Company has never disputed the quality of work or the invoices raised. On the contrary, the Petitioner has placed on record email correspondence from the Corporate Debtor, specifically on **page 232 (ANNEXURE "AC")**, where the Respondent admits to facing "acute financial problems," and another email where they requested fresh bills to "proceed for payment," which constitutes an absolute acceptance of liability.

2.9 It is submitted that the Corporate Debtor has failed to comply with the payment terms of 30 days despite being well aware of the Petitioner's MSME registration. The Petitioner has consistently followed up for payment through emails and WhatsApp communications and even requested the MB Book for certifying the work done, but all efforts were in vain.

3. The Corporate Debtor appeared in pursuance of notice issued by this Tribunal through Mr. Riyanshu Aggarwal. Despite sufficient opportunities being granted, the Corporate Debtor failed to file its reply affidavit. On 10.06.2026, Learned

Counsel for the Corporate Debtor submitted that a copy of the petition had not been supplied; however, this submission was found to be contrary to the case record. Accordingly, the stage for filing the reply affidavit was closed.

4. On 07.07.2026 none appeared for the Corporate Debtor. Consequently, this Tribunal specifically observed that though the Corporate Debtor appeared through Mr. Riyanshu Aggarwal Advocate but none remains present for the Corporate Debtor on 07.07.2026. Therefore, the case proceeded ex-parte against the Corporate Debtor vide order dated 07.07.2026. The case was listed for ex-parte hearing on. 15.07.2026. The matter was heard ex-parte on 15.07.2026 and reserved for pronouncement of judgment.

5. During dictation of the judgment, this Tribunal noted that entire order sheet and record of the case reveals that there is letter of authority or power of Attorney in favour of Mr. A A Chakraborty and Mr. Riyanshu Agggarwal Advocates who have appeared for the Corporate Debtor on 08.04.2026 and 10.06.2026. Therefore, the Chairman and Managing Director of the Corporate Debtor was directed to clarify on the said aspect. Upon clarification, it was submitted by the CMD of the Corporate Debtor that it had engaged S K Ray & Co. LLP to appear in the present matter. The said S K Ray & Company has authorised Mr. A A Chakraborty and Mr. Riyanshu Agggarwal Advocates to appear in the present matter. Thus,

it has been confirmed by the Corporate Debtor that it was properly represented by S K Ray & Company through its Advocates Mr. A A Chakraborty and Mr. Riyanshu Agggarwal on 08.04.2026 and 10.06.2026. Consequently, the ex-parte order dated 07.07.2026 and ex-parte hearing are in absence of the Corporate Debtor and its counsel. Even otherwise, the Corporate Debtor has opted not to recall the order dated 07.07.2026 and 15.07.2026.

6. We have gone through the case file carefully and perused the pleadings of the parties and documents placed on record by the applicant and heard the arguments put forth by learned Counsels for the applicant.

7. Before entering on merit of the present case, it would be relevant to refer the relevant provision of Section 9 of the Code which provides for admission of Section 9 petition and the same read as under:

> "9. (1) After the expiry of the period of ten days from the date of delivery of the notice or invoice demanding payment under sub-section (1) of section 8, if the operational creditor does not receive payment from the corporate debtor or notice of the dispute under sub-section (2) of section 8, the operational creditor[J1] may file an application before the Adjudicating Authority for initiating a corporate insolvency resolution process.



(2) The application under sub-section (1) shall be filed in such form and manner and accompanied with such fee as may be prescribed.

(3) The operational creditor shall, along with the application furnish—

(a) a copy of the invoice demanding payment or demand notice delivered by the operational creditor to the corporate debtor;

(b) an affidavit to the effect that there is no notice given by the corporate debtor relating to a dispute of the unpaid operational debt;

(c) a copy of the certificate from the financial institutions maintaining accounts of the operational creditor confirming that there is no payment of an unpaid operational debt by the corporate debtor, if available;

(d) a copy of any record with information utility confirming that there is no payment of an unpaid operational debt by the corporate debtor, if available; and

(e) any other proof confirming that there is no payment of any unpaid operational debt by the corporate debtor or [3][any other information, as may be specified.

(4) An operational creditor initiating a corporate insolvency resolution process under this section, may propose a resolution professional to act as an interim resolution professional.

(5) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), by an order—

(i) admit the application and communicate such decision to the operational creditor and the corporate debtor if,—

(a) the application made under sub-section (2) is complete;

(b) there is no payment of the unpaid operational debt;

(c) the invoice or notice for payment to the corporate debtor has been delivered by the operational creditor;

(d) no notice of dispute has been received by the operational creditor or there is no record of dispute in the information utility; and

(e) there is no disciplinary proceeding pending[5] against any resolution professional proposed under sub-section (4), if any.

(ii) reject the application and communicate such decision to the operational creditor and the

corporate debtor, if– (a) the application made under sub-section (2) is incomplete; (b) there has been payment of the unpaid operational debt;

(c) the creditor has not delivered the invoice or notice for payment to the corporate debtor;

(d) notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility; or

(e) any disciplinary proceeding is pending[5] against any proposed resolution professional:

Provided that Adjudicating Authority, shall before rejecting an application under sub-clause (a) of clause (ii) give a notice to the applicant to rectify the defect in his application within seven days of the date of receipt of such notice from the adjudicating Authority.

Provided further that if the Adjudicating Authority has not passed an order under this sub-section within a period of fourteen days from the date of receipt of application under sub-section (2), it shall record the reasons for such delay in writing.

(6) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (5) of this section.

8. The present petition has been filed on 08.11.2025 and the alleged default occurred on 26.03.2021 and the Corporate Debtor's email dated 22.07.2023(Exh. AB), by its Deputy Manager of Services, Mr. AK Chaudhari explicitly acknowledged the outstanding billing issues and stated: *"If you have cancelled your both raised bills then please submit your fresh bills again as early as possible so that we can proceed for payment,"* which constitutes an acknowledgement of liability under Section 18 of the Limitation Act, 1963. Thus, we hold that the petition is well within the period of limitation.

9. There is nothing on record which may prove that there was a pre-existing dispute raised by the Corporate Debtor prior to the issuance of the Demand Notice under Section 8 of the Code. The record shows that the Respondent, had previously deducted Liquidated Damages of Rs. 25,04,680.00 for delays on 16.03.2021 and raised queries regarding the non-submission of an extended Bank Guarantee and statutory compliance documents in its email communications dated 22.07.2023 **(**Exhibit AB at **page 219)**; however, such disputes have been completely resolved by the subsequent actions of the Corporate Debtor itself.

10. Moreover, a Joint Site Inspection was conducted on 11.07.2024 and 12.07.2024, resulting in a signed Joint Inspection Report **(**Exhibit X)wherein the Respondent's

representatives certified that the Folding Platforms (Qty. 10 Sets / Total 20 Nos.) at the PSLV Integration Building were found to be generally in order and had already been put under use for vehicle assemblies.

11. Insofar as debt and default is concerned, the principal outstanding debt alone is Rs. 3,47,41,586.04, which exceeds the statutory threshold of Rs. 1 Crore mandated under Section 4 of the Code. The date of default is 26.03.2021, being 30 days from the date of the first billing when the amount remained partly paid as per the 30-day credit period stipulated in the work orders. The default is verified by the Information Utility record (Form D) filed with affidavit in support of Record of Default. The Corporate Debtor has failed to dispute the default recorded with the information utility. The default is deemed to be authenticated.

12. In view of the above said discussion, this Tribunal is of the firm view that the operational debt is due and payable, the application is filed within the period of limitation, and there is no pre-existing dispute between the parties. Therefore, the present application under Section 9 of the Code is hereby allowed and the Corporate Debtor is admitted in the CIRP process.

13. The applicant has proposed the name of Mr. S. Gopalakrishnan, Resolution Professional of the corporate debtor. The registration number of the IRP being

IBBI/IPA-002/IP-N00151/2017-18/10398 and email id: gopi63ip@gmail.com. Mr. S. Gopalakrishnan has given its written consent in required Form-2 which is attached with the application. Therefore, this bench appoints Mr. S. Gopalakrishnan, as the Insolvency Resolution Professional of the corporate debtor.

14. We direct the applicant to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional, namely S. Gopalakrishnan to meet out the expense to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Operational Creditor. The amount however be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Operational Creditor.

15. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14(1), shall follow in relation to the corporate debtor, prohibiting as per proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in force.

16. A copy of the order shall be communicated to the applicant, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Applicant is also directed to provide a copy of the complete paper book to the IRP. A copy of this order is also sent to the ROC for updating the Master Data. ROC shall send the compliance report to the Registrar, NCLT.

17. Post the matter on 19.08.2026 for filing the Periodical Progress Report.

Rekha Kantilal Shah
Member (Technical)

Labh Singh
Member (Judicial)

SRIDHAR.R(LRA)