

NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET OF THE HEARING ON 20th AUGUST 2025

CP(IB)/5/GB/2025

Present: 1. Hon'ble Member (Judicial), Shri Rammurti Kushawaha
2. Hon'ble Member (Technical), Shri Yogendra Kumar Singh

In the Matter of	Atul Auto Limited Vs Echo Motors and Automobiles Private Limited
Under Section	U/s 9 of IBC, 2016

Appearances (via video conferencing/physically)

For Petitioner (s) : Mr. K.P. Vaishnav, Adv

For Respondent (s) : None

ORDER

Order pronounced in open court *vide* separate sheets.

Sd/-
Yogendra Kumar Singh
Member (Technical)

Sd/-
Rammurti Kushawaha
Member (Judicial)

Zeba (PS)



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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, to initiate Corporate Insolvency Resolution Process;

In the matter of:

ATUL AUTO LIMITED, [CIN No. L54100GJ1986PLC016999], Registered Office at Vill Shapar, Near Microwave Tower on Gondal. Highway, Rajkot, Gujarat 360024;

...Petitioner/Operational Creditor

-Versus-

ECHO MOTORS AND AUTOMOBILES PRIVATE LIMITED, [CIN No. U50102AS2011PTC010346], Registered Office at Dharapur, Guwahati, Assam-781033.

... Respondent/Corporate Debtor

Coram:

Shri Rammurti Kushawaha : Member (Judicial)
Shri Yogendra Kumar Singh : Member (Technical)

Appearances (through video conferencing):

For the Petitioner : Mr. K. P. Vaishnav, (Adv)
For the Respondent : None

Order pronounced on: 20.08.2025

ORDER

1. This Company Petition is filed by Atul Auto Limited ("Operational Creditor") under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("Code") read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 seeking initiation of the Corporate Insolvency Resolution Process ("CIRP") against Echo Motors And Automobiles Private Limited ("Corporate Debtor") on account of non-payment of an operational debt amounting to Rs. 3,35,36,330/- (Rupees Three Crores



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Thirty -Five Lakhs' Thirty-Six Thousand Three Hundred and Thirty Only) due and 22.03.2024 is the date of acceptance of debt by the Corporate Debtor.

2. Brief facts as stated by the Petitioner are as follows:

- 2.1 Operational Creditor (OC) is into the business of manufacturing and selling 3 Wheelers in India, with the presence across 21 states with 200 primary and 130 secondary dealer networks. Echo Motors And Automobiles Private Limited or Corporate Debtor (CD) was Dealer of OC and other Companies and is having its presence in Assam. CD has also got dealership of other vehicle manufacturing Companies. OC is supplying its 3 wheeler to CD since past several years. OC used to raise invoices for the said vehicles sent to CD and CD used to make adhoc payment qua the invoices sent by OC to CD.
- 2.2 Thereafter in or around 2018-19 since the huge amount remained outstanding, there was a meeting of the officials and Directors of OC and CD on 18/2/2019. In the said meeting the Director of Echo had admitted the amount of Rs. 4,13,36,999/- payable to OC by CD. (A copy of the minutes of the meeting held at Atul Auto Limited between its directors and Mr. Kumar Gaurav, who is a director in both Echo Motors and Automobiles Private Limited and Skylight Automotives Private Limited, is attached to the petition as Annexure A Page No. 18). The Director also agreed to make payment to OC as per the minutes of meeting recorded and signed by the parties present in the meeting including Mr. Kumar Gaurav. Thereafter about an amount of around Rs. 80 lakh was paid by CD to OC.
- 2.3 Skylight Automotives Private Limited is the company to which the agency of OC was allegedly transferred from CD.
- 2.4 Despite issuing of cheques to OC by CD, the said cheques were dishonored on being deposited by OC. OC therefore had filed Criminal Complaint Nos. 2485 and 3785 of 2021 for dishonourment of cheques issued by CD upon OC.
- 2.5 Thereafter, on or about January 2024 a Writ Petition (Criminal) No. 3 of 2024 was filed by CD before the Gauhati High Court for quashing the said Criminal



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Complaint. In order dated 22/3/2024 the Hon'ble Gauhati High Court has recorded CD's acceptance of liability to OC.

2.6 Despite promises and assurances given, CD has failed to clear the dues of OC and therefore OC is constrained to issue this notice calling upon CD to clear the outstanding dues. Therefore the OC sent the notice to the CD on or about 21/10/2024.

2.7 Despite having received the notice the CD has failed to make any payment and therefore there is more reason that the CD has lost its financial substratum and therefore the proceedings under IBC may be initiated against CD.

3. Heard the Learned Counsel for the Petitioner and perused the records available on file. Despite of granting multiple opportunities, the Corporate Debtor failed to enter appearance or file a reply. Accordingly, vide order dated 02.05.2025, the Corporate Debtor was proceeded ex parte. As a result, the claim of the Operational Creditor remains unrebutted and uncontested.
4. Before we proceed with the facts of the present case, the statutory framework regarding the Application under Section 9 of the Code needs to be recapitulated. An application under Section 9 of the Code can only be filed after the delivery of a demand notice as provided under Section 8 of the Code.
5. Section 8 of the Code requires the Operational Creditor, upon the occurrence of default, to deliver a Demand Notice for unpaid Operational Debt. Furthermore, Section 8(2) specifies that the Corporate Debtor must, within 10 days of receiving the Demand Notice, inform the Operational Creditor of any existing dispute. Under Section 9(1), if Operational Creditor does not receive payment from the Corporate Debtor or notice of the dispute under Sub-section (2) of Section 8, may file an Application under Section 9(1) of the Code.
6. The Tribunal notes that the Operational Creditor issued demand notices dated 18.10.2024 in the prescribed Form which was sent on 21.10.2024 and was duly served on 24.10.2024 (Copy of the tracking report of the notice is attached to the petition in Page No 305-306). Additionally, in compliance with the directions of the Hon'ble NCLT, Guwahati Bench vide order dated 25.03.2025, the Registry served notice upon



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the Corporate Debtor on 25.03.2025. The same was served to the Corporate Debtor on 03.04.2025. The said notice, along with a copy of the order, required the Corporate Debtor to file its reply within 10 days from the date of receipt. Despite service of notice and grant of multiple opportunities, the Corporate Debtor failed to enter appearance or file a reply. As a result, the Corporate Debtor was proceeded ex parte vide order dated 02.05.2025.

7. In view of the foregoing discussion and upon perusal of the material available on record, this Adjudicating Authority is satisfied that:
- a) The Operational Creditor supplied 3-wheelers to the Corporate Debtor in the ordinary course of business and raised invoices from time to time. The Corporate Debtor initially made ad-hoc payments but subsequently defaulted in clearing the dues. As per the application, the total operational debt presently outstanding is ₹3,35,36,330/-.
 - b) A meeting was held on 18.02.2019, wherein the Director of the Corporate Debtor, Mr. Kumar Gaurav, admitted liability of ₹4,13,36,999/-, and undertook to repay the dues as recorded in the minutes of meeting. (Copy of the minutes of the meeting is attached as Annexure A Page No.18 of the Petition). Subsequently, part payments of approximately ₹80 lakhs were made. Thereafter Skylight Automotives Private Limited a Company in which the director namely Mr. Kumar Gaurav has allegedly transferred the agency of OC from CD to Skylight.
 - c) Several cheques issued by the Corporate Debtor were dishonoured upon presentation. This led to the filing of **Criminal Complaints Nos. 2485 and 3785 of 2021** under the **Negotiable Instruments Act, 1881** before the court of **Addl. CJM, Rajkot, Gujarat**.
 - d) The Corporate Debtor then approached the **Hon'ble Gauhati High Court** by filing **Writ Petition (Criminal) No. 3 of 2024**, seeking quashing of the **Criminal Complaints No 3785 of 2021**. In the order of **Hon'ble Gauhati High Court dated 22.03.2024**, it was recorded the **admission of liability of ₹1,30,36,330/-** by the Corporate Debtor to the Operational Creditor. This admission of debt, though lower than the claimed amount, has remained undisputed.



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- e) The Tribunal notes that the proceedings before the **Hon'ble Gauhati High Court** stand **stayed** in view of the pendency of the original criminal complaints before the **Addl. CJM, Rajkot**, and therefore, no final determination has been made on the criminal side. However, the **admission of liability of ₹1,30,36,330/-** in judicial records is significant for the present proceedings.
- f) The Operational Creditor has complied with all statutory requirements, including issuance of demand notice dated **18.10.2024** in the prescribed Form, submission of invoices. Further, no payment has been made by the Corporate Debtor towards the outstanding admitted debt, and no record of pre-existing dispute has been substantiated within the prescribed period of 10 days.
- g) The Adjudicating Authority is, therefore, satisfied that there exists a default in respect of an **operational debt of at least ₹1,30,36,330/-**, duly supported by documentary and judicial records, which remains unpaid despite demand which is above the threshold limit as per the notification dated 24.03.2020 made by the Ministry of Corporate Affairs.
- h) The above Company Petition, being filed on **19.02.2025**, is within the three year from the date of acceptance of default i.e, **22.03.2024** which is within the limitation period allowed under the Limitation Act, 1963.
- i) The default in payment of the said operational debt has occurred;
- j) No pre-existing dispute has been demonstrated by the Corporate Debtor;
8. Accordingly, the petition is complete in all respects and satisfies all the legal requirements for admission under Section 9 of the Code. The application under Section 9 of the Code found to be complete and is admitted for the purpose of initiation of the Corporate Insolvency Resolution Process against the Corporate Debtor.
9. Accordingly, the above Company Petition No. CP (IB)/5/GB/2025 is hereby allowed and initiation of CIRP is ordered against **Echo Motors And Automobiles Private Limited**, under Section 9 of the Code read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, with the following directions:



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- 9.1 The Operational Creditor has not suggested the name Insolvency professional to perform the duties of the IRP. Therefor this Bench from the panel of Insolvency Resolution Professionals hereby appoints Mr. Bishal Agarwal, an Insolvency Professional registered with the Insolvency and Bankruptcy Board of India (IBBI) having Registration No. IBBI/IPA-002/IP-N01294/2024-2025/14446 having Registered Office at Ward Number 4, Amtala, Barpeta Road - 781315, Assam and Registered Email: ip.bishalagarwal@gmail.com as the IRP to carry out the functions as prescribed under the Code.
- 9.2 The Operational Creditor shall deposit an amount of Rs. 3,00,000/- (Rupees Three Lakhs only) towards the initial CIRP costs by way of a Demand Draft drawn in favour of the IRP appointed herein, immediately upon communication of this Order. The IRP shall utilise the said amount strictly for expenses, and not towards professional fees until decided by the Committee of Creditors ("CoC").
10. As per Section 14 of the Code, and by the operation of law, a **moratorium** is hereby imposed on the Corporate Debtor with immediate effect, which will remain in force during the insolvency resolution process. In terms of Section 14(1) of the Code, this Bench hereby prohibits:
- i. The institution or continuation of suits or proceedings against the Corporate Debtor, including execution of any judgment, decree, or order by any court, tribunal, arbitration panel, or authority;
 - ii. The transfer, encumbrance, alienation, or disposal of any of the Corporate Debtor's assets or legal or beneficial interests therein;
 - iii. Any action to foreclose, recover or enforce any security interest created by the Corporate Debtor;
 - iv. The recovery of any property by an owner or lessor where such property is in possession of the Corporate Debtor.
- 10.1 The supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated, suspended, or interrupted during the moratorium period.



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- 10.2 The provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- 10.3 The order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, as the case may be.
- 10.4 The public announcement of initiation of CIRP shall be made immediately as specified under Section 13 of the Code.
- 10.5 During the CIRP, the management of the affairs of the Corporate Debtor shall vest in the IRP. The suspended board of directors and personnel of the Corporate Debtor shall extend all cooperation and provide access to all information and documents as required by the IRP/RP.
11. Accordingly, with the above observations and direction, CP(IB) No. 5/GB/2025 is admitted.
12. It is made explicit that the present order shall not, in any manner whatsoever, affect or prejudice the operation of any order passed by a Higher Court.
13. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
14. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
15. File be consigned to records

Sd/-

Yogendra Kumar Singh
Member (Technical)

Sd/-

Rammurti Kushawaha
Member (Judicial)

Signed this on 20th day of August, 2025

Niketa (LRA)

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[Signature]
BY REGISTRAR/ASST. REGISTRAR
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DY NO. *67*
DATE *25/08/2025*