IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.302
C.P.(IB)/392(AHM)2025

Proceedings under Section 9 IBC

IN THE MATTER OF:

NareshKumar Harishchandra Shakya ....**Applicant**
V/s
Kena Alloy Private Limited ....**Respondent**

Order delivered on: 08/09/2026

Coram:

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

ORDER

This 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)

AD/AP

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH, COURT - II
CP (IB) No. 392 of 2025

(Filed under Section 9 of the Insolvency & Bankruptcy Code, 2016 read with Rule 6 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

In the Matter of:

Nareshkumar Harishchandra Shakya,
Proprietor of N.H. Scrap Traders
Having registered office at 37,
Mahakalinagar, Bhilwada, Amraiwadi,
Ahmedabad, Gujarat-380024
Email: nareshbhairaiput2009@gmail.com

...Applicant/
Operational Creditor

V/s.

Kena Alloys Private Limited
Having registered office at D-349,
Hemapark, Ambikanagar, Odhav,
Ahmedabad- 382415.
Email : kenaallovs@gmail.com

...Respondent/
Corporate Debtor

-SD- Sd/-

Order pronounced on 08.09.2026

Coram:

MRS. CHITRA HANKARE

HON'BLE MEMBER (JUDICIAL)

DR. V. G. VENKATA CHALAPATHY

HON'BLE MEMBER (TECHNICAL)

Present:

For the Applicant	: Mr.Ravi Pahwa Adv. and Ms. Pragati Pahwa, Adv.
For the Respondent	: Mr. Pratik Thakkar, Adv.

JUDGEMENT

1. The Application is filed under section 9 of the Insolvency and Bankruptcy Code, 2016, by the Nareshkumar Harishchandra Shakya, Proprietor of N.H. Scrap Traders the Operational Creditor herein, against the Corporate Debtor being Kena Alloys Private Limited, herein having defaulted in making payment of total amount is Rs. 1,48,57,650/- (Rupees One Crore Forty Eight Lakhs Fifty Seven Thousands Six Hundred Fifty only). The default had occurred on and from 10.11.2021 being the due date of first invoice.

2. The factual backdrop averred by the applicant is as under:

   a. The Operational Creditor, a proprietorship concern

-SD- Sd/-

carrying on business under the name and style of N.H. Scrap Traders, is engaged in trading of MS Scrap. It is stated that the Corporate Debtor had been purchasing MS Scrap from the Operational Creditor since 2017 and had been making regular payments until 09.11.2021. Thereafter, the Corporate Debtor allegedly failed to make full payment against the supplies made.

b. It is submitted that, being a regular customer, the Operational Creditor continued its business dealings with the Corporate Debtor. The goods were duly supplied and received by the Corporate Debtor without any dispute or demur. As per the books of account of the Operational Creditor, an amount of Rs.1,10,19,685/- was outstanding as on 01.12.2023 against invoices raised between 10.11.2021 and 01.12.2023. The Corporate Debtor is stated to have acknowledged the outstanding liability vide Balance Confirmations dated 09.02.2022 and 22.04.2022.

c. The Operational Creditor issued a Demand Notice dated 01.12.2023 under Section 8 of the IBC, claiming the outstanding amount along with interest. The said notice

-SD- Sd/-

was received by the Corporate Debtor on 02.12.2023, but the alleged outstanding amount was not paid.

d. Thereafter, the Operational Creditor filed CP (IB) No.133 of 2024 under Section 9 of the IBC. The said petition was rejected vide order dated 25.10.2024 on the ground that the Demand Notice in Form-3 and Form-4 had been issued in the name of the proprietorship concern instead of the proprietor. It was, however, observed that the goods had admittedly been delivered to the Corporate Debtor and that the invoices for the period from 10.11.2021 to 21.04.2022 had been duly received by it.

e. Subsequently, fresh Demand Notices in Form-3 dated 30.11.2024 and 24.12.2024 were issued, claiming an amount of Rs.1,48,57,650/-, inclusive of interest @ 12%. The Corporate Debtor allegedly neither replied to the Demand Notices nor made payment. In an email dated 08.02.2025, however, the Corporate Debtor stated that it was facing financial difficulties and was presently not in a position to make payment.

f. Thereafter, the proprietor of the Operational Creditor filed CP (IB) No.130 of 2025 under Section 9 of the IBC. The

Sd/- Sd/-

said petition was rejected vide order dated 23.07.2025 on the ground that the petitioner had not filed the requisite transfer petition and was granted liberty to approach the appropriate authority. The applicant/operational creditor has relied on the following documents

i. Copy of Invoices:

ii. Copy of challans evidencing payment of GST and CST by Operational Creditor to concerned departments

iii. Copy of bank statement of Operational Creditor for the period from 1.5.2023 to 31.1.2024

iv. Copy of the Balance Confirmation dated 09.02.2022 and 22.04.2022 received from the Corporate Debtor

v. Copy of ledger account of Corporate Debtor maintained by Operational Creditor

vi. Copy of NeSL certificate

3. Vide order dated 12.08.2026 this Tribunal closed the right to reply of respondent with liberty file written submission.

4. Both parties have filed written submissions. Perused the documents on record.

5. Observations & Conclusions:

-SD- Sd/-

a. The Respondent CD has filed a written statement without any reference to this petition, merely stating that he had earlier filed a reply in another matter in CP IB 133 of 2024. However, the same cannot be taken on record. The stated CPIB has been rejected by the court No.1 for reasons that the application was not maintainable in the present form also reasoning out the objections of respondent that the application was not filed in the name of individual but in the name of sole proprietorship firm.

b. The invoices raised by the applicant are in the name of the firm for which he has still signed as sole proprietor. The Respondent CD cannot avoid the payment due to be made due to fund requirements or liquidity crunch. The balance confirmations on the ledger sheets produced by applicant are stated to have been confirmed/affirmed on 10.02.2022.

c. The application filed on mentions invoices were issued between 12.11.2021 to 21.04.2022 and further states that the due date of the default is between 10.11.2021 to 21.04.2022. The demand notice is issued on 24.12.2024. There is an email placed on record dated Feb 8, 2025 that

-SD- Sd/-

the CD is in financial difficulty and hence is not able to pay the applicant. We see that the invoices became due and within relevant period of limitation, the notice was issued and the respondent merely confirmed the balance payable ledger and also an email dated Feb 8,2025 confirms the debt not paid due to financial constraints.

6. In view of the above we pass the following order.

ORDER

I. CP(IB) NO. 392 of 2025 is allowed

II. The Corporate Debtor – Kena Alloys 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,

-SD- -SD-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 moratorium period.

V. We hereby appoint Mr. Ramchandra Dallaram Choudhary from the panel suggested by IBBI, Registered IP having IBBI registration no. as IBBI/IPA-001/IP-P00157/2017-2018/10326, Email-rdc_rca@yahoo.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

-SD- Sd/-

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 promoters, or any other person required to assist or co-operate 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.

-SD- Sd/-

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 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

Sd/- Sd/-

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-

Sd/-

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

CHITRA HANKARE
MEMBER (JUDICIAL)

KJ-LRA