

FREE OF COST COPY

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI SPECIAL BENCH (SINGLE)**
(Through Hybrid Mode)

Item No.1
IA(IBC)/31/2026 in CP(IB)/41/9/AMR/2025
And
CP(IB)/41/9/AMR/2025

IN THE MATTER OF:
In CP(IB)/41/9/AMR/2025:

Varahi Infra ... Operational Creditor
Versus
Shrushti Contech Pvt Ltd. ... Corporate Debtor

In IA(IBC)/31/2026

Shrushti Contech Pvt Ltd ... Applicant/Corporate Debtor
Versus
Varahi Infra ... Respondent/Operational Creditor

Under Section: 7 of IBC, 2016 & Sec. 8 of Arbitration and Conciliation Act
Rule : 11 of NCLT Rules, 2016

Order delivered on 06.02.2026



CORAM:
SHRI KISHORE VEMULAPALLI, HON'BLE MEMBER (JUDICIAL)

PRESENT:
For the Operational Creditor : Ms. Sridhruti Chitrapu, Adv.
For the Corporate Debtor : Mr. G. Kalyan Chakravarthy, Adv.

ORDER

Orders pronounced and recorded *vide* separate sheets. The I.A. bearing **IA(IBC)/31/2026** is **dismissed and disposed of**, and the Petition bearing **CP(IB)/41/9/AMR/2025** filed by the Operational Creditor under Section 9 of the IBC, 2016 is **admitted**, and the IRP is appointed.

Sd/-
(KISHORE VEMULAPALLI)
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI SPECIAL BENCH (SINGLE)**
(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)

CP (IB)/41/9/AMR/2025
and IA (IBC)/31/2026

IN THE MATTER OF CP (IB)/41/9/AMR/2025:

VARAHI INFRA

Office: #20/1143,
Co-operative Colony, Kadapa YSR District,
Andhra Pradesh, India-516001.

.....Applicant/Operational Creditor

VERSUS

SHRUSHTI CONTECH PRIVATE LIMITED

S.No. 294/3, Bollavaram, Near Chowtapalli,
Proddatur, YSR District, Cuddapah,
Andhra Pradesh, India-516360.

.....Respondent/Corporate Debtor

IA (IBC)/31/2026:

Between:

M/s. Shrushti Contech Private Limited,
Represented by its Director,
Mr. Rajasekhar Reddy Jampala,
Having its office at S.No.294/3,
Bollavaram, Near Chowtapalli Proddatur,
YSR District , Proddatur,
Andhra Pradesh, India - 516360.

... Applicant / Corporate Debtor

And

M/s. Varahi Infra,

A Partnership Firm, Having its office at Office No.#20/1143,
Co-operative Colony, Kadapa YSR District,
Andhra Pradesh - 616001.

...Respondent/Operational Creditor

Order delivered on : 06.02.2026

CORAM:

SHRI KISHORE VEMULAPALLI, HON'BLE MEMBER (JUDICIAL)

PRESENT:**In CP:**

For the Applicant/Operational Creditor : Ms. Sridhruti Chitrapu, Adv.

For the Respondent/Corporate Debtor : Mr. G. Kalyan Chakravarthy, Adv.

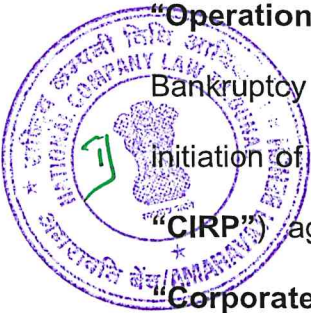
In IA:

For the Applicant : Mr. G. Kalyan Chakravarthy, Adv

[ORDER]

[PER: BENCH]

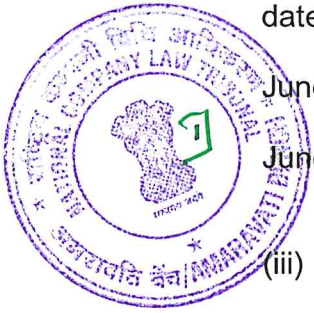
The present Application has been e-filed on 22.09.2025 and physically filed on 03.10.2025 vide Diary No.1980 by Varahi Infra (hereinafter referred to as the **"Operational Creditor"** or **"OC"** or **"Applicant"**), under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the **"IBC"** or the **"Code"**), seeking initiation of the Corporate Insolvency Resolution Process (hereinafter referred to as the **"CIRP"**) against Shrushti Contech Private Limited (hereinafter referred to as the **"Corporate Debtor"** or **"CD"** or **"Respondent"**). The application has been filed on account of default in repayment of Operational Debt. As per Part-IV of Form 5, the total amount claimed to be in default is stated to be Rs.9,79,50,115/-, comprising the principal amount of Rs.7,39,11,209/- and interest of Rs.2,40,38,906/-. The date of default has been stated as 25.12.2023.

**FACTS OF THE CASE:**

2. The brief facts of the case, as stated in the Application, are as below:
 - (i) The Corporate Debtor is a company incorporated on 05.12.2013 under the provisions of the Companies Act, 2013, bearing CIN: U45400AP2013PTC088205. As per the Master Data annexed with the application, the Authorised Share Capital of the Corporate Debtor is Rs.16,00,00,000/- and the Paid-up Share Capital is

Rs.12,00,00,000/- . The registered office of the Corporate Debtor is situated at S.No. 294/3, Bollavaram, Near Chowtapalli, Proddatur, YSR District, Proddatur, Cuddapah, Andhra Pradesh, India-516360. Accordingly, this Bench has the territorial jurisdiction to entertain and adjudicate the present Application.

(ii) The Corporate Debtor received a civil works contract from the National Highways Authority of India (NHAI) for the Project Code N/02004/21003/ AP, pursuant to a Letter of Acceptance issued vide NHAI/BS/Half-flyover/VJA/2021/2064 dated 23.06.2022. This project is for the construction of Flyovers at Jonnada Junction, Undrajavaram Junction, Tetali Junction, Kaikaram Junction, Morampudi Junction in the State of Andhra Pradesh.



(iii) Recognizing the proven capabilities and market standing of the Operational Creditor, the Corporate Debtor executed a Memorandum of Understanding dated 01.02.2023 (hereinafter referred to as the “MoU”), setting out the scope of work and financial commitments.

(iv) Pursuant to the same, the Corporate Debtor issued a work order dated 27.02.2023 to engage the services of the Operational Creditor for the construction of work in the aforesaid project.

(v) Upon the receiving the said work order, the Operational Creditor mobilized resources and commenced execution of the allocated work at its own financial risk and expense. The project required substantial capital infusion, and the Operational Creditor raised the necessary funds independently to ensure timely commencement and progress.

(vi) The Operational Creditor issued timely invoices to the Corporate Debtor as stipulated in the MoU and the Work Order. Initially, the Corporate Debtor made certain payments to the Operational Creditor towards the invoices raised. However, despite repeated requests and reminders, the Corporate Debtor willfully and unjustifiably failed and neglected to release the contractually agreed payments, thereby causing severe prejudice to the Operational Creditor and hampering the smooth functioning of their business activity.

(vii) The Operational Creditor raised a total of 11 Invoices amounting to a total of Rs.12,04,85,311/- (Rupees Twelve Crores Four Lakhs Eighty Five Thousand Three Hundred and Eleven only). The Corporate Debtor has paid the invoices raised until the fourth invoice and part payment of the fifth invoice was made. The Corporate Debtor despite having received the invoices for the work done, have failed to make payments from the part payment of fifth invoice to the eleventh invoice to the tune of Rs.7,39,11,209/- (Rupees Seven Crores Thirty Nine Lakhs Eleven Thousand Two Hundred and Nine only) after deducting the taxes.

(viii) Due to prolonged delays in the release of invoice amounts and outstanding dues, the Operational Creditor has faced huge financial losses resulting in direct and indirect consequential losses. Such conduct on the part of the Corporate Debtor constitutes a serious breach of contractual obligations, giving rise to a valid and enforceable operational debt, for which the Operational Creditor is constrained to initiate appropriate legal proceedings including the provisions of the Insolvency and Bankruptcy Code, 2016.



(ix) The Corporate Debtor withheld a total amount of Rs.7,39,11,209/- towards the invoices raised from the fifth invoice onwards. This is in contravention of the terms of the above Work Order.

(x) Further, the Corporate Debtor is liable to pay interest as the Operational Creditor is an MSME entity @ 24% amounting to Rs.2,40,38,906/-.

(xi) As no payments were forthcoming from the Corporate Debtor and there was no response to the repeated requests of the Operational Creditor, the Operational Creditor issued a statutory Demand Notice dated 21.06.2025 in Form 3 calling upon the Corporate Debtor to pay the Operational Debt of Rs.9,79,50,115/- within 10 days from the date of issuance of the Demand Notice. The tracking report in respect of service of Demand Notice to the registered address of the Corporate Debtor shows that the item is returned with instructions 'Returned as Refused'. In view of refusal, the Demand Notice is deemed as served upon the Corporate Debtor. Further, the Demand Notice was also sent to the Registered Email Address of the Corporate Debtor. Despite the issuance of a Demand Notice, the Corporate Debtor failed to discharge its liability towards the Operational Debt. The default first occurred on 25.12.2023 when part payment of the fifth invoice was not made by the Corporate Debtor.

(xii) In support of the above, the Operational Creditor filed the following documents along with the Application:

- a. MoU between Shrushti Contech Pvt. Ltd. and Varahi Infra dated 01.02.2023;

- b. Work Order between Shrushti Contech Pvt. Ltd. and Varahi Infra dated 27.02.2023;
- c. 11 Invoices raised by the Operational Creditor on the Corporate Debtor;
- d. GST Forms (GSTR-1 and GSTR-3B);
- e. Certificate on book debts in the books of Varahi Infra;
- f. Form 3 Demand Notice dated 21.06.2025;
- g. Track Reports from India Post Portal;
- h. Copy of relevant Bank Statement of the Operational Creditor.

3. The Operational Creditor filed a separate affidavit dated 26.09.2025, along with the Application stating as below:

(i) Despite diligent efforts and exhaustive searches conducted through the official portal of the Ministry of Corporate Affairs (MCA), the requisite constitutional documents of Corporate Debtor, namely the Memorandum of Association (MoA) and Articles of Association (AoA), are not available in the public domain. This non-availability appears to be attributable to the Corporate Debtor's failure to comply with its statutory obligations under the Companies Act, 2013, to upload and maintain these fundamental corporate documents with the MCA.

(ii) Upon examination of the Corporate Debtor's records available on MCA portal, it was discovered that in a highly irregular and non-compliant manner, a Deed of Partnership dated 01.04.2013 has been erroneously uploaded in place of MoA and a Power of Attorney has been uploaded in place of AoA, the same are annexed to the present Application as Annexure 3 and 4.

(iii) The absence of these documents is not due to any laches, negligence, or want of due diligence on the part of the Applicant, but rather stems from the Corporate Debtor's own deficiencies in corporate governance and statutory compliance. Such non-compliance by the Corporate Debtor cannot be permitted to prejudice the legitimate rights of operational creditors or impede the administration of justice under the Code.

(iv) In these circumstances, where the Corporate Debtor's own default in maintaining proper corporate records has rendered it impossible for the Applicant to comply with the documentary requirements typically expected in such proceedings, the applicant prays that this Adjudicating Authority may exercise its inherent powers to dispense with the strict requirement of filing the MoA and AoA.



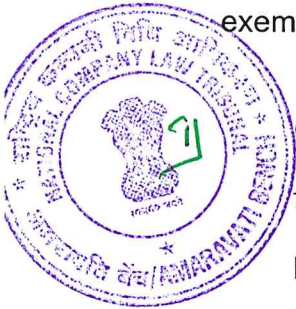
4. During the hearing held on 28.10.2025, the Counsel for the Operational Creditor sought one week's time to clarify the sequence of procedural compliance prior to the issuance of the invoices and to furnish a proper affidavit under Section 9(3)(b) of IBC, 2016.

5. In compliance thereto, the Operational Creditor filed a Memo vide Diary No.2270 dated 10.11.2025 furnishing affidavit under Section 9(3)(b) of IBC, wherein, it was stated that due to non-payment of debt which has become due, the Operational Creditor issued Notice under Section 8 of IBC to the Corporate Debtor. The Corporate Debtor has neither paid the debt nor issued notice relating to any dispute of the unpaid operational debt and there is no pre-existing dispute between the Parties.

6. Further, the Operational Creditor in order to substantiate and fortify the claim, filed a Memo vide Diary No.2268 dated 10.11.2025, enclosing the Annual Tax Statement of the Operational Creditor for the FY 2023-24 which contains the details of the TDS Reconciliation Analysis, evidencing the transactions and deductions relevant to the claim under consideration.

REPLY OF THE CORPORATE DEBTOR:

7. The Corporate Debtor filed reply vide Diary No.166 dated 23.01.2026, denying all material allegations and averments made in the Section 9 application filed by the Operational Creditor. The Corporate Debtor has sought dismissal of the application with exemplary costs. The key contentions raised in the reply are as follows:

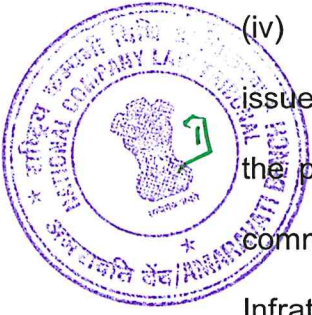


(i) The NHAI awarded a contract to the Corporate Debtor for construction of a flyover through a Letter of Acceptance dated 23.06.2022, for a value of Rs.14,059.60 lakhs. Subsequently, the Operational Creditor approached the Corporate Debtor seeking sub-contracting of a portion of the work, pursuant to which a MoU dated 01.02.2023 was executed. Under the MoU, the work was subcontracted on a back-to-back basis.

(ii) As per Clause 6 of the MoU, time was the essence of the contract, and the subcontracted work was required to be completed within 18 months, inclusive of the monsoon period, strictly in accordance with NHAI specifications and to its requirements. Additionally, the Operational Creditor agreed to pay a royalty of 5% on the gross bills to the Corporate Debtor as consideration for the subcontract. The

MoU also contained an arbitration vide Clause 26 for dispute resolution, with jurisdiction at Hyderabad.

(iii) Consequent to the above MoU, the Corporate Debtor issued a Work Order dated 27.02.2023 to the Operational Creditor. However, the Operational Creditor neither commenced its work nor responded to the communications of the Corporate Debtor. The Operational Creditor in accordance with the MoU failed to submit drawings for approval as per MoU, and the same was submitted to NHAI by the Corporate Debtor.



(iv) The Operational Creditor acting in breach of the MOU and Work Order issued in its favor, issued another sub-contract in favor of M/s. Sun Infratech without the prior consent of the Corporate Debtor. However, due to the defaults already committed by the Operational Creditor, the Corporate Debtor authorized M/s. Sun Infratech to take up the works originally assigned to the Operational Creditor. However, M/s. Sun Infratech abandoned the works midway which led to the Corporate Debtor take-up the works at its own cost. The sub-contract executed by the Operational Creditor either express or oral stands in breach of the terms of the MOU and thereby extinguishes any rights of the Operational Creditor to claim under the said agreement.

(v) Without executing any works, the Operational Creditor started raising the invoices, for which the Corporate Debtor has denied honoring the invoices. Without the inspection and certification, no invoices would be honored. The Corporate Debtor and the officials of the NHAI, inspected the site premises, and basing on

certifications, the Corporate Debtor has released certain amounts for the completed works. Further, all the invoices raised by the Operational Creditor as against the works executed by Sun Infratech. The invoices filed along with the company petition are fabricated and cannot be considered.

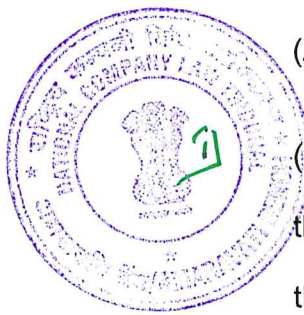
(vi) It is denied that the Operational Creditor has lent Rs.8 crores from Bank of Maharashtra for the said project. It is the Sun Infratech who has done partial works. The operational creditor cannot link the lending of amounts is for this project, it might be for other requirements, for which this Corporate Debtor has no concern.

(vii) Despite the adverse situations attributable to the Operational Creditor and being no longer bound to the MoU consequent to the violation of its terms, the Corporate Debtor voluntarily released an amount of Rs.7,70,96,062/- as compensation of the partially executed works by Sun Infratech on behalf of the Operational Creditor. Therefore, nothing remains unpaid to the Operational Creditor.

(viii) The nature of all documents submitted by the Operational Creditor are in self-declaratory in nature and cannot be relied upon. The reliance placed by the Operational Creditor on the GSTR-1 and GSTR-3B returns filed under the GST regime is wholly misconceived. GST returns are statutory self-declarations filed for tax compliance purposes and does not establish the underlying work that has been executed by the recipient. Except the invoices, the Operational Creditor has not filed any document to show the execution of the works by it. Moreover, the Demand Notice is not properly served on the Corporate Debtor before initiating the present

proceedings. In view of the ineffective service, reply is not provided to the Demand Notice. However, email is addressed to the Company.

(ix) Further, the Operational Creditor prior to initiating these proceedings has issued legal notice date 19.05.2025 to the Corporate Debtor raising these allegations. For the said notice, reply is given on 23.06.2025, raising the serious objections and dispute over the claim of the operational creditor. The notice was duly served on the Creditor. However, ignoring the claim of the Corporate Debtor, the Operational Creditor issued Form 3 on 21.06.2025 without addressing it to the Registered Office of the Corporate Debtor, as required under Rule 5(2) of the I&B (Application to Adjudicating Authority) Rules, 2016. Thus, the notice is defective.



(x) Any payment executed under the work order does not become due unless the work is duly measured, verified, and certified as satisfactory by the principal. In the present case, no such approvals, measurements, or completion certificates were ever issued either by the principal or the Corporate Debtor. There is no pleading in the petition that works were executed and certified by NHAI and the invoices have become due.

(xi) Mere raising of periodic invoices and the corresponding reflection of the same in GST returns cannot override or dispense with the contractual requirement of approval, certification, and acceptance of work. All the GST returns were in the name of the Operational Creditor, whereas the works were executed by Sun Infratech. As such, raising these returns in the name of the Corporate Debtor cannot

be believed. The invoices for such substantial amounts were raised on a monthly basis, without corresponding approvals or certifications of work.

(xii) Neither the GST Returns, nor any other document relied upon by the Operational Creditor establish the execution of any work. On the contrary, the said invoices and returns having no reference to requirements under the agreement as to approvals or the factual reality, coupled with breach of contractual obligations and substandard execution of work, clearly gives rise to pre-existing dispute. The Operational Creditor failed to establish the existence of any legally enforceable operational debt as the supporting documents clearly establish that the alleged claim is solely based on unilateral invoices and self-declaratory documents.



(xiii) The above contentions of the Operational Creditor arise out of the MoU and the Work Order, and in the presence of a valid and binding arbitration Agreement and in view of the serious and bona fide disputes between the Parties, the present Application filed without exhausting the relief under the Arbitration Act is not maintainable and therefore is liable to be dismissed with a direction of referring the parties to arbitration.

ANALYSIS AND FINDINGS:

8. Heard the Counsels appearing for both the Parties and perused the records carefully.

9. The Operational Creditor is registered as an MSME having UDYAM Registration No.UDYAM-AP-05-0020349. The present Application has been filed under Section 9 of

the IBC seeking initiation of CIRP on account of default in repayment of an operational debt amounting to Rs.9,79,50,115/-, comprising the principal amount of Rs.7,39,11,209/- and an interest amount @ 24% under amounting to Rs.2,40,38,906/- being an MSME. The Corporate Debtor is a registered company under the Companies Act, 2013 with its registered office in YSR District Kadapa, Andhra Pradesh, falling within the territorial jurisdiction of this Adjudicating Authority. Hence, the Application is maintainable.

10. Background of the case is that the Corporate Debtor was awarded a civil works contract by the NHAI bearing Project Code N/02004/21003/AP pursuant to a Letter of Acceptance dated 23.06.2022, for the construction of flyovers in the State of Andhra Pradesh, and thereafter, executed a MoU dated 01.02.2023 outlining the scope of work and financial commitments, pursuant to which a Work Order dated 27.02.2023 was issued engaging the Operational Creditor for execution of works under the said Project.

11. Pursuant to the execution of the work, the Operational Creditor raised a total of eleven invoices aggregating to Rs.12,04,85,311/- and out of the same, a total of Rs.7,39,11,209.46 is due and payable, the details of which are tabulated hereunder:

DATE	Vch NO.	Taxable Value (Rs.)	GST (Rs.)	Total Invoice Value (Rs.)	TDS (Rs.)	Net Amount (Rs.)	Due Dtae	Amount Received (Rs.)	Amount Receivable
18.06.2023	VI/01/2023-24	56,46,120.00	10,16,301.60	66,62,421.60	1,12,922.40	65,49,499.20	18.06.2023	65,49,499.20	0
26.07.2023	VI/02/2023-24	35,62,000.00	6,41,160.00	42,03,160.00	71,240.00	41,31,920.00	25.08.2023	41,31,920.00	0
24.08.2023	VI/03/2023-24	1,10,36,900.00	19,86,642.00	1,30,23,542.00	2,20,738.00	1,28,02,804.00	23.09.2023	1,28,02,804.00	0
04.11.2023	VI/04/2023-24	98,44,300.00	17,71,974.00	1,16,16,274.00	1,96,886.00	1,14,19,388.00	04.12.2023	1,14,19,388.00	0
25.11.2023	VI/05/2023-24	94,16,280.00	16,94,930.40	1,11,11,210.40	1,88,325.60	1,09,22,884.80	25.12.2023	96,28,366.00	12,94,518.80
23.12.2023	VI/06/2023-24	1,34,92,124.00	24,28,582.32	1,59,20,706.32	2,69,842.48	1,56,50,863.84	22.01.2024	0	1,56,50,863.84
18.01.2024	VI/07/2023-24	73,77,625.00	13,27,972.50	87,05,597.50	1,47,552.50	85,58,045.00	17.02.2024	0	85,58,045.00
04.02.2024	VI/08/2023-24	71,80,920.00	12,92,565.60	84,73,485.60	1,43,618.40	83,29,867.20	05.03.2024	0	83,29,867.20
28.03.2024	VI/09/2023-24	2,02,99,649.40	36,53,936.89	2,39,53,586.29	4,05,992.99	2,35,47,593.30	27.04.2024	0	2,35,47,593.30
16.06.2024	VI/10/2023-24	1,13,91,807.00	20,50,525.26	1,34,42,332.26	2,27,836.14	1,32,14,496.12	16.07.2024	0	1,32,14,496.12
19.08.2024	VI/11/2023-24	28,58,470.00	5,14,524.60	33,72,994.60	57,169.40	33,15,825.20	18.09.2024	0	33,15,825.20
Total				12,04,85,310.57	20,42,123.91	11,84,43,186.66		4,45,31,977.20	7,39,11,209.46

12. It is the case of the Operational Creditor that the Corporate Debtor has paid the amount towards the invoices raised until the fourth invoice and that a part payment in respect of the fifth invoice was also made. Subsequently, since no further payments were forthcoming from the Corporate Debtor, the Operational Creditor issued a statutory Demand Notice in Form 3 dated 21.06.2025 to the registered address of the Corporate Debtor for the total debt due from the Corporate Debtor to the tune of Rs.9,79,50,115/-, which includes the 24% interest amount of Rs.2,40,38,906/-. The Operational Creditor has also enclosed the tracking report of service of the aforesaid Demand Notice, wherein, it is observed that the item was shown as "Returned as Refused". In view of the same, it is settled law that once the Demand Notice is served on the registered address of the Corporate Debtor and if the same has been 'Refused', such refusal will be treated as deemed service. Moreover, the Corporate Debtor in its counter affidavit at para 16 has acknowledged that Demand Notice has also been addressed to the e-mail of the Corporate Debtor. Therefore, the contention of the Corporate Debtor that the Application is not maintainable for non-service of Demand Notice is not tenable.

13. In view of the above, this bench is of the opinion that the statutory Demand Notice in Form-3 dated 21.06.2025 issued under the IBC, 2016 has been duly effected. However, in spite of proper service of the Demand Notice, the Corporate Debtor neither replied to the notice nor paid any amount nor specifically denied the part payments made by it to the Operational Creditor.

14. It is seen from the records that as per Part-IV of Form 5 of the Application, the Operational Creditor has mentioned the Date of Default as 25.12.2023 when the part payment of the fifth invoice was not made by the Corporate Debtor. In the present case,

the due date of each invoice is not mentioned in any of the invoices in this Application. In this connection, reference is made to the decision of the Co-ordinate Bench i.e. Hon'ble NCLT Mumbai Bench in the matter of TLG India (P) Ltd. vs. Puranik Builders Ltd. [CP(IB)-764/MB/2022 decided on 17.03.2023] wherein, it was held that if there is no due date mentioned in the invoice, then 30 days from the date on which the invoice was raised should be considered as the date of default. Considering the above, it can be inferred that the due date for each invoice would be 30 days from the date of invoice. Therefore, the debt in respect of fifth invoice i.e. 25.11.2023 has become due on 25.12.2023 and considering that the Operational Creditor has stated that the Corporate Debtor made only part payment in respect of fifth invoice, the 'debt' has become due, and since no payments were received thereafter, the Corporate Debtor has committed 'default' as per Section 3(12) of the IBC.



15. As stated supra, the default first occurred on 25.12.2023. Accordingly, the limitation period for filing the present Application would ordinarily expire on 25.12.2026 in terms of Article 137 of the Limitation Act, 1963. The present application having been filed on 03.10.2025 is well within the prescribed three-year limitation period. Hence, the Application is within limitation.

16. The Corporate Debtor has contended that the invoices filed along with the Company Petition are fabricated and therefore cannot be relied upon, however, this assertion is untenable in view of the Corporate Debtor's own admission that it denied to honour the said invoices. Such an acknowledgment clearly contradicts the allegation of fabrication and, in fact, amounts to an admission of the existence of the debt due and payable to the Operational Creditor.

17. The Corporate Debtor further stated that the Operational Creditor did not execute any work and also violated the terms of the MoU by sub-contracting a third party M/s. Sun Infratech to complete the work without the prior consent of the Corporate Debtor. Contrary to the above submission, the Corporate Debtor itself stated that it authorized the Ms. Sun Infratech to take up the works originally assigned to the Operational Creditor. Moreover, there is no evidence placed before the Bench by the Corporate Debtor as regards the sub-contract which is alleged to have been given by the Operational Creditor to M/s Sun Infratech. Further, in reply affidavit the Corporate Debtor itself stated that it voluntarily paid a sum of Rs.7,70,96,062/- to M/s.Sun Infratech in respect of works executed by it on behalf of the Operational Creditor and therefore nothing remains unpaid to the Operational Creditor. From the above, this bench is of the considered view that the Corporate Debtor has paid the aforesaid sum to M/s. Sun Infratech voluntarily without any knowledge of the Operational Creditor. Further, no record has been placed before the Bench to substantiate the aforesaid payment made to M/s. Sun Infratech. The Corporate Debtor contended that the Operational Creditor had violated the terms of the aforesaid MoU. However, no material has been placed before the Bench to demonstrate any steps taken by the Corporate Debtor in response to such alleged violation of breach of MoU by the Operational Creditor and further, no document evidencing communication of termination of the sub-contract to the Operational Creditor has been filed.

18. Based on the records available, it is observed that there is nothing placed on record to show that there is any pre-existing dispute raised by Corporate Debtor to the Operational Creditor. Accordingly, the Adjudicating Authority finds that no genuine or pre-existing dispute has been established under Section 5(6) of the Code.

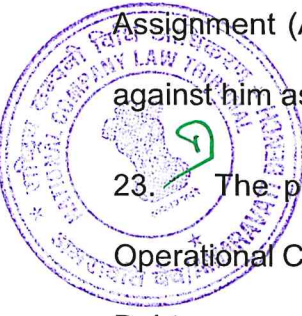
19. It is observed that the Operational Creditor is claiming an interest @ 24% amounting to Rs.2,40,38,906/- being an MSME along with outstanding principal debt of Rs.7,39,11,209/-. However, the Hon'ble NCLAT in the matter of SNJ Synthetics Ltd. v. PepsiCo India Holdings Pvt. Ltd., (2025) ibclaw.in 342 NCLAT held that this Adjudicating Authority is not the appropriate forum for determination on the liability of the Corporate Debtor to pay interest under the MSME Act or Interest Act.

20. In view of the above, this Adjudicating Authority is of the view that the interest amount of Rs.2,40,38,906/- cannot be treated as an 'operational debt' for the purposes of present Application. However, the principal amount claimed to be in default is Rs.7,39,11,209/-, and the same is beyond the threshold limit for filing the present Application as per Section 4 of IBC.

21. In view of the above, this bench is of the considered view that there exists an 'operational debt' that has become due and payable, there is a 'default' in repayment of more than Rs. 1 Crore as required under Section 4 of the Code, there is no credible evidence placed on record by the Corporate Debtor to substantiate its alleged 'dispute' and that the application is filed within the limitation period. Further, the Application filed under Section 9 of the Code is complete in all respects and complies with the requirements of the Code and the relevant Rules.

22. It is observed that the Operational Creditor has not proposed the name of any Resolution Professional in Part III of Form-5 of the Application. During the course of today's hearing, the Counsel appearing for the Operational Creditor sought leave of this Adjudicating Authority to appoint any Resolution Professional as IRP. The said submission is recorded. Accordingly, this Adjudicating Authority is empowered to appoint

an Interim Resolution Professional (IRP) from among the Insolvency Professionals registered with and approved by the Insolvency and Bankruptcy Board of India (IBBI). In exercise of the said power, this Adjudicating Authority hereby appoints **Mr. Poluri Maruti Venkata Subbarao**, Insolvency Professional bearing IBBI Registration No. **IBBI/IPA-002/IP-N00924/2019-2020/13001**, having office address at TF-8, Empire Square, Road No. 36, Jubilee Hills, Hyderabad – 500033, and email ID: **cssubbarao@gmail.com**, as the Interim Resolution Professional (IRP). It is further noted, based on the records available on the IBBI website, that the proposed IRP holds a valid Authorization for Assignment (AFA) up to 31.12.2026, and that no disciplinary proceedings are pending against him as on date.



23. The present Section 9 Application bearing CP(IB)/41/9/AMR/2025 filed by the Operational Creditor under Section 9 of the Code for initiating CIRP against the Corporate Debtor, namely, Shrushti Contech Private Limited (CIN: U45400AP2013PTC088205), is hereby admitted and accordingly, the Moratorium is declared in terms of Section 14 of the Code:

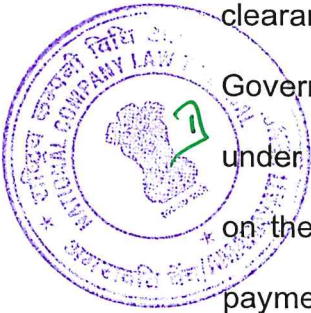
- (i) Moratorium under section 14 (1) for prohibiting all of the following, namely:
 - (a) The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - (b) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;

- (c) Any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (d) The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the Corporate Debtor.

(ii) It is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;

(iii) The provisions of sub-section of section 14(1) shall not apply to such transactions, agreements or other arrangement, as may be notified by the Central Government in consultation with any financial sector regulator or any other authority; and also to a surety in a contract of guarantee to a corporate debtor.

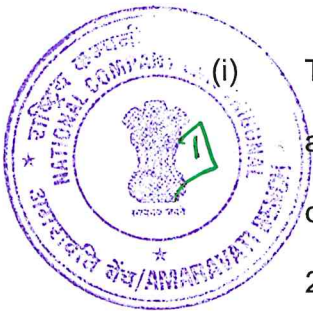
(iv) The supply of essential goods or services to the Corporate Debtor, as may be specified, shall not be terminated or suspended or interrupted during moratorium



period, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances, as may be specified.

(v) The order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Bench approves the resolution plan under subsection (1) of Section 31 or passes an order for liquidation of the Corporate Debtor under Section 33 as the case may be.

24. This Adjudicating Authority also appoint Mr.Poluri Maruti Venkata Subbarao (IBBI Registration No. IBBI/IPA-002/IP-N00924/2019-2020/13001) as IRP with the following directions:-



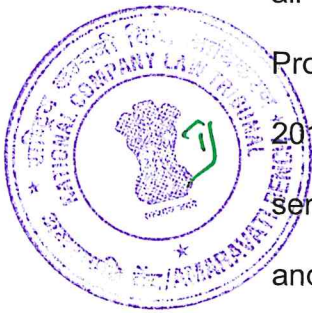
- (i) The term of appointment of Mr.Poluri Maruti Venkata Subbarao shall be in accordance with the provisions of Section 16(5) of the Code, subject to the condition that he do not have more than permissible assignments as per Para 22 of First Schedule prescribed under Regulation 7(2) (h) of IBBI (Insolvency Professional) Regulations, 2016 and also subject to his written consent to be filed within 7 days of this order;
- (ii) In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the IRP and the officers and the managers of the Corporate Debtor shall report to the IRP, who shall be enjoined to exercise all the powers, as are vested with the IRP and strictly perform all the duties as are enjoined on the IRP under Section 18 and other relevant provisions of the Code, including taking control and custody of the assets, over which the Corporate

Debtor has ownership rights recorded in the balance sheet of the Corporate Debtor, etc. as provided in Section 18(1)(f) of the Code. The IRP is directed to prepare a complete list of the inventory of assets of the Corporate Debtor;

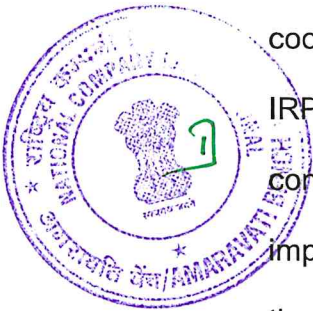
- (iii) The IRP shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government and in accordance with the Code of Conduct governing his profession and as an Insolvency Professional with high standards of ethics and moral;
- (iv) The IRP shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the CIRP in terms of Section 13(1)(b) read with Section 15 of the Code calling for the submission of claims against Corporate Debtor;
- (v) The IRP/RP shall prepare the Audited Financial Statements as on date of the CIRP and shall submit before the CoC for consideration.
- (vi) The IRP/RP shall also ensure that all the assets appearing in the Financial Statements on the CIRP date have been considered in the valuation report. The IRP/RP shall send individual communication through post or electronic means along with a copy of public announcement to all the creditors as per last available books of accounts/ financial statements on the CIRP date of Corporate Debtor as prescribed under Regulation 6A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.



- (vii) The Corporate Debtor, its Directors, personnel and the persons associated with the management shall extend all cooperation to the IRP in managing the affairs of the Corporate Debtor as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;
- (viii) The Suspended Board of Directors is directed to give complete access to the Books of Accounts of the Corporate Debtor maintained under Section 128 of the Companies Act. In case, the books are maintained in the electronic mode, the Suspended Board of Directors are to share with the Resolution Professional all the information regarding Maintaining the Backup and regarding Service Provider kept under Rule 3(5) and Rule 3(6) of the Companies Accounts Rules, 2014 respectively as effective from 11.08.2022, especially the name of the service provider, the internet protocol of the Service Provider and its location, and also address of the location of the Books of Accounts maintained in the cloud. In case accounting software for maintaining the books of accounts is used by the Corporate Debtor, then IRP/ RP is to check that the audit trail in the same is not disabled as required under the notification dated 24.03.2021 of the Ministry of Corporate Affairs. A reference is made to the provisions of Section 128(5) of the Companies Act 2013, whereby every company should maintain its books of accounts for not less than eight financial years immediately preceding a financial year. Minutes and statutory records are the principal documents of the company that should be maintained and preserved since inception.

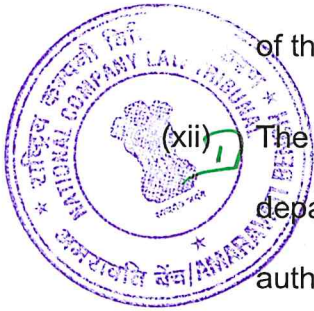


- (ix) In view of the above mandatory provisions, the suspended directors of the board will ensure that the books of accounts for the eight previous financial years preceding the date of this order be made available to the IRP/ RP within 15 days of the initiation of the CIRP order. The statutory auditor is also directed to share the records maintained by him in the course of the audit of the accounts of the Corporate Debtor for the period of three years prior to the date of initiation of this CIRP order within the same period of 15 days. (x) In case of any non-cooperation by the Suspended Board of Directors or the statutory auditors, the IRP/RP may take the help of the police authorities to enforce this order. The concerned police authorities are directed to extend help to the IRP/ RP in implementing this order for retrieval of relevant information from the systems of the Corporate Debtor, the IRP/ RP may take the assistance of Digital Forensic Experts empanelled with this Bench for this purpose. The Suspended Board of Directors is also directed to hand over all user IDs and passwords relating to the Corporate Debtor, particularly for government portals, for various compliances. The IRP is also directed to make a specific mention of non-compliance, if any, in this regard in his status report filed before this Adjudicating Authority immediately after a month of the initiation of the CIRP.
- (x) The IRP/RP is directed to approach the Government Departments, Banks, Corporate Bodies and other entities with request for information/ documents available with those authorities/ institutions/ others pertaining to the Corporate Debtor, which would be relevant in the CIRP. The Government Departments, Banks, Corporate Bodies and other entities are directed to render the necessary



information and cooperation to the IRP/RP to enable him to conduct the CIRP as per law.

- (xi) The IRP shall, after collation of all the claims received against the Corporate Debtor and the determination of the operational position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying constitution of the Committee to this Adjudicating Authority on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the Committee within seven days of filing the report of constitution of the Committee;



- (xii) The IRP shall also serve a copy of this order to all relevant statutory departments such as Income Tax, GST (Centre and State), Provident Fund authorities, trade unions, and employee associations to inform them about the commencement of CIRP.

- (xiii) The IRP is directed to send a regular progress report to this Adjudicating Authority every fortnight.

25. The Operational Creditor is directed to deposit Rs. 4,00,000/- (Rupees Four Lakhs only) with the IRP 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 amount, however, will be subject to adjustment by the Committee of Creditors as to be duly accounted for by IRP and shall be paid back to the Operational Creditor.

26. A copy of this Order shall immediately be communicated to the Operational Creditor, the Corporate Debtor, IBBI, and the IRP named above by the Registry of this Adjudicating Authority.

27. In view of the admission of the main Application **CP (IB)/41/9/AMR/2025**, the IA bearing IA (IBC)/31/2026 filed by the Corporate Debtor under Section 8 of the Arbitration and Conciliation Act, 1996 read with Rule 11 of the NCLT Rules, 2016 seeking to refer the disputes to the Arbitration in terms of Clause 26 of the MoU dated 01.02.2023 and Work Order dated 27.02.2023 becomes infructuous, as it is settled law that there is no embargo on the Operational Creditor to file Section 9 Application under the IBC even if there exists an Arbitration Clause in the aforesaid MoU and Work Order. Considering the above, the application bearing **IA (IBC)/31/2026 is dismissed** and is accordingly disposed of.

Sd/-

(KISHORE VEMULAPALLI)
MEMBER (JUDICIAL)

Naila Shaik (LRA)

प्रमाणित प्रति/CERTIFIED TRUE COPY
केस संख्या IA(IBC)/31/2026 in
CASE NUMBER CP(IB)/41/9/AMR/2025
मेंच एच शाईक
DATE OF JUDGEMENT 06.09.2026
प्रति वेसात रिजल गजल काठीक
COPY MADE READY ON 06.09.2026

INJUN
Deputy Registrar / Assistant Registrar /
Court Officer
NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH