IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI

Ivn.P(IBC)/1(CHE)/2025 in CP(IB)/173(CHE)/2023

(filed under Section 9 r/w 60(5) of the Insolvency and Bankruptcy Code, 2016, R/w, RULE 11 of the NCLT Rules, 2016)

In the matter of ***M/s. Cema Electric Lighting Products India Private Limited.***

GE Employees Union, Trade Union,
M/s. Cema Electric Lighting Products India Pvt Ltd
No. 5, Nehru Nagar, Second Street,
Adyar, Chennai – 600 020
Rep. by Mr. Ashim Kumar Roy
President of Workmen Trade Union –
GE Lighting Employees Union

… Applicant

-Vs-

1. **M/s. Overdrive Electronics (P) Ltd.,**
   (CIN: U72200DL2005PTC136715),
   C-2 / 2621, Vasantkunj,
   New Delhi – 110 070.

2. **M/s. Cema Electric Lighting Products India Private Limited**
   (CIN: U31501TN2007PTC061950)
   No. 5, Nehru Nagar, Second Street,
   Adyar, Chennai – 600 020.

… Respondents

Present:

For Applicant : *Dr. S. Sathiyanarayanan, Advocate*
Bathrinarayan, Advocate

For Respondent :*Anuj Kumar Solanki, Advocate for R1*
V. Sharanya, Advocate for R2

Order Pronounced on 14th February, 2025

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

<u>O R D E R</u>

(Heard through Hybrid Mode)

GE Employees Union, Trade Union of M/s. Cema Electric Lighting Products Pvt LTd, has filed an application Inv/P.No. 01 of 2025 in CP/IB/173(CHE)/2023, under Section 9 read with Section 60(5) of IBC seeking intervention in CP/IB/173(CHE)/2023.

2. The case of the Applicant is that this Tribunal on an application filed under Section 9 of IBC by M/s. Overdrive Electronics Pvt Ltd, initiated the CIRP against the Corporate Debtor Cema Electric Lighting Products Pvt Ltd vide order dated 09.07.2024 and appointed Mr. Sushil Kumar Singhal as the IRP. The IRP, issued the public announcement on 13.07.2024 inviting the claims from the creditors of the Corporate Debtor. The RP collated the claims and constituted the CoC. The list of the creditors forming part of CoC is as under.

S.No	Name of the Creditor	Amount admitted (in Rs.)	Voting %
1	Halonix Technologies Private Limited	5,06,90,050	3.60%
2	Override Electronics Private Limited	2,44,33,511	1.74%
3	Venture Lighting India Limited	4,71,43,000	3.35%
4	SL Lighting India Pvt. Ltd	2,85,50,000	2.03%
5	The Commissioner of Commercial Tax, Government of West Bengal	58,66,091	0.42%
6	Income Tax Department Government of India -Chennai	47,27,570	0.34%
7	Vindhyavasini Mining & Granites Ltd.	44,40,707	0.32%
8	Bajaj Electricals Limited	24,36,129	0.17%
9	Ananya Trade Combines	21,84,254	0.16%
10	Lastmile Transtech Pvt Ltd	20,15,286	0.14%
11	Universal Packaging	11,81,467	0.08%
12	Gajjar Diecast &Engineers	7,19,479	0.05%
13	Micronic Engineers	6,05,750	0.04%
14	Shreerangam Packaging Pvt Ltd	5,86,253	0.04%
15	Shree Giriraj Trading Co	2,40,595	0.02%
16	Diya Tours And Travels	1,54,723	0.01%
17	Baroda Industrial Distributors	1,02,048	0.01%
18	Royal Traders & Suppliers	5,551	0.00%
19	Representative of by Employees	5,93,11,066	4.22%
20	Representative of Workmen (Union)	1,17,09,66,216	83.26%
	TOTAL	**1,40,63,59,746**	**100%**

3. It is stated that the Suspended Director of the Corporate Debtor had preferred an appeal before Hon'ble NCLAT against the order of CIRP and the Hon'ble NCLAT vide its order dated 24.09.2024 quashed the CIRP order and remitted back the application to the Tribunal for fresh consideration. The

operational creditor went in appeal against the order of Hon'ble NCLAT before Hon'ble Supreme Court and the Hon'ble Supreme Court vide its order dated 22.11.2024 closed the appeal with direction to the Tribunal to pass an order on merits without being influenced by the earlier proceedings / appeals. After the remand, the application is pending before this Tribunal for adjudication.

4. It is stated that there arose an industrial dispute between the Corporate Debtor and the workmen represented by the trade union. The Corporate Debtor preferred an application under the Industrial Dispute Act 1947 for the closure of the unit but the same was rejected on 24.08.2017. The review application was also rejected on 24.08.2018. Since the company was facing financial losses and unable to run its manufacturing activities due to disconnection of electricity, it stopped its units on 19.01.2018. The workers were not paid since February 2018. The Company decided to sell its assets. That move was opposed by the workmen. Protracted negotiations were held during the pendency of LPA. No. 1079 of 2018 filed by the union and LPA No. 34901 of 2018 filed by the Company before the Hon'ble Gujarat High Court. The parties agreed to enter into a settlement dated 25.03.2019. A committee was formed to negotiate with the interested parties, evaluate the offers and

effect the sale. As per the settlement, the sale proceeds were to be deposited in an escrow account to be jointly operated by the Union and the Company to satisfy the dues and the benefits of the workers. The Division Bench of the Hon'ble High Court recorded the settlement and directed the parties to abide by the terms and conditions of the settlement which was made part of the Court order dated 29.03.2019. The parties also agreed that the amounts due as above shall be treated as a secured creditor and the workmen shall have exclusive lien on the sale proceeds.

5. It is stated that the Corporate Debtor in discussion with the Union entered into a MoU with SM Enterprises on 23.10.2023 for sale of the property. An EMD of Rs. 8.0 Crores was received and used for part payment of dues of the workmen. The MoU was the time bound agreement and in case of failure the amount was required to be repaid to SM Enterprises. In the meantime, this Tribunal passed an order for CIRP. It is stated that due to the CIRP order and consequent moratorium, the sale could not happen. It is stated that the Corporate Debtor is not a going concern and any order of CIRP would not benefit anyone as the operation was stopped way back. The process could at the most delay the realization of assets. It is stated that the assets of the Corporate Debtor are not sufficient to cover the amount due.

6. It is stated that the Applicant / Labour Union is a necessary party to the proceedings.

7. The Corporate Debtor also filed an affidavit vide SR. No. 625 dated 13.02.2025 wherein it reiterated the facts as stated in para 4 above. It is stated that in addition to receipt of Rs. 8.0 Crores as EMD from M/s. SM Enterprises, additional amounts were received which have been utilized to discharge the dues of the employees. It is stated that in fact the sale of the property may not be able to entirely cover the amounts payable to the workers.

8. We have heard Ld. Counsel for the Applicant, Ld. Counsel for the Operational Creditor and the Ld. Counsel for the Corporate Debtor and perused the record.

9. In the instant case, the CIRP was initiated against the Corporate Debtor on an application filed by the Operational creditor under Section 9 of IBC vide order dated 09.07.2024. The IRP invited the claims and constituted the CoC. The Applicant also submitted the claim as seen from the list of creditors forming part of the CoC where the Applicant had 83.26% voting. As seen from the application, the unit of the Corporate Debtor stopped w.e.f. 19.01.2018 and the workers were not paid the salary since then. During the

pendency of LPA before the Hon'ble High Court, the parties entered into a settlement on 25.03.2019. The Hon'ble High Court recorded the settlement and directed the parties to abide the terms and conditions of the settlement vide order dated 29.03.2019. It was agreed upon between the union and the Corporate Debtor that the amounts due shall be treated as the secured creditor and the workmen shall have exclusive lien on the sale proceeds. It is seen from the list of claims that after the earlier order of CIRP, the RP had admitted the claims filed by the workmen / Applicant.

10. It may be true that unit was closed on 19.01.2019 and the workmen were not paid salary w.e.f. February 2019, but from the list of creditors we find that there are other creditors of the Corporate Debtor including M/s. Overdrive Electronics Pvt Ltd, the defendant Creditor/Applicant in CP(IB)/173(CHE)/2023. The debt amount in respect of Overdrive Electronics Pvt. Ltd. is Rs. 2,44,33,511/- which is more than the threshold limit of Rs. 1.0 Crore as defined under Section 4 of IBC. There was a default in the payment of debt. M/s. Overdrive Electronics Pvt Ltd has already initiated the IBC proceedings against the Corporate Debtor by filing the application under Section 9 of IBC. The earlier order for CIRP was 09.07.2024. On the basis of

the order, the Applicant / Trade Union had filed the claim which the IRP had also admitted.

11. Similarly, if the application of M/s. Overdrive Electronics Pvt Ltd is allowed under Section 9 of IBC, the Applicant / Trade Union will have an opportunity to file the claim before the IRP and include it in the list of creditors. It may be true that the unit of the Corporate Debtor is closed and there are minimal chances of revival of the Company but the Corporate Debtor has to go into the process of CIRP. The assets of the Corporate Debtor are to be distributed among the stakeholders / creditors under section 53 of IBC.

12. Since the IBC provides for filing of claims by the Applicant / Trade Union in respect of its dues against the Corporate Debtor, we do not find any reason to permit the Applicant to intervene in the application filed under Section 9 of IBC.

13. The Application is accordingly **dismissed** with no orders as to cost.

-Sd-	**-Sd-**
(VENKATARAMAN SUBRAMANIAM) **MEMBER (TECHNICAL)**	**(SANJIV JAIN)** **MEMBER (JUDICIAL)**