

Sr. No. 125/2025

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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)- 64/9/JPR/2024

(Under Section 9 of the Insolvency and Bankruptcy Code, 2016, read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicatory Authority) Rules, 2016)

IN THE MATTER OF:

RAJ METAL INDUSTRIES

...Operational Creditor

VERSUS

NDA METAOXIDES PVT. LTD.

...Corporate Debtor

MEMO OF PARTIES

RAJ METAL INDUSTRIES

Through Authorised

Representative

Mr. Sanjay Jaiswal

185, Vivekanand Road,

Kolkata, West Bengal, India

...Operational Creditor

VERSUS

NDA METAOXIDES PVT. LTD.



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Assistant Registrar
Assistant Registrar
National Company Law Tribunal
Jaipur

CP No. (IB)- 64/9/JPR/2024

R/o: C-43(A) RIICO Industrial
Area Bassi (Extn.) Jaipur
303301, Rajasthan

...Corporate Debtor

FOR THE APPLICANT: Kunal Godhwani, Adv.
Akshat Singh, Adv.
FOR THE RESPONDENT: None Appeared

Order Pronounced On: 28.05.2025

ORDER

1. The present Application has been preferred under Section 9 of the Insolvency and Bankruptcy Code, 2016 ('IBC'/ 'Code') by *M/s Raj Metal Industries*. ('Operational Creditor') seeking Corporate Insolvency Resolution Process ('CIRP') of *M/s NDA Metaoxides Pvt. Ltd.* ('Corporate Debtor') on account of default in payment of Rs. 3,03,30,537/- (Rupees Three Crores Three Lakhs Thirty Thousand Five Hundred and Thirty-Seven Only).
2. The Corporate Debtor is a company registered under the provisions of the Companies Act, 2013 having CIN U24110RJ2022PTC081225 and registered office at -43(A) RIICO Industrial Area Bassi (Extn.) Jaipur 303301, Rajasthan. The Authorized Share Capital is Rs. 1,00,000/- (Rupees One Lakh only) and Paid-up Share Capital is Rs. 1,00,000/- (Rupees One Lakh only). The same has been verified from the website maintained by the Ministry of Corporate Affairs.

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3. The Application has been filed on the basis of the following set of facts:

3.1. The Corporate Debtor placed a purchase order dated 14.09.2023 with the Applicant for the purchase and procurement of 1,20,000 kg of pure LEAD 99.97% at the rate of Rs. 191.75 per kg for a total amount of Rs. 2,71,51,800/- (Rupees Two Crores Seventy-One Lakh Fifty-One Thousand and Eight Hundred only).

3.2. The Operational Creditor duly supplied the aforesaid quantity of 99.97% Pure LEAD to the Corporate Debtor and raised three invoices for payment from the Corporate Debtor. Details of Tax Invoices raised by the Operational Creditor are provided below:

- a. Invoice No. RMI/450/23-24 dated 15.09.2023 for supply of 39,932 kg of Pure LEAD 99.97% at the rate of Rs. 191.75 per kg for a total amount of Rs. 90,35,214/-.
- b. Invoice No. RMI/451/23-24 dated 16.09.2023 for supply of 40,262 kg of Pure LEAD 99.97% at the rate of Rs. 191.75 per kg for a total amount of Rs. 91,09,881/-.
- c. Invoice No. RMI/460/23-24 dated 18.09.2023 for supply of 39,813 kg of Pure LEAD 99.97% at the rate of Rs. 191.75 per kg for a total amount of Rs. 90,08,288/-.

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- 3.3. As per the terms contained in the Purchase Order dated 14.09.2023, payment fell due within 20 days from the date of issue of invoice. In the instant case, since the first tax invoice raised by Operational Creditor is dated 15.09.2023, hence the date from which such debt fell due is on 04.10.2023.
- 3.4. The amount of Rs. 3,06,30,537/- (Rupees Three Crores Six Lakhs Thirty Thousand Five Hundred and Thirty-Seven only) (Principal Amount is Rs. 2,68,53,383/- & Interest Amount is Rs. 34,65,615/-) is due from the Corporate Debtor to the Operational Creditor on account of purchase of 1,20,007.00 Kgs of Pure LEAD 99.97% at the rate of Rs. 191.75 per kg. However, the Corporate Debtor has so far paid only Rs. 3,00,000/- (Rupees Three Lakh only) vide [NEFT, whose transaction No. is 035875358461 dated 05.04.2024] which has been adjusted to reflect the total amount claimed to be in default. Therefore, the amount claimed is Rs. 3,03,30,537/- (Rupees Three Crores Three Lakhs Thirty Thousand Five Hundred and Thirty-Seven only).
- 3.5. The Corporate Debtor has also issued cheques in favour of the Operational Creditor which were dishonored due to insufficient funds.

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3.6. The Operational Creditor issued a demand notice under the IBC to the Corporate Debtor on 24.06.2024, which was duly served. However, the Corporate Debtor neither responded to the notice nor made any payment.

3.7. The aforementioned details as reflected in PART IV of the Application are as below:

PARTICULARS OF OPERATIONAL DEBT

1.	Total amount of debt, details of transactions on account of which debt fell due, and the date from which such debt fell due	<p>Total Amount due is Rs. 3,06,30,537/- (Rupees Three Crores Six Lakhs Thirty Thousand Five Hundred and Thirty-Seven only) [Principal Amount is Rs. 2,68,53,383/- & Interest Amount is Rs. 34,65,615/-].</p> <p>The Corporate Debtor placed a purchase order dated 14.09.2023 with the Operational Creditor. As per the terms contained in the Purchase Order dated 14.09.2023, payment fell due within 20 days from the date of issue of invoice.</p> <p>The Corporate Debtor has so far paid only Rs. 3,00,000/- (Rupees Three Lakh only) vide [NEFT, whose transaction No. is</p>
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		<p>035875358461 dated 05.04.2024] which has been adjusted to reflect the total amount claimed to be in default.</p> <p>Amount claimed is Rs. 3,03,30,537/- (Rupees Three Crores Three Lakhs Thirty Thousand Five Hundred and Thirty-Seven only).</p> <p><u>Date on which the amount fell due</u></p> <p>In the instant case, since the first tax invoice raised by Operational Creditor is dated 15.09.2023, hence the date from which such debt fell due is on 04.10.2023.</p>
2.	Amount claimed to be in default and the date on which the default occurred.	<p>Amount claimed is Rs. 3,03,30,537/- (Rupees Three Crores Three Lakhs Thirty Thousand Five Hundred and Thirty-Seven only) is the amount in default and is unpaid till date.</p>

4. It is important to note that the Corporate Debtor neither filed any reply in the present case nor chose to appear despite service. Consequently, the Adjudicating Authority *vide* its Order dated 25.04.2025, directed that the matter

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be proceeded *ex parte* against the Corporate Debtor and forfeited its right to file reply.

5. We have heard the Ld. Counsel for the Operational Creditor and perused the averments made in the Application along with the documents enclosed therein.
6. The issue before us is to determine “*Whether there is an Operational Debt and if the same has become due and payable.?*”
7. The Application has been preferred under Section 9 of the IBC 2016 by the Operational Creditor seeking Corporate Insolvency Resolution Process (‘CIRP’) of Corporate Debtor on account of default in payment of Rs. 3,03,30,537/- (Rupees Three Crores Three Lakhs Thirty Thousand Five Hundred and Thirty-Seven only), out of which Rs. 2,68,53,383/- (Rupees Two Crores Sixty-Eight Lakh Fifty-Three Thousand Three Hundred and Eighty-Three only) is the outstanding principal amount and Rs. 34,65,615/- (Rupees Thirty-Four Lakh Sixty-Five Thousand Six-Hundred and Fifteen only) is interest amount calculated @18% p.a. as stated in Part IV of the Application. The Applicant has put on record all the invoices suggesting default.
8. It is seen that the Operational Creditor duly supplied the 1,20,007.00 Kgs of Pure LEAD 99.97% at the rate of Rs. 191.75 per kg to the Corporate Debtor and raised three invoices for payment from the Corporate Debtor amounting to

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Rs. 2,71,53,383/- (Rupees Two Crores Seventy-One Lakh Fifty-Three Thousand Three Hundred and Eight Three only), which has been duly annexed with the Application. The details of tax invoices raised by the Operational Creditor are provided below:

Particulars	Amount
a. Invoice No. RMI/450/23-24 dated 15.09.2023 for supply of 39,932 kg of Pure LEAD 99.97% at the rate of Rs. 191.75 per kg for a total amount of Rs. 90,35,214/-	Rs. 90,35,214/-
b. Invoice No. RMI/451/23-24 dated 16.09.2023 for supply of 40,262 kg of Pure LEAD 99.97% at the rate of Rs. 191.75 per kg for a total amount of Rs. 91,09,881/-	Rs. 91,09,881/-
c. Invoice No. RMI/460/23-24 dated 18.09.2023 for supply of 39,813 kg of Pure LEAD 99.97% at the rate of Rs. 191.75 per kg for a total amount of Rs. 90,08,288/-	Rs. 90,08,288/-
Total	Rs. 2,71,53,383/-

9. The Applicant has annexed a computation sheet showing the amount in default wherein the interest amount is also calculated at the rate of 18%, however on

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perusal of the invoices, it is seen that the invoices don't carry any interest clause/ rate. Further, as per the terms contained in the Purchase Order dated 14.09.2023, payment fell due within 20 days from the date of issue of invoice. In the instant case, since the first tax invoice raised by Operational Creditor is dated 15.09.2023, hence the date from which such debt fell due is on 04.10.2023.

10. It is also seen that the Corporate Debtor has so far paid only Rs. 3,00,000/- (Rupees Three Lakh only) vide [NEFT, whose transaction No. is 035875358461 dated 05.04.2024].
11. Finally, the demand notice was preferred by the Applicant on 24.06.2024 to which no reply was received. The Corporate Debtor had not raised any dispute regarding the debt due and payable to the Applicant.
12. As per the provisions of the Code, an Operational Debt constitutes a claim in respect of the provision of goods or services arising under any law for the time being in force and Operational Creditor means a person to whom an operational debt is owed. In the current situation, it is evident that the Operational Creditor/Applicant supplied goods to the Corporate Debtor and raised invoices which are due and payable by the Corporate Debtor. Hence, the amount of unpaid dues against the invoices raised by the Applicant amounts to

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Operational Debt and the Applicant falls within the definition of Operational Creditor as envisaged under Section 5(20) of the Code.

13. In view of the above, we are of the opinion that the unpaid dues arising from the invoices raised by the Applicant constitute Operational Debt. However, in the absence of any agreement between the parties regarding the rate of interest and as the invoices do not specify any interest rate or clause, it is pertinent to refer to the judgment of the Hon'ble NCLAT in *SS Polymers v. Kanodia Technoplast Limited* (2019), wherein it was held that:

"3. The Adjudicating Authority has noticed that a sum of Rs.25,00,000/- out of Rs.32,71,800/- was paid to the Appellant by 31st December, 2018 through RTGS(s). The remaining amount of Rs.7,71,800/- was also paid by 'Corporate Debtor' to the Applicant by 17th January, 2019 through NEFT(s). The said amounts were paid before the admission of the application under Section 9 of the I&B Code. Even after receiving the total amount due, the Appellant pursued the application under Section 9 of the I&B Code for a sum of Rs.2,16,155/- towards interest. In these background, the Adjudicating Authority observed that in the absence of any Agreement, no such amount can be claimed."

Therefore, we are not inclined to accept the interest part as stated by the Applicant in its Application. Furthermore, the Applicant is also directed to adjust Rs. 3,00,000/- (Rupees Three Lakh only) as received from the Corporate Debtor *vide* NEFT (whose transaction No. is 035875358461 dated 05.04.2024)

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towards the outstanding principal amount only as reflecting in the invoices raised.

14. In *Mobilox Innovations Private Limited Vs Kirusa Software Private Limited*, para 34, the Hon'ble Supreme Court laid down the conditions precedent for triggering the CIRP under Section 9 of the Code. Para 34 is as follows: -

"34. Therefore, the adjudicating authority, when examining an application under Section 9 of the Act will have to determine:

- (i) Whether there is an "operational debt" as defined exceeding Rs 1 lakh? (See Section 4 of the Act)*
- (ii) Whether the documentary evidence furnished with the Application shows that the aforesaid Debt is due and payable and has not yet been paid? and*
- (iii) Whether there is existence of a dispute between the parties or the record of the 15 Company Appeal (AT) (Insolvency) No. 256 of 2021 pendency of a suit or arbitration proceeding filed before the receipt of the demand notice of the unpaid operational Debt in relation to such dispute?*

If any one of the aforesaid conditions is lacking, the Application would have to be rejected. Apart from the above, the adjudicating authority must follow the mandate of Section 9, as outlined above, and in particular the mandate of Section 9(5) of the Act, and admit or reject the Application, as the case may be, depending upon the factors mentioned in Section 9(5) of the Act."

15. Therefore, to initiate CIRP in the present matter the conditions have to be satisfied. At this juncture it is also important to quote the judgment of the Hon'ble Supreme Court in *M/s S.S. Engineers & Ors. vs. Hindustan Petroleum Corporation Limited*, which reads as follows:

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“32. On a reading of Sections 8 and 9 of the IBC, it is patently clear that an Operational Creditor can only trigger the CIRP process, when there is an undisputed debt and a default in payment thereof. If the claim of an operational creditor is undisputed and the operational debt remains unpaid, CIRP must commence, for IBC does not countenance dishonesty or deliberate failure to repay the dues of an Operational Creditor. However, if the debt is disputed, the application of the Operational Creditor for initiation of CIRP must be dismissed.”

16. It has very well been established that under Section 9 of the Code, to initiate CIRP proceedings, the Applicant is required to prove that the debt is due, it has not been paid and the debt is an undisputed debt. We are of the view that in the present matter, all the ingredients laid out under Section 9 are fulfilled. Therefore, we are inclined to initiate CIRP of the Corporate Debtor in the present matter.

17. In view of this *Rajneesh Sharma*, duly registered with the Insolvency and Bankruptcy Board of India, with Registration No. IBBI/IPA-002/IP-N01013/2020-2021/13249 (email: rajneeshsharmacs@gmail.com) (mobile no. 9986174563), is hereby appointed as the IRP. The said IRP is directed to file his written consent to act as a resolution professional in Form-2 provided under Rule 9 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016.



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18. The IRP is directed to take all such steps as are required under the statute, inter-alia in terms of Sections 15, 17, 18, 19, 20 and 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, and Rules and Regulations thereunder. It is directed to the Interim Resolution Professional /Resolution Professional to check the genuineness of the claim while admitting the operational dues of the Applicant.

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

19.1. The IRP appointed by the Adjudicating Authority, *Rajneesh Sharma*, 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.

19.2. Further, as a sequel of admission, moratorium as envisaged under Section 14 of the Code is invoked in relation to the Corporate Debtor which will be in vogue during the CIRP of the Corporate to Debtor. The IRP shall carry out CIRP strictly as per the timelines specified and as envisaged under the provisions of the Code in relation to the Corporate Debtor.

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19.3. The said IRP shall act strictly in accordance with the provisions of the Code. This Bench also directs for an advance payment of Rs. 1,00,000/- (Rupees One Lakh only) to be paid by the Applicant to the Interim Resolution Professional immediately to initiate the process which shall be adjusted towards the expenses payable towards CIRP Cost. In terms of Section 17 and 19 of the Code 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.

19.4. In terms of Section 9 of the Code, this order shall be communicated at the earliest, not exceeding three days from today, to the Applicant, Corporate Debtor as well as the IRP appointed by this Adjudicating Authority to carry out CIRP by the Registry. A copy of this order shall also be communicated to IBBI for its records.

20. Accordingly, CP No. (IB)- 64/9/JPR/2024 is admitted. In view of the foregoing, pending applications, if any, shall stand disposed off.



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21. The Registry is directed immediately to send a soft copy of the instant Application along with this order to the parties along with the RP nominated herein.



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Madhuch
Assistant Registrar
National Company Law Tribunal
Jaipur

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**REETA KOHLI,
JUDICIAL MEMBER**

Sdr

**KAVITA BHATNAGAR,
TECHNICAL MEMBER**

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