NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH COURT VI

Item No. P-3

C.P. (IB)/907(MB)2025

CORAM

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING DATED **08.05.2026**

NAME OF THE PARTIES **: Arshiya Northern Ftwz Limited**

Vs

Arshiya 3pl Services Private Limited

Under Section 9 of the IBC, 2016.

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate order. Detailed order is being uploaded on the NCLT portal today.

Sd/-
NILESH SHARMA
MEMBER (JUDICIAL)

Sd/-
SAMEER KAKAR
MEMBER (TECHNICAL)

//SS//

IN THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI BENCH-VI

CP (IB) No.907/MB/2025

[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]

IN THE MATTER OF:

Arshiya Northern Ftwz Limited
through Resolution Professional
Mr. Bhuvan Madan
[CIN: U51109MH2008PLC183555]
205 & 206 (Part), 2nd Floor, Ceejay-House, F-Block, Shiv Sagar Estate,
Dr. Annie Besant Road, Worli,
Mumbai, Maharashtra, India-400018.

…Operational Creditor/Applicant

V/s

Arshiya 3pl Services Private Limited
[CIN: U74999MH2018PTC313041]
Registered Office: Arshiya FTWZ,
CO-1, Survey Nos. 178/3 & 178/4,
At Post - Sai Village, Sai, Raigarh,
Panvel, Maharashtra, India, 410221.

...Corporate Debtor

Pronounced: 08.05.2026

CORAM:
HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)
HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)

Appearances: Hybrid

Operational Creditor: Adv. Mr. Ayush Rajani a/w Adv. Ms. Khushaboo Shah i/b AKR Legal.

Corporate Debtor: Adv. Mr. Nausher Kohli a/w Adv. Mr. Abhishek Gupta, Adv. Mr. Chirag Naik, Adv. Mr. Ashish Mishra i/b MZM legal.

ORDER

[PER: BENCH]

1. BACKGROUND

1.1 This is an Application bearing C.P.(IB) No.907/MB/2025 filed on 01.08.2025 by Arshiya Northern Ftwz Limited, the Applicant (Operational Creditor) under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "the AAA Rules") through Mr. Bhuvan Madan Resolution Professional of the Applicant seeking for initiating Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") in respect of Arshiya 3pl Services Private Limited, the Corporate Debtor (CD).

1.2 The CD is Arshiya 3pl Services Private Limited (CIN: U74999MH2018PTC313041) was incorporated in 2018 and is engaged in the business of providing third-party logistics services having its Registered Office at Arshiya FTWZ, CO-1, Survey Nos. 178/3 & 178/4, At Post - Sai Village, Sai, Raigarh, Panvel, Maharashtra, India, 410221.

1.3 The Applicant has not proposed the name of an IRP and has requested the Tribunal to appoint an IRP.

2. AVERMENTS OF THE APPLICANT

2.1 The Operational Creditor (Arshiya Northern FTWZ Limited) was incorporated in the year 2008 and is engaged in the business of providing free trading warehouses and logistics support to facilitate cross-border and international trade.

2.2 The Present petition under section 9 of the IBC, 2016 has been filed by the Resolution Professional of the Operational Creditor, which is currently undergoing Corporate Insolvency Resolution Process (CIRP), seeking to initiate CIRP against the Corporate

Debtor. The Parties herein are 'Fellow Subsidiaries' and the Corporate Debtor is under the control and management of the suspended directors of the Operational Creditor.

2.3 As per Part-IV of the Application the total amount claimed to be in default by the Applicant is Rs. 5,08,31,802/- (Rupees Five Crores Eight Lakhs Thirty-One Thousand Eight Hundred and Two Only). The details provide are reproduced here under:

The following table outlines the computation of the amount claimed. The table relates to the period from 28.02.2023 to 30.11.2024 :

Particulars	Amount (in Rs.)
Invoices raised by the Operational Creditor	6,37,61,800
Payment Received from the Corporate Debtor	(1,00,49,119)
Payment made by the Corporate Debtor on behalf of the Operational Creditor	(28,80,879)
Total	5,08,31,802

The outstanding statement of account is supported by the invoices raised during the period form 28.02.2023 to 30.11.2024 and is annexed as Annexure 2.

2.4 The date of default is mentioned as 11.11.2024.

2.5 It is stated that the Operational Creditor and Corporate Debtor entered into a Unit Holder Agreement dated 06.05.2019, as per which the Operational Creditor has been providing warehousing space to the Corporate Debtor for the storage of goods as per the prescribed rate mentioned in the agreement. (**Annexure 4**)

2.6 Subsequently, the agreement was renewed and extended by way of an Addendum Letter dated 01.04.2023, thereby extending the term of the said Agreement up to 31.03.2024 Notwithstanding the expiry of the extended term, the Corporate Debtor continued to avail the services of the Operational Creditor without interruption, and the

contractual relationship between the parties remained binding and enforceable. (**Annexure 5)**

2.7 It is submitted that, in the terms of the agreement, the Operational Creditor provided warehousing and logistics services and raised invoices from 28.02.2023 to 31.10.2024, which still remain outstanding and payable by the Corporate Debtor. **(Annexure 1)**

2.8 It is also submitted that on 29.01.2025, the Operational Creditor signed a Memorandum of Understanding (MOU) with the Corporate Debtor evidencing the acknowledgement of debt by the Corporate Debtor.

2.9 It is submitted that the Operational Creditor had also sent the Corporate Debtor multiple reminders to make their payments within the timelines stipulated under the MoU. Reminder emails were sent out on 08.04.2025, 06.05.2025, 16.05.2025 and 26.05.2025. The Respondent had completely disregarded these emails and have made no further payments till date. Copies of the emails are attached at Page no. 203 to 205.

2.10 It is further submitted that, the Operational Creditor has issued a Demand Notice dated 01.07.2025 in Form 3 under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and called upon the Corporate Debtor to pay a sum of Rs.5,08,31,802/-. The said demand notice was delivered to Corporate Debtor on 04.07.2025.

2.11 It is stated that, there was no pre-existing dispute between Operational Creditor and Corporate Debtor.

2.12 As per order dated 09.09.2025, the Tribunal directed the registry to issue notice on the Corporate Debtor and handover the same to the Operational Creditor. The Operational Creditor was directed to serve a copy of the said notice along with the Application and

order on the CD through all modes i.e. Dasti, Registered post/ Speed post and by email. This Tribunal further directed to Applicant to file affidavit of service well before the next date of hearing and CD was directed to file its reply within a period of 7 days after receipt of the copy of the application.

2.13 In compliance of order dated 09.09.2025, Operational Creditor filed an affidavit of service (AOS) dated 29.09.2025, which revealed that the service through speed post was refused by the Corporate Debtor. The AOS further states that copy of petition was later served upon the Corporate Debtor though another Speed Post on 24.09.2025 and notice sent through email on 25.09.2025. The Corporate Debtor filed its reply on 06.11.2025.

2.14 As per order dated 31.10.2025, the Ld. Counsel of Operational Creditor requested the bench to allow filing of their rejoinder within 10 days, which was allowed. In compliance with the said order, the Operational Creditor filed Rejoinder on 28.11.2025 and the same has been served upon the Corporate Debtor.

2.15 As per order dated 28.11.2025, the Tribunal directed both parties to file brief synopsis of their argument, along with citation, not exceeding three pages each.

2.16 The Applicant has relied on the following documents:

i. Copy of the Demand Notice dated 01.07.2025.

ii. Copy of the tracking report, postal receipts.

iii. Copy of the Unit Holder Agreement executed between the parties.

iv. Copy of the Addendum Letter for the renewal of the Unit Holder Agreement entered between Operational Creditor and Corporate Debtor.

v. Copy of the Memorandum of Understanding executed by both the parties.

vi. Copies of Tax invoices.

vii. Copies of emails.

viii. Copy of the NeSL Report in Form C.

ix. Copy of Master Data of the Operational Creditor and Corporate Debtor.

x. Affidavit in compliance of Section 9(3)(b) of the Insolvency and Bankruptcy Code, 2016

xi. Copy of Outstanding Statement of Corporate Debtor in the books of Operational Creditor.

xii. Copy of FORM 1A (AAA).

3. CONTENTIONS OF CORPORATE DEBTOR

3.1 The Corporate Debtor filed Affidavit-in-Reply dated 06.11.2025 affirmed by Mr. Ajay Shankarlal Mittal, authorised representative of the CD *vide* Affidavit dated 30.10.2025 authorising him to file reply.

3.2 The Corporate Debtor in its reply denies all allegations, contentions, and averments contained in the Petition as if the same were traversed seriatim.

3.3 The Corporate Debtor has raised a preliminary objection to the maintainability of the present petition, contending that the claim of the Operational Creditor does not qualify as "operational debt" within the meaning of Section 5(21) of the IBC, 2016.

3.4 It is submitted that the alleged dues pertain solely to rentals, lease charges, or occupancy charges arising from a commercial arrangement for use of immovable property within the ANFL FTWZ, and not from the provision of goods or services as contemplated under Section 5(21). The Corporate Debtor relies upon *M. Ravindranath Reddy vs. G. Kishan & Ors. (Company Appeal (AT) (Insolvency) No. 331 of 2019, NCLAT)* judgement, wherein it was held that claims arising from lease, license, or rental arrangements for immovable property do not constitute operational debt under the Code. The Corporate Debtor further submits that the petition is not maintainable

and deserves to be dismissed in limine, as the claim is contractual in nature and can at best give rise to a civil or contractual dispute not insolvency proceedings. It is further contended that allowing such claims under the IBC would convert the insolvency framework into a debt recovery mechanism, contrary to the object and intent of the Code as recognized by the Hon'ble Supreme Court in *Mobilox Innovations Pvt. Ltd. vs. Kirusa Software Pvt. Ltd. (2018) 1 SCC 353*.

3.5 It is submitted that a genuine, bona fide, and pre-existing dispute exists between the parties, arising prior to the issuance of the Demand Notice dated 01.07.2025, which bars admission of the petition under Section 9(5)(ii)(d) of the IBC.

3.6 It is stated that the Corporate Debtor is a statutorily licensed Unit under the Special Economic Zones Act, 2005, having been granted a Letter of Approval (LOA) dated 30.10.2018 by the Ministry of Commerce and Industry, Government of India, approving the setting up of a unit on an area of 3,000 sq. mtrs. at ANFL FTWZ. The said LOA was subsequently extended till 29.03.2029 vide extended LOA dated 20.03.2024 (Annexures A & B). It is further submitted that the Applicant, acting as Resolution Professional (RP) of ANFL, illegally obstructed the Corporate Debtor's entry into the ANFL FTWZ premises and arbitrarily restricted the inbound and outbound movement of goods in complete disregard of the provisions of the SEZ Act, 2005 and Rules framed thereunder. The said actions are ultra vires the powers conferred under Sections 17 and 25 of the IBC.

3.7 The Corporate Debtor summitted that, during period from May 2019 to early 2024, the agreement was duly performed by both sides, with the parties maintaining compliance with SEZ rules and the terms of the agreement. The business relationship proceeded without any significant issues, during this time. However, after the Operational Creditor entered CIRP on 14.11.2022 and the RP was appointed, there began a pattern of

continuous obstruction to the operations of the Corporate Debtor. The Corporate Debtor faced persistent challenges created by the Operational Creditor's RP including demanding exorbitant warehousing charges, which effectively impacted the ingress and egress of goods in the Unit.

3.8 The Corporate Debtor stated that, on 06.11.2024, despite facing continuous disruptions in the ingress and egress of cargo due to the RP's conduct, as communicated through verbal and email correspondence, the Corporate Debtor, in good faith and out of business necessity, offered to commence partial payments of Rs. 5 Lakhs from the current month with a plan to increase monthly pay-outs to Rs. 10 Lakhs upon reconciliation of accounts. This offer was made not as an admission of undisputed liability, but as a practical measure to ensure business continuity amidst challenging circumstances.

3.9 It is further stated that on 08.11 2024, the RP rejected the said proposal as insufficient and required the Corporate Debtor to furnish customer-wise ledger accounts along with a revised and "realistic" repayment plan based on its own client collections. The Operational Creditor emphasized that it could not continue services without clearance of the outstanding lease rentals.

3.10 The Corporate Debtor through its Advocates addressed, a detailed letter dated 08.01.2025 to the Operational Creditor, highlighting the illegality and arbitrariness of such actions and calling upon the Applicant to immediately restore access to the FTWZ premises (Annexure D). Several email communications were also exchanged between the parties, evidencing the continuing disputes and restrictions imposed by the Operational Creditor.

3.11 It is further submitted that the Operational Creditor actions are wholly contrary to the provisions of the SEZ Act, and the RP has no authority to interfere with or restrict the

operations of a unit duly licensed by the Central Government. The unilateral restrictions have caused severe operational disruption and financial losses, preventing the Corporate Debtor from carrying on its activities as a going concern.

3.12 It is stated that the illegal restrictions imposed by the Applicant have jeopardized the Corporate Debtor's statutory compliance obligations under the SEZ Act, including its import-export obligations and the requirement to maintain a positive Net Foreign Exchange thereby exposing the Corporate Debtor to penal consequences under the Foreign Trade (Development and Regulation) Act, 1992, and the risk of cancellation of its LOA.

3.13 The Corporate Debtor further submits that the Operational Creditor conduct has Caused significant reputational and commercial harm, as several customers and counterparties have withdrawn their contracts or withheld future business commitments due to the uncertainty caused by the disruption. The resultant loss of goodwill and customer confidence has materially eroded the Corporate Debtor business standing and financial stability.

3.14 It is submitted that the Operational Creditor’s arbitrary and unlawful actions in restricting the Corporate Debtor's ingress and egress to the ANFL FTWZ premises, and impeding its legitimate business operations, have caused substantial and continuing financial losses. The disputes between the parties are therefore genuine, long-standing, and bona fide, clearly evidencing the existence of a pre-existing dispute which renders the present petition not maintainable under Section 9 of the IBC and liable to be dismissed at the threshold.

3.15 It is further submitted that the Operational Creditor, acting through its RP, unilaterally disrupted the Respondent's ongoing business operations by abruptly suspending inbound and outbound cargo movements on 5 December 2024, thereby creating a

situation where the Corporate Debtor business operations, cash flow were severely impacted. This arbitrary action caused serious operational paralysis and significant financial loss to the Respondent and its third-party clients whose cargo was detained at the Petitioner's premises.

3.16 The Corporate Debtor further submits that despite the severe operational problems created by the RP's actions, the Respondent consistently demonstrated its good faith by offering to make payments to continue operations, not as an admission of liability but as a business necessity to maintain services to its clients.

3.17 It is submitted that the MOU dated 29 January 2025, relied upon by the Applicant, was executed without prejudice to the Corporate Debtor's existing concerns regarding disruption of business operations caused by the RP's actions. It is further stated that the said MOU was entered into under duress and commercial pressure, as the Corporate Debtor had no choice but to agree to the terms imposed by the Applicant to ensure continuity of business operations. The MOU, therefore, cannot be treated as an admission of liability but was entered into as a temporary business arrangement to safeguard ongoing commercial commitments and mitigate further losses.

3.18 It is further stated that the MOU dated 29.01.2025, relied upon by the Operational Creditor, itself provides that the performance and payment schedule agreed between the parties was to be reviewed jointly in June 2025, and that all outstanding dues were to be finally settled by 31 December 2025. The Operational Creditor, never undertook the agreed review exercise in June 2025 and, instead, filed the present Petition on 01 August 2025, barely a month thereafter, in clear breach of the MoU terms. The premature filing of the Petition, despite the subsistence of the contractual review and payment period, renders the present proceedings untenable in law and demonstrates

the Petitioner's mala fide intent to misuse the insolvency process for recovery of disputed commercial dues.

3.19 It is stated that the arbitrary cessation of operations by the Operational Creditor resulted in detention and demurrage charges payable to third-party clients and shipping lines, causing grave reputational and financial injury to the Corporate Debtor. The Corporate Debtor as continuously impressed upon the Operational Creditor the need to resume operation to avoid such cascading losses, but to no avail.

3.20 It is further submitted that the Applicant has arbitrarily applied inflated and inconsistent rates to the Corporate Debtor, while extending concessional terms to other unit holders, thereby demonstrating a discriminatory and mala fide approach that has further aggravated the commercial dispute between the parties.

3.21 The Corporate Debtor submits that, by email dated 10 June 2025, it had specifically brought to the notice of the Resolution Professional (RP) that the warehousing rates being charged were exorbitant and discriminatory, particularly in comparison to the significantly lower and subsidised rates offered to other unit holders within the same FTWZ, such as DB Schenker, and to entities operating in the Noida SEZ, where comparable facilities were available at approximately ₹22 per sq. ft. per month. The Respondent accordingly proposed a fair and commercially viable revision of rates to approximately ₹40 per sq. ft. (for space up to 50,000 sq. ft.) and ₹35 per sq. ft. (for space above 50,000 sq. ft.), in line with prevailing market standards. However, despite this bona fide communication, the Petitioner failed to consider or respond to the proposal in good faith. The Corporate Debtor protest regarding overcharging and arbitrary application of rates is substantiated by documentary correspondence and clearly demonstrates the existence of a genuine commercial dispute concerning the quantum and fairness of the amounts claimed. A copy of the said email is annexed as

Annexure E and the comparative rate details of other unit holders are annexed as Annexure F.

3.22 It is therefore submitted that the disputes between the parties are long-standing, genuine, and supported by contemporaneous correspondence including the Corporate Debtor written protest and proposals for reconciliation. The Operational Creditor claims arise from disputed rentals and operational charges, which do not constitute “operational debt” under Section 5(21) of the IBC. The petition has been filed prematurely and in flagrant breach of the subsisting MOU, without completion of the agreed review or payment period. The present proceedings represent a misuse of the insolvency mechanism for the recovery of contested dues. Accordingly, the petition is liable to be rejected in limine under Section 9(5)(ii)(d) of the IBC.

3.23 The Corporate Debtor submits that These inconsistent positions demonstrate that the alleged "debt" is neither crystallized nor undisputed an essential precondition for invoking Section 9 of the Code. The dispute between the parties is purely commercial in nature, concerning contractual rates and reconciliation of accounts. It is settled law that the Code cannot be invoked as a substitute for a recovery mechanism, particularly in the presence of genuine disputes.

3.24 The Corporate Debtor relied upon the judgement of the Hon'ble Supreme Court in ***Mobilox Innovations (P) Ltd. v. Kirusa Software (P) Ltd., (2018) 1 SCC 353,*** authoritatively held that where there exists a plausible contention requiring further investigation and the dispute is not "spurious, hypothetical, or illusory," the Adjudicating Authority must reject a Section 9 application.

> *"**51.** It is clear, therefore, that once the operational creditor has filed an application, which is otherwise complete, the adjudicating authority must reject the application under Section 9(5)(i)(d) if notice of dispute has been*

received by the operational creditor or there is a record of dispute in the information utility. It is clear that such notice must bring to the notice of the operational creditor the "existence" of a dispute or the fact that a suit or arbitration proceeding relating to a dispute is pending between the parties. Therefore, all that the adjudicating authority is to see at this stage is whether there is a plausible contention which requires further investigation and that the "dispute" is not a patently feeble legal argument or an assertion of fact unsupported by evidence. It is important to separate the grain from the chaff and to reject a spurious defence which is mere bluster. However, in doing so, the Court does not need to be satisfied that the defence is likely to succeed. The Court does not at this stage examine the merits of the dispute except to the extent indicated above. ***So long as a dispute truly exists in fact and is not spurious, hypothetical or illusory, the adjudicating authority has to reject the application****. "*

3.25 Similarly, the Corporate Debtor relied upon the judgement of the Hon'ble Supreme Court in ***K. Kishan v. Vijay Nirman Company Pvt. Ltd., (2018) 17 SCC 662, and Transmission Corporation of A.P. Ltd. v. Equipment Conductors and Cables Ltd, (2019) 12 SCC 697*** wherein the Hon'ble Supreme Court held that operational creditors cannot invoke insolvency proceedings for recovery of disputed dues or pending commercial settlements. The present Petition is a clear attempt to misuse the Code in terrorem to compel payment of a disputed claim and therefore deserves rejection at the threshold.

"22. Following this judgment, it becomes clear that operational creditors cannot use the Insolvency Code either prematurely or for extraneous considerations or as a substitute for debt enforcement procedures. The

alarming result of an operational debt contained in an arbitral award for a small amount of say, two lakhs of rupees, cannot possibly jeopardise an otherwise solvent company worth several crores of rupees. Such a company would be well within its rights to state that it is challenging the arbitral award passed against it, and the mere factum of challenge would be sufficient to state that it disputes the award. Such a case would clearly come within para 38 of Mobilox Innovations [Mobilox Innovations (P) Ltd. V. Kirusa Software (P) Ltd., (2018) 1 sec 353: (2018) 1 SCC (Civ) 311], being a case of a pre-existing ongoing dispute between the parties. The Code cannot be used in terrorem to extract this sum of money of rupees two lakhs even though it may not be finally payable as adjudication proceedings in respect thereto are still pending. ***We repeat that the object of the Code, at least insofar as operational creditors are concerned, is to put the insolvency process against a corporate debtor only in clear cases where a real dispute between the parties as to the debt owed does not exist."***

3.26 It is submitted that the Petition is misconceived, legally untenable, and a gross abuse of the insolvency process. The same is liable to be rejected at the threshold, without invoking any further inquiry or proceeding and prays that the Tribunal be pleased to dismiss the present Petition with costs, in the interest of justice, equity, and fair play.

4. REJOINDER

4.1 The Rejoinder was filed by the Operational Creditor on 28.11.2025.

4.2 The Operational Creditor has filed a rejoinder to the reply filed by the Corporate Debtor, wherein a paragraph-wise response has been given. The Operational Creditor has denied the averments made in the reply.

4.3 It is submitted that the Corporate Debtor is a direct related party to the Operational Creditor, which is now in CIRP and represented by the Resolution Professional. References is made to the audited balance sheet of the Corporate Debtor Note 27(Related Party Transactions), wherein the OC entity is categorised as a “fellow subsidiary” to the CD. It is therefore submitted that the Corporate Debtor is under the control and management of the suspended director of the Operational Creditor. A copy of the said Balance Sheet for the year ended 31.03.2024 is annexed as **Exhibit-1.**

4.4 It is submitted that the contents of Para 3 in the Affidavit-in-Reply are denied in the strongest term. The Operational Creditor submits that the Corporate Debtor is wrongly portraying this matter as a pre-existing dispute. However, after discussions with the Resolution Professional, the Corporate Debtor entered into an MoU on 29 January 2025 at a rate mutually agreed by both parties for settling the old outstanding dues pertaining to the services rendered by the Operational Creditor to the Corporate Debtor. The present allegations are being made only to create a false impression of a pre-existing dispute. The objections raised by the Corporate Debtor regarding the disruption of ingress and egress are false and frivolous. It is critical to note that the Corporate Debtor is a unit holder of the Operational Creditor (FTWZ Developer) and is availing the FTWZ warehousing services provided by the Operational Creditor to this day and have refused to honour their contractual obligations time and again.

4.5 It is submitted that the Corporate Debtor have also alleged that the action of the Resolution Professional have led to the disruption in the services but have failed to acknowledge that the Corporate Debtor have failed to honour their obligations by not paying their monthly lease rentals to the Petitioner for a long time and I have merely performed all my duties as prescribed under the Code and the Regulations made

thereunder and have made efforts for mutually discussing the payment plans for clearing the old outstanding of the Operational Creditor.

4.6 The Operational Creditors submitted that the Corporate debtor's objection that the claim does not quality as operational debt under section 5(2) of the IBC is denied in the strongest terms. The Operational Creditor submits that section 5(21) must be interpreted broadly and purposively to include all claims arising from provision of operational services including warehousing, storage, and logistics services.

4.7 The Operational Creditor further submitted that reliance is placed on the judgement pronounced by the Hon'ble Supreme Court in the case of ***Continental Construction Consortium Limited v. Hitro Energy Solutions (P) Ltd. 2022 SCC Online SC 142*** where it was held as follows:

> ""*45. Similarly, in the present case, the phrase "**in respect of" in Section 5(21) has to be interpreted in a broad and purposive manner** in order to include all those who provide or receive operational services from the corporate debtor, which ultimately lead to an operational debt"".…*

It is deliberately attempted to limit the scope of operational debt under the Code in complete defiance of the abovementioned judgement. The services provided by the Operational Creditor to the Corporate Debtor were unequivocally operational in nature and thus, shall be categorised as an Operational Debt.

4.8 The Corporate Debtor has placed reliance on the judgement pronounced by Hon'ble NCLAT in the case of ***M Ravindranath Reddy v. G. Kishan & Ors., Company Appeal (AT) (Insolvency) No. 331 of 2019*** where it was held that claims arising from lease, license or rental arrangements for immovable property do not constitute "operational debt" under the Code. However, this very judgement has been overruled

by a 5-member Bench of the Hon'ble NCLAT in the case of ***Jaipur Trade Expocentre Private Limited v. Mis Metro Jet Airways Training Private Limited., Company Appeal (AT) (Insolvency) No. 423 of 2021***. The Bench has held as follows:

> *"40. In view of the foregoing discussion we answer the two questions referred to the larger Bench in the following manner:*
>
> *(1) Judgment of this Tribunal in Mr. M. Ravindranath Reddy (supra) as well as judgment in Promila Taneja's case does not lay down the correct law.*
>
> *(2) The claim of Licensor for payment of license fee for use of Demised Premises for business purposes is an 'operational debt' within the meaning of Section 5 (21) of the Code. "*

It is submitted that the corporate debtor has cited the above mentioned judgement in an ill-judged attempt at deceiving and misleading this Hon'ble Tribunal. It has been categorically held by the Hon'ble NCLAT that a claim for repayment of fees for any premises let out for business purposes shall fall squarely within the definition of Operational Debt. Thus, this debt definitively attracts the provisions under Sections 8 and 9 of the Code.

4.9 It is submitted that the Operational creditor has initiated proceeding under the IBC as a last resort, after sending multiple reminders and requests to the Corporate Debtor to adhere to the MOU dated 29.01.2025. which the Corporate Debtor has admittedly defaulted in complying with.

4.10 The Operational Creditor stated that Part 11 B (paras 10 to 24) of the Reply raises the objection that there is a genuine and bona fide pre-existing dispute arising prior to the issuance of demand notice. While denying the same, this objection is also being dealt with in detail hereunder:

a. In Paras 10 to 14, the Corporate Debtor has alluded to the Operational Creditor disregarding the provisions of law by obstructing the inbound and outbound movement of the Corporate Debtor goods by placing reliance on the letter they had sent the Petitioner on 08.01.2025. However, they have wilfully neglected to mention the fact that they had been defaulting in making regular payments towards their monthly lease rentals for the FTWZ warehouse since August 2024.

b. The Operational Creditors submits in the strongest of terms that I was merely fulfilling my duties as the Resolution Professional of ANFL. Reliance is placed on Clause 3.7 and Clause 3.8 of the Unit Holder Agreement dated 06.05.2019. These clauses specifically spell out that in case of any defaults committed by the Respondent, ANFL shall be entitled to terminate the Agreement; shall have a lien over the Corporate Debtor goods and auction them off, if necessary; remove the goods from the premises after obtaining permissions from the concerned authorities. ANFL has provided ample opportunities to the Corporate Debtor for settling their outstanding dues by having multiple rounds of discussions with the management/ representatives of Corporate Debtor, preparing the payment plans for settlement of outstanding dues etc. An extract of the said clauses is reproduced below:

3.7 In the event of the default continuing beyond the period of 30 (thirty) days, the FTWZ Developer shall have the absolute right to terminate the agreement forthwith with the permission of the Development Commissioner of SEZ. Without prejudice to its right to terminate, FTWZ Developer shall be entitled to adjust the monies due from the Unit against the Security Deposit. After adjustment of Security Deposit, if there is any shortfall; the Unit will be liable to pay the deficit amount forthwith on demand. In addition to the said right to adjust the Security Deposit against the amounts due, the FTWZ Developer shall also have the right to other remedies for recovery of amount due from the Unit as available under Law. In such an event, the Unit shall immediately remove all goods from the said Premises after obtaining necessary permissions from concerned authorities and after payment of amounts due to the FTWZ Developer.

3.8 In the event of default in payment of outstanding amounts continuing for a period beyond 30 (thirty) days, the FTWZ Developer shall have a lien on the cargo of Unit and the FTWZ Developershall be entitled to auction any goods or material of the Unit lying in the said Premises on "as is where is" basis and adjust the proceeds arising from such auction/sale, (net of expenses incurred for such auction/sale), against the sums due from the Unit to the FTWZ Developer.

c. It is further submitted that Clause 4.5 also states that in case of continuing defaults, ANFL shall have the right to cease the provision of any or all utilities and take any such actions at their own discretion. The said clause is also reproduced hereunder:

4.5 In the event of termination on account of non-payment of dues and the Security Deposit being insufficient to liquidate the dues, the FTWZ Developer shall have the right to stop and cease to provide any or all of the utilities like office, power, water etc. to the Unit and/or take such actions at its sole discretion. The FTWZ Developer shall not be liable for any damage whatsoever to the Unit on account of any such failure or stoppage of utilities services like water, power, office, etc.

d. The Operational Creditor also submitted that the Corporate Debtor has repeatedly claimed that the disruption of the inbound and outbound movement has resulted in losses in their operations and damaged their goodwill and reputation. The Operational Creditor submit that he has simply performed his

duties as prescribed under Sections 17 and 25 of the Code. The Operational Creditor had sent constant email reminders to the Corporate Debtor imploring them to pay the outstanding amounts which can also be observed from the Email correspondence the Corporate Debtor themselves have attached to the Reply as **Annexure E**. However, despite all the requests, the Corporate Debtor failed to make payments towards the dues and honour the terms of the MOU executed with the Operational Creditor. The Operational Creditor has exercised his right to stop the ingress and egress of the Corporate Debtor goods as the last available recourse. The large outstanding dues of Corporate Debtor has led to a financial crunch for the business of the Operational Creditor.

e. It is submitted that the Respondent ought to have vacated the premises if they were incurring such high losses as averred by them in their Reply. The Petitioner cannot be strong armed into giving arbitrary concessions to the Respondent as per their whims because at the end of the day the Petitioner entity is a Developer as defined under the SEZ Act and has to carry out its business as per its own business acumen. This cannot be given the colour of a pre-existing dispute all because the Respondents did not honour their legal obligations to make payments towards its monthly lease rentals. Operational Creditor had sent constant reminders to make their payments within the stipulated timelines, so any losses incurred due to stoppage of movement would be a direct result of the Corporate Debtor own failure to meet their obligations. Operational Creditor had also facilitated discussion calls on the payment plans for the Corporate Debtor to settle their large outstanding dues of Operational Creditor.

f. It is stated that the content of 20 are concerned, it is not responsibility of the Operational Creditor entity to ensure that the CD can comply with SEZ Act. The onus to make timely payments and thus, comply with all the relevant laws is on the Respondent. Hence, this contention that the Petitioner has somehow jeopardised the Respondent's business is completely frivolous. In fact, the Respondent being one of the largest Unit Holders for Petitioner's FTWZ warehouse facility had built financial crisis for the Petitioner by not paying its large outstanding of lease rentals for months. This has led to difficulties for the Petitioner to run the business smoothly.

g. The Operational Creditor submits that the Corporate Debtor's claim regarding withdrawal of customer contracts is a direct consequence of its own failure to fulfil its legal obligation of paying monthly lease rentals for the FTWZ warehouse services. The Corporate Debtor's contention of incurring financial losses due to stoppage of movement is untenable, as it continues to avail the Operational Creditor services without expressing any intention to vacate the premises. The responsibility for maintaining profitability lies solely with the Corporate Debtor and cannot be attributed to the Operational Creditor. Further, the Corporate Debtor claim of offering payments as an act of good faith is misplaced, as such payments are a contractual and legal obligation under the Unit Holder Agreement and its addendum. Despite repeated requests and multiple opportunities, including proposed monthly payment schedules, the Corporate Debtor failed to clear the outstanding dues, demonstrating neglect of its obligations.

4.11 It is submitted that the Corporate Debtor has objected that the Petition is premature, contractually barred, and filed in breach of agreed timelines. however, the Operational

Creditor submits that the allegation in Para 25 that the Memorandum of Understanding (MoU) dated 29.01.2025 was executed under duress and commercial pressure is entirely baseless and frivolous, and the Corporate Debtor must be put to strict proof thereof, as the MoU was executed only after multiple rounds of negotiations and careful consideration of the commercial interests of both parties. It is further submitted that on 31.12.2024, the Resolution Professional (RP) had emailed the Corporate Debtor stating that the Committee of Creditors (CoC) of the Operational Creditor was willing to consider the Corporate Debtor predicament and engage in meaningful discussions for a mutual settlement of the outstanding dues, to which the Director of the Corporate Debtor promptly replied on the same day agreeing to a video conference with the RP and CoC members; the nature of these correspondences clearly demonstrates that the discussions were voluntary and do not indicate any form of duress or coercion. The MoU was thus executed only after several rounds of discussions and mutual agreement, making the allegation of duress an afterthought, and the email correspondence dated 31.12.2024 is annexed as **Exhibit 2(Colly).** It is further submitted that the MoU was an olive branch extended by the Operational Creditor to amicably resolve the issue of non-payment, and contrary to the Corporate Debtor claim that it was merely a temporary business arrangement, the MoU clearly sets out a definitive payment schedule and constitutes an unequivocal acknowledgement of debt by the Corporate Debtor.

Reference is made to Para 5 of the MoU where the conditions of the MoU have been laid down. It is very distinctly stated as under:

5. Notwithstanding anything to the contrary of any existing contracts or arrangements agreed between Arshiya Northern FTWZ Ltd (ANFL) & Arshiya 3PL (A3PL), and keeping in view the verbal discussion taken place, MOU between A3PL and ANFL,is entered as follows:

Agreed Payment Schedule

- ***Amount to be payable in January 2025 is INR 35 Lakhs***
- ***Amount to be payable in February 2025 is INR 40 Lakhs***
- ***Amount to be payable in March 2025 is INR 45 Lakhs***
- ***Amount to be payable in April 2025 is INR 50 Lakhs***
- ***Amount to be payable in May 2025 is INR 55 Lakhs***
- ***Amount to be payable in June 2025 is INR 60 Lakhs***

Conditions:

- Amount payable for January 2025 shall be paid in two installments:
  - INR 15 lakhs shall be paid on or before January 25th, 2025.
  - INR 20 lakhs shall be paid on or before January 31st, 2025.
- Amount payable from February 2025 onwards shall be paid in three installments, where each installment should be more than INR 10 lakhs to be paid on or before every 10th, 20th, and last day of month.
  In case A3PL failed to make payments according to the above schedule, RP of Arshiya Northern FTWZ Ltd. can immediately stop the inbound and outbound services for A3PL without giving a notice.
- ANFL can initiate the legal proceedings in case the original payment terms envisaged under this MoU is not met by A3PL

Admittedly, the Corporate Debtor has failed to adhere to the aforementioned payment schedule and the last payment received form them was on 31.03.2025. It is also evident from the above excerpt that the Corporate Debtor had agreed that in the event of any further defaults, I would have the right to stop the inbound and outbound services. These are the very conditions agreed upon by the Corporate Debtor and they have deliberately tried to conceal these terms in an attempt to mislead this Hon'ble Tribunal. It is also submitted that the Corporate Debtor also claims that the Operational Creditor had breached the terms of the MoU by filing a Petition before the Hon'ble Tribunal which is a complete misrepresentation of the facts as the MoU explicitly as under:

- ANFL can initiate the legal proceedings in case the original payment terms envisaged under this MoU is not met by A3PL

Thus, it is evident that the Operational creditor has simply exercised his right to initiate legal proceedings because the payment terms were not met by the Corporate Debtor.

It is also submitted that the Operational creditor had also sent the Corporate Debtor multiple reminders to make their payments within the timelines stipulated under the MoU. Reminder emails were sent out on 08.04.2025, 06.05.2025, 16.05.2025 and 25.05.2025. The Corporate Debtor had completely disregarded these emails and have made no further payments till date. Thus, their claim that the Petition is filed prematurely is absolutely inaccurate and misleading. Copies of the aforementioned emails are attached as **Exhibit 3 (Colly).**

4.12 It is further submitted that the Corporate Debtor is constantly trying to paint any negotiations or correspondence exchanged in good faith as a pre-existing dispute in complete disregard of the law.

4.13 The Operational Creditor stated that prior to RP appointment the commencement of CIRP, both the Corporate Debtor and the Operational Creditor were under the same management as they were fellow subsidiaries, and therefore no special concessions were extended by the Operational Creditor, RP is primary duty is to keep the Operational Creditor as a going concern. It is further submitted that the Corporate Debtor's offer to pay Rs. 5 lakhs was only an acknowledgment of its existing obligations under the agreement and, in any case, no actual payment was made. The Operational Creditor also submits that the Corporate Debtor has admitted that it was informed through email that services would not continue without clearing the outstanding lease rentals. Hence the inbound and outbound movement was ceased because of non-payment of dues on the part of the Corporate Debtor.

4.14 The Operational Creditor submits that the Corporate Debtor request for review of the MoU is unjustified, as they failed to honour its terms and stopped making payments after 31 March 2025. It is further submitted that the Corporate Debtor claim of having no alternative but to enter into the MoU is baseless, as they ought to have vacated the

premises and cleared their dues. The Operational Creditor also submits that the MoU, having been duly signed and partly acted upon by the Corporate Debtor, constitutes a clear and binding acknowledgement of debt, despite being described as temporary. It is further submitted that the allegation that the dues arose due to the actions of the RP is false and misleading, as the MoU was executed to settle existing outstanding amounts. Accordingly, the relevant extract of the MoU is reproduced hereunder:

3. Whereas it is submitted that FTWZ Developer has provided space to Arshiya 3PL Services Private Limited (Unit holder) vide unit holder Agreement dated 06th May 2019 to store items/goods as per the agreed rate against which the FTWZ Developer raised invoices on Arshiya 3PL Services Private Limited which are payable within 7 working days from the invoice date, which remain due and payable by Arshiya 3PL Services Private Limited for a long period of time and has accumulated an outstanding rent of INR 4.99 Cr as on 31st December 2024. Non-payment from Arshiya 3PL has adversely impacted the cashflows of the FTWZ Developer.

Outstanding as on 31st December 2024

Particulars	Amt. (INR in Cr)	Notes
Outstanding as on 30th April 24	3.32	
Less: Payment already received (assuming FIFO)	1.09	1
Actual O/s as on 30th April 24	2.23	
Actual Billing May 24 to Dec 24	2.75	2
Total O/s as on 31st Dec-24	4.99	

Notes:

1. INR 1.09 Cr includes payment received in the bank account, TDS and other payments made by A3PL towards ANFL liability adjusted till December 2024 which is adjusted from the outstanding amount considering FIFO basis.
2. INR 2.75 Cr is the actual billing done till 31st Dec 2024 considering the previously agreed rate as per the agreement.

4.15 The Operational Creditor states that, in response to the judgments cited by the Corporate Debtor in Paragraphs 87 to 89 being *Mobilox Innovations (P) Ltd. v. Kirusa Software (P) Ltd.*, *K. Kishan v. Vijay Nirman Company Pvt. Ltd.*, and *Transmission Corporation of A.P. Ltd. v. Equipment Conductors and Cables Ltd.* the Operational Creditor submits as under:

a) The Corporate Debtor alleged dispute is merely an afterthought as they still continue to avail the services provided by the Operational Creditor.

b) The alleged dispute is vague and unsubstantiated as they have only referred to routine email correspondence between the parties.

c) The Corporate Debtor has made payments, albeit irregularly, under the Unit Holder Agreement as well as after the execution of the MoU. This can be unambiguously categorised as an acknowledgement of liability.

d) This alleged dispute raised only after the receipt of Demand Notice can be labelled as a 'Moonshine Defence' which is created only to stall the insolvency proceedings.

e) Absence of any action by way of formal disputes is further proof that there are no pre-existing disputes.

4.16 The Operational Creditor submits that the reply filed by the Corporate Debtor does not disclose any bona fide or pre-existing dispute under the Insolvency and Bankruptcy Code, 2016, and the Corporate Debtor has failed to rebut the outstanding operational debt or establish any valid defence in law. It is further submitted that all allegations, denials, and contentions raised by the Corporate Debtor are specifically denied unless expressly admitted. Accordingly, it is prayed that this Hon'ble Adjudicating Authority be pleased to admit the present petition under Section 9 of the Code, appoint an Interim Resolution Professional, and pass such other orders as deemed fit in the interest of justice.

5. WRITTEN-SUBMISSIONS OF THE APPLICANT

5.1 The written submission was filed by the Applicant on 06.12.2025.

5.2 The applicant has relied on the following judgement:

I. Continental Construction Consortium Limited v. Hitro Energy Solutions (P) Ltd. 2022 SCC Online SC 142.

II. Jaipur Trade Expocentre Private Limited v. Mis Metro Jet Airways Training Private Limited., Company Appeal (AT) (Insolvency) No. 423 of 2021.

5.3 The written submissions filed by the applicant are in conformity with the pleadings already on record. Hence, the same are not restated herein to avoid duplication.

6. WRITTEN-SUBMISSIONS OF THE CD

6.1 The written submission was filed by the Corporate Debtor on 29.01.2026.

6.2 The applicant has relied on the following judgement:

I. M. Ravindranath Reddy vs. G. Kishan & Ors. (Company Appeal (AT) (Insolvency) No. 331 of 2019, NCLAT).

II. Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd., (2018) 1 sec 353.

6.3 The written submissions filed by the Corporate Debtor are in conformity with pleadings already on record. Hence, the same are not restated herein to void duplication.

7. ANALYSIS AND FINDINGS

7.1 We have heard the Ld. Counsels for the Operational Creditor and the Corporate Debtor and have perused the records as placed before us. Our findings in the matter are as under: -

7.2 The Corporate Debtor has raised a preliminary objection to the effect that the claim of the OC arising from warehousing and logistic services rendered under the Unit Holder Agreement dated 06.05.2019 does not constitute an “Operational Debt” under section 5(21) of the IBC, as the same pertains to rentals and occupancy charges for use of immovable property. In support of this contention, the Corporate Debtor has place reliance on the judgement of the Hon’ble NCLAT in ***M. Ravindranath Reddy vs. G. Kishan & Ors. (Company Appeal (AT) (Insolvency) No. 331 of 2019, NCLAT).***

7.3 The Operational Creditor has, on the other hand, contended that Section 5(21) must be interpreted broadly and purposively and has placed reliance on judgement:

I. Continental Construction Consortium Limited vs. Hitro Energy Solutions (P) Ltd. (2022) SCC Online SC 142.

II. Jaipur Trade Expocentre Private Limited vs. M/s. Metro Jet Airways Training Private Limited (Company Appeal (AT) (Insolvency) No. 423 of 2021) (5-Member Bench, NCLAT).

7.4 This Tribunal observes that the judgment in M. Ravindranath Reddy relied upon by the Corporate Debtor has been expressly and categorically overruled by a 5-Member Bench of the Hon'ble NCLAT in ***Jaipur Trade Expocentre Private Limited vs. M/s. Metro Jet Airways Training Private Limited (Company Appeal (AT) (Insolvency) No. 423 of 2021)***, wherein it was held as follows:

"40. In view of the foregoing discussion, we answer the two questions referred to the larger Bench in the following manner:

(1) Judgment of this Tribunal in Mr. M. Ravindranath Reddy (supra) as well as judgment in Promila Taneja's case does not lay down the correct law.

(2) The claim of Licensor for payment of license fee for use of Demised Premises for business purposes is an 'operational debt' within the meaning of Section 5(21) of the Code."

This Tribunal further observes that the Hon'ble Supreme Court in ***Continental Construction Consortium Limited vs. Hitro Energy Solutions (P) Ltd. (2022) SCC Online SC 142*** has held that:

"45. Similarly, in the present case, the phrase "in respect of" in Section 5(21) has to be interpreted in a broad and purposive manner in order to include all

those who provide or receive operational services from the corporate debtor, which ultimately lead to an operational debt.…."

7.5 In view of the above, this Tribunal finds that the Operational Creditor's claim for warehousing and logistics services rendered under the Unit Holder Agreement squarely falls within the broad definition of operational debt under Section 5(21) of the IBC. The Corporate Debtor's reliance on M. Ravindranath Reddy is misplaced as the said judgment is wholly unsustainable in law. The Corporate Debtor's preliminary objection on this ground is accordingly rejected.

7.6 The second issue for consideration is whether a genuine, bona fide, and pre-existing dispute exists between the parties arising prior to the issuance of the Demand Notice dated 01.07.2025. which bars admission under Section 9(5)(ii)(d) of the IBC.

7.7 The Corporate Debtor has contended that the Operational Creditor illegally obstructed its entry into the FTWZ premises and restricted movement of goods in violation of the SEZ Act, 2005 and said action are ultra-virus the powers under section 17 and 25 of the IBC. The MOU dated 29.01.2025 was executed under duress and cannot be treated as an admission of liability. The petition is premature as the MOU provided for a review in June 2025 and final settlement by 31.12.2025. The Operational Creditor charged exorbitant and discriminatory rates as evidenced by email dated 10.06.2025 (Annexure E) and comparative rate details (Annexure F).

7.8 The Operational Creditor has, on the other hand, contended that the Corporate Debtor had been defaulting in payment of monthly lease rentals since August 2024. The restriction of ingress and egress was contractually authorized under Clauses 3.7, 3.8, and 4.5 of the Unit Holder Agreement. The MOU dated 29.01.2025 was executed voluntarily after multiple rounds of negotiations and constitutes a binding admission of debt. The Corporate Debtor failed to adhere to the MOU's payment schedule with

the last payment received on 31.03.2025. The Operational Creditor sent multiple reminder emails on 08.04.2025, 06.05.2025, 16.05.2025, and 25.05.2025 all of which were ignored by the Corporate Debtor. The MOU explicitly authorized the Operational Creditor to initiate legal proceedings in case of default and the petition is therefore not premature.

7.9 This Tribunal observes that the test for pre-existing dispute has been authoritatively laid down by the Hon'ble Supreme Court in *Mobilox Innovations Pvt. Ltd. vs. Kirusa Software Pvt. Ltd. (2018) 1 SCC 353,* wherein it was held as follows:

> *"**40.** It is clear, therefore, that once the operational creditor has filed an application, which is otherwise complete, the adjudicating authority must reject the application under Section 9(5)(2)(d) if notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility. It is clear that such notice must bring to the notice of the operational creditor the "existence" of a dispute or the fact that a suit or arbitration proceeding relating to a dispute is pending between the parties. Therefore, all that the adjudicating authority is to see at this stage is whether there is a plausible contention which requires further investigation and that the "dispute" is not a patently feeble legal argument or an assertion of fact unsupported by evidence. It is important to separate the grain from the chaff and to reject a spurious defence which is mere bluster. However, in doing so, the Court does not need to be satisfied that the defence is likely to succeed. The Court does not at this stage examine the merits of the dispute except to the extent indicated above. **So long as a dispute truly exists in fact and is not spurious, hypothetical or illusory, the adjudicating authority has to reject the application**."*

7.10 Applying the said test to the present case, this Tribunal observes as follows:

a. The Corporate Debtor's contention of pre-existing dispute arising from alleged obstruction of ingress and egress is not supported by cogent documentary evidence. The Corporate Debtor has failed to produce any orders, injunctions, or legal proceedings initiated to challenge the RP's actions prior to the Demand Notice dated 01.07.2025.

b. The alleged obstruction of cargo movements was a direct consequence of the Corporate Debtor default in payment of monthly lease rentals since August 2024 and was contractually authorized under Clauses 3.7, 3.8, and 4.5 of the Unit Holder Agreement. The said actions were, therefore not arbitrary or illegal.

c. The Corporate Debtor's contention that the MOU dated 29.01.2025 was executed under duress is a bald and unsubstantiated allegation. The email correspondence dated 31.12.2024, wherein the Corporate Debtor's Director voluntarily agreed to a video conference with the RP and CoC members, clearly demonstrates that the discussions were voluntary and in good faith. The allegation of duress is therefore, an afterthought and moonshine defense.

d. The MOU dated 29.01.2025 executed after multiple rounds of negotiations constitutes a clear, voluntary, and binding admission of liability under Section 18 of the Limitation Act, 1963. The Corporate Debtor partly acted upon the MOU by making payments which further confirms its voluntary nature.

e. The Corporate Debtor's contention that the petition is premature on account of the MOU's payment timeline of 31.12.2025 is not sustainable, as the MOU explicitly authorized the Operational Creditor to initiate legal proceedings in case of default. The Corporate Debtor admittedly defaulted in adhering to the MOU's payment schedule with the last payment received on 31.03.2025 and

ignored all reminder emails sent on 08.04.2025, 06.05.2025, 16.05.2025, and 25.05.2025.

f. The Corporate Debtor's contention of exorbitant and discriminatory rates while supported by email correspondence, does not constitute a pre-existing dispute within the meaning of Section 9(5) of the IBC. A dispute over quantum of rates does not negate the existence of the debt as held in *Transmission Corporation of A.P. Ltd. vs. Equipment Conductors and Cables Ltd. (2019) 12 SCC 697*.

g. The Corporate Debtor has continued to avail the services of the Operational Creditor, which is wholly inconsistent with its contention of disruption and pre-existing dispute. As held in *K. Kishan vs. Vijay Nirman Company Pvt. Ltd. (2018) 17 SCC 662*, a dispute raised as an afterthought, especially after the issuance of the Demand Notice, does not constitute a valid pre-existing dispute.

h. The Corporate Debtor's alleged dispute is vague, unsubstantiated, and an afterthought raised solely to stall the insolvency proceedings. It constitutes a "moonshine defence" as described in *Mobilox Innovations Pvt. Ltd.* which is not sufficient to bar admission of the petition.

7.11 In the view of the above, this Tribunal observe that the Corporate Debtors has failed to establish a genuine, bona fide, and pre-existing dispute under Section 9(5)(ii)(d) of the IBC. The alleged dispute is an afterthought, raised solely to evade insolvency proceedings. The MOU dated 29.01.2025 is a voluntary and binding admission of liability. The petition is not premature, as the MOU explicitly authorized legal proceedings in case of default.

7.12 Having regard to the above findings, this Tribunal now considers whether the present petition is maintainable under section 9 of IBC. Upon perusal of the record, this Tribunal is satisfied that:

a. The Operational Creditor has established the existence of an operational debt of more than Rs. One crore arising from warehousing and logistics services rendered under the Unit Holder Agreement dated 06.05.2019 and its Addendum dated 01.04.2023, which constitutes an operational debt within the meaning of Section 5(21) of the IBC.

b. The Corporate Debtor has been in default of payment of monthly lease rentals since August 2024. A Demand Notice dated 01 July 2025, in Form 3 under Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, was duly issued and served upon the Corporate Debtor on 04 July 2025.

c. The Corporate Debtor has not established any genuine pre-existing dispute within the meaning of Section 9(5)(ii)(d) of the IBC. The MOU dated 29 January 2025 constitutes a binding acknowledgment of debt, and the Corporate Debtor's default thereunder further confirms the existence of default under Section 3(12) of the IBC.

d. All mandatory preconditions under Section 9 of the IBC have been duly complied with by the Operational Creditor.

7.13 This Tribunal further notes that the Corporate Debtor is a "**fellow subsidiary**" of the Operational Creditor, as evidenced by **Note 27 of the audited Balance Sheet** for the year ended 31.03.2024, and is under the control and management of the suspended directors of the Operational Creditor. This fact further supports the Operational

Creditor contention that the Corporate Debtor conduct is designed to obstruct the CIRP and evade legitimate insolvency proceedings.

7.14 The Applicant has attached the 9(3)(b) Affidavit stating that there is no dispute raised by the CD with regard to the unpaid operational debt.

7.15 In view of the above findings, it is clear that the Applicant has placed on record the necessary evidences and materials to demonstrate the existence of the operational debt exceeding the minimum threshold of Rs.1 Crore prescribed under Section 4 of the Code due and payable by the CD as well as the default in repayment thereof by the CD. The Applicant has served the Demand Notice upon the CD, and that the CD has failed to establish the existence of any pre-existing dispute. The Application is complete as all the relevant documents have been attached by the Applicant along with the Application.

7.16 We find that all pre-requisites of Section 9 of the Code are fulfilled and, accordingly, we are satisfied that the instant Application is fit for admission under Section 9 of the Code. The Applicant has attached all the documents as required and therefore the Application is complete and demands admission.

ORDER

In view of the aforesaid findings, Application bearing C.P.(IB) No. 907/MB/2025 filed under Section 9 of the Code by Arshiya Northern Ftwz Limited, the Applicant, for initiating CIRP in respect of **Arshiya 3pl Services Private Limited** having CIN No. U74999MH2018PTC313041 the Corporate Debtor, is **Admitted.**

We further declare moratorium under Section 14 of the Code with consequential direction as mentioned below: -

I. We prohibit-

a) the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, 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 Securitisation 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 possession of the Corporate Debtor.

II. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.

III. That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under Section 31(1) of the Code or passes an order for the liquidation of the Corporate Debtor under Section 33 thereof, as the case may be.

IV. That the public announcement of the CIRP shall be made in immediately as specified under Section 13 of the Code read with Regulation 6 of the IBBI

(Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other Rules and Regulations made thereunder.

V. That this Bench hereby appoints **Mr. Manish Lalji Dawda**, a registered Insolvency Professional having Registration Number IBBI/IPA-001/IP-P-02506/2021-2022/13797 and e-mail address **ip.dawdamanish@gmail.com** having valid Authorisation for Assignment up to **30.06.2026** from the panel of RP made by IBBI and given to this Bench, for the period **16.01.2026 to 30.06.2026** as the IRP to carry out the functions under the Code.

VI. That the fee payable to IRP/RP shall be in accordance with such Regulations/Circulars/ Directions as may be issued by the IBBI.

VII. That during the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of the Code. The officers and managers of the Corporate Debtor the Corporate Debtor is directed to provide effective assistance to the IRP as and when he takes charge of the assets and management of the Corporate Debtor. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP within a period of one week from the date of receipt of this Order and shall not commit any offence punishable under Chapter VII of Part II of the Code. Coercive steps will follow against them under the provisions of the Code read with Rule 11 of the NCLT Rules for any violation of law.

VIII. That the IRP/IP shall submit to this Tribunal periodical reports with regard to the progress of the CIRP in respect of the Corporate Debtor.

IX. In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the Applicant is directed to deposit a sum of Rs.3,00,000/- (Rupees Three Lakh) with the IRP to meet the initial CIRP cost arising out of issuing public notice and inviting claims, etc. The amount so deposited shall be interim finance and paid back to the Applicant on priority upon the funds available with IRP/RP from the Committee of Creditors (CoC). The expenses incurred by IRP out of this fund are subject to approval by the CoC.

X. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai for updating the Master Data of the Corporate Debtor.

XI. A copy of the Order shall also be forwarded to the IBBI for record and dissemination on their website.

XII. The Registry is directed to immediately communicate this Order to the Applicant, the Corporate Debtor and the IRP by way of Speed Post, e-mail and WhatsApp.

XIII. The IRP is directed to issue notice of admission upon all the statutory authorities of the Corporate Debtor without fail.

XIV. Compliance report of the order by Designated Registrar is to be submitted today.

Sd/-

NILESH SHARMA
MEMBER (JUDICIAL)

Sd/-

SAMEER KAKAR
MEMBER (TECHNICAL)

//S.Dubey//