

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2



ITEM No.302
C.P. (IB)/230(AHM)2024

Proceedings under Section 9 IBC

IN THE MATTER OF:

Adinath Corporation
V/s
Ajay Protech Private Limited

.....Applicant

.....Respondent

Order delivered on: 06/08/2025

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.

Sd-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd-

CHITRA HANKARE
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)**

CP(IB) NO. 230/NCLT/AHM/2024

(An Application filed under Section 9 of the Insolvency & Bankruptcy Code, 2016)

IN THE MATTER BETWEEN

Adinath Corporation

...Petitioner

Versus

Ajay Protech Private Limited

... Respondent

MEMO OF PARTIES

Adinath Corporation

38, Warehouse Road, Siyaganj,

Indore-452001

Email ID: adinathcorp@gmail.com

...Applicant

[Operational Creditor]

Versus

Ajay Protech Private Limited

59, Pratap Chamber, First Floor,

Near Railway Crossing, Station Road,

Unjha, Gujrat - 384170 IN

Email ID: ajayprotech@gmail.com

...Respondent

[Corporate Debtor]

Order Pronounced on 06.08.2025

Coram:

MRS. CHITRA HANKARE,

HON'BLE MEMBER (JUDICIAL)

MR. VELAMUR G VENKATA CHALAPATHY

HON'BLE MEMBER (TECHNICAL)

Sd/-

Sd/-

**Appearance:**

For the Petitioner : Mr. Pratik Tripathi, PCS
For the Respondent : Mr. Chaitanya Patel, Adv.

JUDGEMENT

1. This application is filed to initiate the Corporate Insolvency Resolution Process in respect of Corporate Debtor under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as IBC).
2. According to the applicant they have supplied goods to the Corporate Debtor and raised invoices to that effect. The description of goods supplied is mentioned in the invoices, however, the Corporate Debtor failed to make payment of goods supplied. The CD has not raised any dispute regarding goods supplied. The total amount of debt and default is Rs.97,40,429/- and Rs.31,40,680/- towards interest at the rate of 18% per annum. The First outstanding invoice was raised on 17.11.2021 which is the date of default.
3. The applicant therefore issued demand notice on 09.03.2024. The CD replied to it on 10.03.2024 acknowledging outstanding date though the CD sought time for payment. The payment is not made. The applicant therefore requested to initiate CIRP against the Respondent for total amount of debt of Rs.1,28,81,109/-.

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4. The applicant produced copies of bank account, copy of ledger account of CD, E-mails etc. Copy of Form No. 26-AS for TDS deducted by CD is also annexed.
5. The CD filed reply in affidavit denying the averments made in the application. The CD stated that the applicant has suppressed material facts and did not serve advance copy of application. According to him, threshold limit of Rs. 1 crore is also not fulfilled. He has denied liability to pay interest as there was no written agreement for that, therefore, the application itself is not maintainable.
6. The CD further stated that the application is filed with intention of recovery of amount and not for resolution. It is also submitted that there was pre-existing dispute regarding delivery date as specified in the purchase order. The said goods was to occur within two days of purchase order it was crucial term of contract but the delivery was not made within the time frame. The delay have cascading effect on the business activity, there was also ambiguity of due date and default date, there is no explanation about determine of specific dates. The application does not meet procedural and substantive requirements outlined under the IBC and certificate under section 65-B of Evidence Act is also not

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provided for the use of electronic record as evidence. Moreover, the authority letter is also defective. It has disputed the amount of interest of Rs.31,40,680/- and prayed for rejection of application.

7. The CD by way of affidavit dated 23.04.2025 undertook to make entire payment of Rs.1,28,81,109/- within 45 days and sought last opportunity to make the payments. However, it failed to make the payments.
8. Heard both the Advocates, perused the written submissions filed by both the parties.
9. From the reply of CD it appears that it has not disputed the principle amount but only disputed interest calculated upon it, so also, the CD has not disputed delivery of goods by the applicant but only disputed the time of delivery.
10. Though the defense of pre-existing dispute is taken by the respondent no evidence to that effect is produced on record. It appears to be taken only in reply prior to that the respondent has never communicated about any dispute to the applicant. In such circumstances, it cannot be accepted that there is any pre-existing dispute regarding delivery of goods between the parties.



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11. The applicant issued demand notice dated 09.03.2024, the Corporate Debtor replied by E-mail dated 11.03.2024 acknowledging the debt and sought time to make payment in the said reply. They have not disputed the interest amount. The applicant filed tax invoices wherein it is clearly mention that the applicant is MSME and interest at the rate of 18% per annum will be charged if the payment is not made within stipulated time. The applicant filed interest calculation sheet, the applicant also annexed ledger account of applicant in the books of Corporate Debtor provided by Corporate Debtor to them, in which interest on outstanding debt has been booked in the ledger and TDS was deducted and paid. In such circumstances, now Corporate Debtor cannot take a defense that there is no contractual agreement for payment of interest on the balance amount. The principle amount including interest is above the threshold limit of Rs. 1 crore to initiate CIRP against the CD.
12. The other objections raised by CD such as not providing advance copy of application, recovery of amount, not providing the certificate under Section 65-B of the Evidence Act, etc. are frivolous objections, the applicant has issued

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advance copy. Hence, the application is not defective in any manner.


13. As there is debt and default which is also admitted by the CD the application is liable to be admitted. The applicant has not provided name of any RP therefore, name from the panel will be considered. Hence, we pass the following orders:

ORDER

- I. CP (IB) 230 of 2024 is allowed.
- II. The Corporate Debtor - Ajay Protech Private Limited is admitted into Corporate Insolvency Resolution Process under section 9(5) of the Code.
- III. The order of moratorium under section 14 of the Code shall come to effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of the corporate debtor under Section 33 of the IBC 2016, as the case may be.
- IV. However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the corporate debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the

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moratorium period.

- V. We hereby appoint from the panel suggested by IBBI, Mr. Mamta S Devpura, Registered IP having IBBI registration no. as IBBI/IPA-001/IP-P-02796/2023-2024/14303, Email- mamtabaheti123@gmail.com, under section 13 (1)(c) of the Code to act as Interim Resolution Professional (IRP). He shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.
- VI. The IRP so appointed shall make a public announcement of the initiation of Corporate Insolvency Resolution Process and call for submissions of claims under section 15, as required by Section 13(1)(b) of the Code.
- VII. The IRP shall perform all his functions as contemplated, inter-alia, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel connected with the corporate debtor, its promoters, or any other person associated with the management of the corporate debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the corporate debtor, its

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promoters, or any other person required to assist or cooperate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

- VIII. The IRP is expected to take full charge of the corporate debtor's assets, and documents without any delay whatsoever. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
- IX. The IRP shall be under a duty to protect and preserve the value of the property of the 'corporate debtor company' and manage the operations of the corporate debtor company as a going concern as a part of obligation imposed by section 20 of the Code.
- X. The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
- XI. We direct the Operational Creditor to pay IRP a sum of Rs.2,00,000/- (Rupees Two Lakh Only) in advance

Sd/-

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within a period of 7 days from the date of this order to meet the cost of CIRP arising out of issuing public notice and inviting claims till the CoC decides about his fees/expenses.

XII. The Registry is directed to communicate this order to the Operational Creditor, corporate debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Corporate Debtor in MCA portal specific mention regarding admission of this Application and shall forward the compliance report to the Registrar, NCLT.

XIII. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.



Sd-

DR. V.G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

PH-LRA



Sd-

CHITRA HANKARE
MEMBER (JUDICIAL)