NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT VI

Item No. P3

C.P. (IB)917/(MB)2025

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **05.08.2026**

NAME OF THE PARTIES**: NTEX Transportation Services Private Limited**

Vs

Shree Nagai Devi Sugar Private Limited

Under Section 9 of the IBC

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)

//Sumant//

IN THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI BENCH-VI

CP (IB) No.917/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:

NTEX Transportation Services Private Limited
CIN: U63000PN2014PTC151094
2nd Floor, Wonder Cars Arena Building,
Sr. No. 165, Near Kokane Chowk,
Pimple Saudagar, Pune,
Pune, Maharashtra,
India, 411027

…Operational Creditor/Applicant

V/s

Shree Nagai Devi Sugar Private Limited
[CIN: U15122MH2011PTC223251]
Heera Business Group, Krida Bhavan Building,
Behind Municipal Council, CSN 570/A, 573/A,
Pardeshipura, Nandurbar,
Maharashtra-425412.

...Corporate Debtor

Pronounced: 05.08.2026

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

Appearances: Hybrid

Operational Creditor: Adv. Mr. Amir Arsiwala a/w Adv. Mr. Rahul Gupta.

Corporate Debtor: Adv. Mr. Avinash Khanolkar a/w Adv. Maheshkumar Nulolu i/b Adv. Mr. Gajendra Rajput.

ORDER

[PER: BENCH]

1. <u>BACKGROUND</u>

1.1 This is an Application bearing C.P.(IB) No.917/MB/2025 filed on 02.09.2025 by NTEX Transportation Services Private 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”) for initiating Corporate Insolvency Resolution Process (hereinafter referred to as “CIRP”) in respect of Shree Nagai Devi Sugar Private Limited, the Corporate Debtor (CD)**.**

1.2 This Application has been affirmed by one Mr. Gaurav Yashvardhan, the Authorised Representative of the Applicant.

1.3 As per Part IV of the Application, the amount claimed to be in default is Rs. 2,11,27,906 (Rupees Two Crore Eleven Lakh Twenty-Seven Thousand Nine Hundred Six Rupee only).

1.4 The date of default is stated as 16.03.2024.

1.5 The Applicant has not proposed the name of an IRP.

1.6 The Applicant has relied on the following documents:

i. Copy of Commission Agreement dated 01.04.2019

ii. copy of the Board Resolution dated 19th February 2024 along-with a copy of the Authority Letter dated 27th December 2024.

iii. copy of the Sale Agreement dated the 11th October 2023

iv. copy of the Email dated the 12th October 2023 along-with the copy of the Purchase Order bearing no. PO/2324/063594

v. copy of the letters dated 30th November 2023 and 31st December 2023

vi. Copy of the cheque dated 20th December 2023 bearing no. 104284 drawn at Union Bank of India, Shahada Branch, Nandurbar.

vii. copy of the letter dated 19th January 2024

viii. copy of the dishonor of cheque memo dated 16th March 2024

ix. copy of the Legal Notice u/s 138 dated 10th April 2024

x. copy of the Demand Notice addressed to the Corporate Debtor on 12th November 2024 along with the tracking report of postal delivery and a copy of the Service Email

xi. Copies of the Statement of Account maintained by the Operational Creditor with ICICI Bank

xii. NESL Record of Default

2. AVERMENTS OF THE APPLICANT

2.1 It is stated that the Applicant and the Corporate Debtor entered into a Sale Agreement dated the 11th October 2023 (hereinafter referred to as "Agreement'', for the sale of S-30 Grade of Crystal White Sugar ("Goods").Copy of the Sale Agreement is annexed **Annexure-4.**

2.2 As per the Sale Agreement, an advance amount to the tune of Rs. 2,21,43,996/- (Rupees Two Crore Twenty-One Lakh Forty-Three Thousand Nine Hundred and Ninety-Six) ("Advance Amount") inclusive of the applicable tax deductions was to be paid against a total of 612 Metric Tons of Sugar, charged at Rs. 34,460 per Metric Tons. Moreover, it was decided that the delivery of the Goods will take place between 10th November 2023 and 20th November 2023 upon receipt of the said advance amount.

2.3 Thereafter, the Corporate Debtor vide its email dated 12th October 2023 confirmed the receipt of the advance payment for the Goods vide Purchase Order bearing no. PO/2324/063594 having payment reference 10230020833/CMS3642569525/541774711/ICICR22023101200023076 dated 12th October 2023. Copy of the Email dated the 12th October 2023 along-with the copy of the Purchase Order bearing no. PO/2324/063594, is annexed as **"ANNEXURE- 5** (Colly)",

2.4 However, the Corporate Debtor issued a letter on 30th November 2023 to the Petitioner/Operational Creditor, apprising it about its inability to deliver the said Goods due to worsening weather conditions. It however, gave an assurance to gradually commence with the delivery process by 10th December 2023. But the Corporate Debtor yet again failed to commence with the delivery of the said Goods and vide its letter dated 31st December 2023 assured that the delivery would commence from 15th January 2024 onwards. A copy each of the letters dated 30th November 2023 and 31st December 2023, are marked as **"ANNEXURE- 6** (Colly)".

2.5 As and by way of a security towards its legal liabilities arising out of the Corporate Debtor's inability to deliver the said Goods, the Corporate Debtor issued a cheque dated 20th December 2023 for an amount of Rs.2,21,43,996/- (Rupees Two Crore Twenty-One Lakh Forty-Three Thousand Nine Hundred and Ninety-Six) bearing No. 104284 drawn at Union Bank of India, Shahada Branch, Nandurbar in favour of NTEX Transportation Services Pvt Ltd qua the Petitioner herein. This cheque was given only as a security as the Corporate Debtor had assured that the delivery of the said Goods would commence promptly. A copy of the cheque bearing no. 104284 drawn at Union Bank of India, Shahada Branch, Nandurbar is marked as "**ANNEXURE - 7".**

2.6 Since the Corporate Debtor further failed to commence with the delivery of the said Goods by 15th January 2024, the Corporate Debtor addressed another letter dated

19th January 2024 to the Petitioner and stated that currently it is in the process of procuring funds from a bank as well as two or three other places and would thereafter, repay the said Advance Amount to the Petitioner by 15th February. 2024. It was also stated by the Corporate Debtor that before the said deadline, its factory is likely to be re-opened and it will be in the position to supply the said Goods, if the Petitioner still desired to avail the same. A copy of the letter dated 19th January 2024 is marked as **"ANNEXURE - 8".**

2.7 However, it is to be noted that by 23rd February 2024, only a part amount to the tune of Rs. 10,00,000/- (Rupees Ten Lakhs Only) was paid against the said Advance Amount by the Corporate Debtor. In view of the same, for the balance outstanding dues, the Petitioner decided to deposit the cheque bearing no. I 04284 dated 20th December 2023 at the ICICI Bank, Kondhwa Branch.

2.8 However, on 16th March 2024, the Petitioner received a memo from its Bank stating that the said cheque bearing no. 104284 has been returned dishonoured with remark "Account blocked situation covered in 2125." A copy of the said memo dated 16th March 2024 is marked as "**ANNEXURE- 9".**

2.9 In view of the said dishonour of cheque, the Petitioner issued a legal notice dated 10th April 2024 u/s 138 of Negotiable Instruments Act 1881 to the Corporate Debtor and demanded the Corporate Debtor to make a full repayment of Rs. 2,21,43,996/- (Rupees Two Crore Twenty-One Lakh Forty-Three Thousand Nine Hundred and Ninety-Six) given to the Corporate Debtor as an Advance along-with interest charged at 18% p.a. within 15 days of receipt of the said notice. But the Corporate Debtor paid no heed to the said notice and failed to make the payment as demanded. A copy of the Legal Notice u/s 138 dated 10th April 2024 is marked as "**ANNEXURE -10**".

2.10 In view of the aforesaid facts and non-payment of the debt, despite acknowledgment of the same and assurance to pay the same, the Operational Creditor was constrained to address the Demand Notice to the Corporate Debtor on 13th November 2024 via speed post and via email inter alia, calling upon the Corporate Debtor to pay the outstanding amount of Rs. 2,11,27,906/- (Rupees Two Crore Eleven Lakh Twenty-Seven Thousand Nine Hundred and Six). Speed post service was however refused by the Corporate Debtor on 16.11.2024. The tracing report in respect thereof on page 68 and 69 of the Application reflects that the item was returned by the addressee with remark "Item Returned Refused" the email service was however made upon CD on 12.11.2024. A copy of the said Demand Notice addressed to the Corporate Debtor on the 12th November 2024 along with the tracking report of postal delivery and a copy of the Service Email, are marked as "**ANNEXURE-11 (Colly)"**

2.11 The debt fell due on the 16th March 2024, when the cheque bearing no. 104284 returned dishonoured with remark "Account blocked situation covered in 2125." The amount due was acknowledged by the Corporate Debtor when it issued the said cheque in favour of the Petitioner.

2.12 The Applicant vide Additional Affidavit dated 23.06.2026 has filed NeSL Form D with Status of Authentication of Default as "**DEEMED TO BE AUTHENTICATED."**

3. CONTENTIONS OF CORPORATE DEBTOR

3.1 The CD filed Affidavit-in-Reply dated 18.03.2026 affirmed by Mr. Ravindra Choudhary, authorised representative of the CD *vide* Board Resolution dated 03.12.2025

3.2 It is stated that there is no authority to initiate insolvency as the Petitioner has referred & relied over Certified Copy of Board Resolution & subsequent Authority Letter allegedly authorising the Signatory of the Petition to prefer & file the Petition on behalf of the Petitioner. Purported Resolution of the Management of the Petitioner nowhere issued any authority to the signatory to initiate Insolvency Application / Process against the Respondent on behalf of the Petitioner.

3.3 Further as per section 113 of the Companies Act 2013, it is specifically mentioned that any Body Corporate / Company shall be represented by a Person only in a situation wherein such powers are conferred through a Resolution of the Board of Company and not otherwise. However, interestingly, the Power of Attorney, which is being relied in the Petition, is nowhere supported by any Resolution passed by the Board of the Petitioner.

3.4 The Signatory of the Petition relies over its Power allegedly generated through a Purported Authority Letter dated 27" December, 2024. However, in respectful submissions of the Respondent the said Authority Letter cannot be held to be valid document to grant an Authority over the Signatory of the Petition by the Petitioner.

3.5 Further the Corporate Debtor contends that date of default is wrong. The Clause 5 of the Agreement which stipulates that the Delivery of the Goods (Sugar in this case) was to be made between 10th to 20th November,2023. The Respondent has defaulted in supply of ordered goods to the Petitioner such default would have occurred on 21st November, 2023 itself. Admittedly, the Respondent has sought some extensions to the delivery timelines through letters dated 30 November,2023 and 31st December,2023 & 19thJanuary,2024. And the same were granted by the Petitioner. Accordingly, it can also be noticed that through the letter dated 19th January,2024 the Respondent has assured to deliver the Ordered goods to the Petitioner and in case the goods were not required then the advance amount would have been returned to the Petitioner on or before 15th February,2024. Assuming the Petitioner was not in requirement of Ordered goods, the alleged default has occurred on 16th February, 2024. However, in Part IV of the Petition the Petitioner pleaded that the date of default of the alleged claim as 16th March, 2024 is clearly act of misguiding to this Hon'ble Bench

3.6 Corporate Debtor has further contended that breach of contract was on part of the petitioner and no default has occurred as petitioner deposited the cheque given as a security performance without consulting the Corporate Debtor for lack of any demand, prior to unilateral withdrawal from the contract by the Petitioner, there is no default attributable to the Respondent.

3.7 It is stated that a fair chance of revival is must for existence of the Corporate Debtor.

3.8 The Corporate Debtor has relied on the following judgements.

a. M/s. Vidarbha Industries Power Limited v AxisBank {(2022) 8 SCC352}

b. M/s. Rushabh Civil Contractors Private Limited versus Centrio Lifespaces Limited

c. Ramesh Kymal Vs.Siemens Gamesa Renewable Power Pvt. Lid, (2021) 3 SCC 224

4. <u>REJOINDER OF THE APPLICANT</u>

4.1 The Applicant filed Rejoinder *vide* an Affidavit dated 20.11.2025.

4.2 It is stated that the Petitioner had first issued a valid Demand Notice under Section 8 of the IBC on 12.11.2024, duly served on the Respondent at its registered office address and via email. The said notice was neither replied to nor disputed by the Respondent within the prescribed ten-day period. Hence, the right to file the present Petition accrued lawfully to the Petitioner.

4.3 The Respondent's claim that the Petition is a recovery proceeding in disguise misconceives the very object of the IBC. It is settled law that the existence of a recoverable debt does not bar an operational creditor from initiating insolvency proceedings when default is established. The present case is not based on a mere contractual breach but on clear acknowledgement of liability and subsequent non-payment, evidenced through the cheque dishonour memo and admitted correspondence.

4.4 Furthermore, the Respondent's reliance on the supposed "summary nature" of NCLT jurisdiction is misplaced. The Hon'ble Supreme Court, in Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd. [(2018) 1 SCC 353], has held that where the debt and default are undisputed, and there exists no pre-existing bona fide dispute, the Adjudicating Authority must admit the petition. The Respondent's Reply fails to establish any genuine or pre-existing dispute.

4.5 The alleged lack of authority of Mr. Gaurav Yashvardhan to file and prosecute the present proceedings are wholly misconceived, erroneous, and devoid of substance. The said objection is a technical smokescreen raised with an ulterior motive to obstruct the admission of a valid petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("the Code"), rather than a genuine legal concern.

4.6 The Petitioner company had duly and lawfully authorised Mr. Gaurav Yashvardhan, Manager (Legal), to represent the company, affirm affidavits, and institute all legal proceedings, including the instant company petition, before the Hon'ble National Company Law Tribunal. This authorization flows directly from two corporate instruments already on record- (i) the Board Resolution dated 19th February 2024, and (ii) the Authority Letter dated 27th December 2024, collectively annexed as Annexure 3 (Colly) to the Petition.

4.7 Through the said Board Resolution, the Board of Directors of NTEX Transportation Services Pvt. Ltd. expressly resolved to initiate appropriate legal actions, including proceedings under the Insolvency and Bankruptcy Code, 2016, against defaulting entities such as the present Respondent, and further empowered Ms. Ramnique Sachar, Senior Legal Counsel of the company, to take all necessary steps in that regard. As per clause (h) of the Resolution also specifically authorized the said officer to delegate or subdelegate such authority to a company representative for filing, exercise of that delegated authority, Ms. Ramnique Sachar, acting under the power vested in him by the Board, executed the Authority Letter dated 27th December 2024, whereby she formally empowered Mr. Gaurav Yashvardhan, Manager (Legal), to sign, affirm, verify, and file the present petition and all connected pleadings on behalf of the company. The said documents bear the company's official seal, are executed on the letterhead of the Petitioner, and have been filed along with the Petition. Both instruments fully satisfy the requirements of corporate authorization contemplated under Section 179(3)(f) of the Companies Act, 2013, which expressly empowers the Board of Directors to authorize institution of legal proceedings on behalf of the company.

4.8 The Respondent's reliance on Section 113 of the Companies Act, 2013 is entirely misplaced and legally untenable. That provision merely deals with representation of a body corporate at general meetings of another company, it has no bearing whatsoever on the power to institute proceedings in judicial fora. The Respondent's interpretation of the said section demonstrates misunderstanding of corporate law. The Petitioner's authorization, on the other hand, is consistent with settled principles under the Companies Act and is supported by a validly passed resolution.

4.9 It is a settled proposition, reaffirmed in various decisions of the Hon'ble NCLT and Hon'ble NCLAT, that technical objections regarding the internal delegation of authority cannot defeat substantive rights under the IBC, especially where the corporate records demonstrate that the authorization has been validly granted and filed. The Hon'ble Tribunal has consistently held that a petition under Section 9 cannot be dismissed merely on alleged defects of form if the company, as an entity. has unequivocally approved the filing. Hence, the objection raised by the Respondent is not only contrary to the record but also frivolous and vexatious. The Board Resolution and Authority Letter placed on record constitute a complete and lawful authorization in favour of Mr. Gaurav Yashvardhan, thereby rendering the present petition duly instituted and maintainable in law. The Respondent's challenge to such authorization deserves to be rejected at the very threshold.

4.10 The Respondent's objection regarding the "incorrect date of default" is untenable, misconceived, and contrary to the record. The Petitioner has consistently maintained that the date of default is 16.03.2024, being the date on which the Respondent's cheque dated 20.12.2023 (bearing No. 104284) was dishonoured with the remark "Account blocked situation covered in 2125".

4.11 The Respondent's argument that the alleged default should have been reckoned from November 2023, or February 2024 overlooks the legal principle that default under the IBC arises on the date the debt becomes due and is not paid. In the present case, the Respondent's letter dated 19.01.2024 specifically promised repayment of the advance amount by 15.02.2024, acknowledging liability. When the said payment was not made, and the cheque subsequently bounced, the default crystallized on 16.03.2024. The Respondent's reliance on contractual timelines for delivery of sugar is irrelevant since the dispute does not concern performance of the contract, but rather repayment of admitted advance money. The Respondent's own communications (Annexures 6 and 8 of the Petition) confirm its inability to perform and its repeated undertakings to refund the amount, which clearly constitute acknowledgment of debt within the meaning of Section 18 of the Limitation Act, 1963.

4.12 The Respondent's argument that the Petitioner committed breach of contract and that no default occurred is a blatant and a desperate attempt to evade liability. The Petitioner and Respondent entered into a Sale Agreement dated 11.10.2023 for the supply of S-30 grade crystal white sugar. The Petitioner paid an advance of 2,21,27,906/- against the total contracted quantity. The Respondent repeatedly failed to deliver the goods within the stipulated period, despite sending multiple assurances through letters dated 30.11.2023, 31.12.2023, and 19.01.2024. These letters, annexed as Annexure 6 (Colly) and Annexure 8, unequivocally record the Respondent's inability to perform due to internal and financial constraints.

4.13 To cover its admitted liability, the Respondent issued a cheque dated 20.12.2023 for the amount agreed as per the Sale Agreement. It is trite law that the issuance of a cheque towards repayment constitutes acknowledgment of debt. The Respondent's attempt to later characterize this cheque as "security" is an afterthought unsupported by any contemporaneous document. No clause in the Agreement or correspondence indicates that the cheque was merely for security.

4.14 Moreover, the Respondent's contention that the Petitioner failed to communicate acceptance or rejection of delivery after 19.01.2024 is factually incorrect. The Respondent never offered any delivery nor produced evidence of readiness to deliver. The claim that no default occurred is thus self-contradictory, as the Respondent admits to both non-performance and issuance of a repayment cheque that bounced. In discharge of its liability, and after multiple follow-ups and requests, the Respondent made a partial payment of 10,00,000/- (Rupees Ten Lakhs) on 23.02.2024 towards the advance amount; however, the Respondent failed to refund the balance outstanding advance amount.

4.15 In insolvency proceedings under Section 9, what matters is the existence of debt and default, not subsequent excuses. The Respondent's failure to refund the advance amount or deliver goods, despite repeated assurances, constitutes a clear operational default.

5. WRITTEN SUBMISSION (APPLICANT)

5.1. The pleadings in the Application/ Rejoinder and Written Submission are same and hence for the sake of brevity it is not recorded herein.

6. ANALYSIS AND FINDINGS

6.1. We have heard the learned counsels for the Applicant/Operational Creditor and the Corporate Debtor, and have carefully perused the records placed before us. Our findings in the matter are as under:

6.2. Upon a perusal of the documents on record, it is observed that the Applicant and the Corporate Debtor entered into a Sale Agreement dated 11.10.2023. As per the terms of the said agreement, the Corporate Debtor was required to supply "S-30 Grade White Sugar" to the Applicant between 10.11.2023 and 20.11.2023 against an advance payment of ₹2,21,43,996/- (Rupees Two Crore Twenty-One Lakh Forty-Three Thousand Nine Hundred Ninety-Six only).

6.3. Pursuant to the agreement, the Applicant remitted an amount of ₹2,21,27,906/- to the Corporate Debtor on 12.10.2023, as evidenced by the Statement of Accounts maintained by the Applicant with ICICI Bank.

6.4. However, the Corporate Debtor failed to supply the agreed goods. To assure delivery, the Corporate Debtor issued a cheque as security, promising prompt commencement of supply. Despite these assurances, the Corporate Debtor committed a default and failed to supply the goods.

6.5. Subsequently, the cheque issued by the Corporate Debtor was presented for encashment but was returned dishonored by the bank with the remark "Account Blocked " on 16.03.2024.

6.6. Consequently, the Applicant issued a statutory Legal Notice under Section 138 of the Negotiable Instruments Act, 1881 on 10.04.2024, as well as a Demand Notice under Section 8 of the Insolvency and Bankruptcy Code, 2016 (IBC) on 12.11.2024. Further, it is observed that delivery of the demand notice via speed post was refused by the Corporate Debtor on 16.11.2024. The postal tracking report on pages 68 and 69 of the Application reflects that the item was returned to sender with the remark "Item

Returned Refused." However, service via email was successfully effected upon the Corporate Debtor on November 12, 2024. Despite receipt of the Demand Notice, the Corporate Debtor failed to clear the outstanding dues.

6.7. Further no pre-existing dispute has been evidenced by the Corporate Debtor. The Applicant has further produced NeSL Form D wherein the Status of Authentication of Default is "**DEEMED TO BE AUTHENTICATED**".

6.8. The Corporate Debtor in its reply has never denied the execution of contract or receipt of advance. It has contended that the date of default as mentioned in Part IV of the Application is incorrect. However, in this regard, it is observed from the record that vide communications dated 30.11.2023 and 31.12.2023, the Corporate Debtor repeatedly assured the delivery of the agreed goods. Further, vide letter dated 19.01.2024, the Corporate Debtor explicitly assured either the refund of the advance amount or the supply of goods by 15.02.2024. Upon the failure of the Corporate Debtor to fulfill its promise by the said date, the Applicant presented the cheque for encashment, which was subsequently returned dishonored on 16.03.2024 and therefore the date of default has been stated by the Applicant as 16.03.2024

6.9. It is a well-settled proposition of law that the determination of the date of default is primarily for the purpose of calculating the period of limitation. Even if the date of default is taken as 16.02.2024 (i.e., immediately following the promised extended date of performance of 15.02.2024), the present Application, having been filed on 02.09.2025, is well within the prescribed period of limitation. Therefore, the objection raised by the Corporate Debtor in this regard is devoid of merit and stands rejected.

6.10. Further, another contention of the Corporate Debtor is the lack of authority of Mr. Gaurav Yashvardhan to file and prosecute the present proceedings. In this regard it is observed that the Board of Directors of the Petitioner Company, via its Board Resolution passed at the Board Meeting held on 19.02.2024, authorized Ms.

Ramnique Sachar to appear , sign , verify, and initiate legal proceedings in any court or Tribunal. A sub-delegation of powers under clause (h) thereof was also given by issuing a specific letter of authority for a specific purpose to be mentioned in letter of Authority. In exercise of this power, Ms. Ramnique Sachar executed an Authority Letter dated December 27, 2024, delegating authority to Mr. Gaurav Yashvardhan, Manager (Legal), to defend/file / appear/represent the present petition and connected pleadings against M/s Shree Nagai Devi Sugar Private Limited i.e. the Corporate Debtor in NCLT Mumbai Bench. Hence this contention of the Corporate Debtor is untenable. Further judgment in the case of M/s. Rushabh Civil Contractors Private Limited versus Centrio Lifespaces Limited CP (IB) 2161/ MB / 2019 does not comes to the rescue of the Corporate Debtor as in that case the application was initiated by a Director whose authorization via the Board Resolution was strictly confined to representing the company in business affairs concerning its property and he was never authorized to initiate a Corporate Insolvency Resolution Process (CIRP).

6.11. The Corporate Debtor has relied upon the following other judgments, which in our view do not help its case for the following reasons: -

i. Judgment of Hon’ble Supreme Court in the matter of M/s. Vidarbha Industries Power Limited v Axis Bank {(2022) 8 SCC 352} does not apply to the facts of this case as the Hon’ble Supreme Court has time and again in its various judgements held that the Judgement of Vidarbha was pronounced keeping in mind the peculiar facts of the case and cannot be held as a precedent. Further at the time of admission, the Adjudicating Authority only needs to ascertain whether debt is due and payable and the same is being defaulted by the Corporate Debtor. Moreover, the said judgment was passed in a matter under section 7 of the Code, whereas the present matter is under section 9 of the Code and reliance placed by the CD on the said judgment is wholly misplaced.

ii. Judgment of Hon'ble Supreme Court in the matter of Ramesh Kymal Vs. Siemens Gamesa Renewable Power Pvt. Ltd, (2021) 3 SCC 224 does not come to rescue the case of the Respondent as the Applicant has been able to demonstrate with the help of the documents that the present application is well within limitation even if the date of default alleged by the Corporate Debtor is considered. Further in our considered view the date of default as mentioned in the part IV of the Application i.e. 16.03.2024 is correct as the Corporate Debtor repeatedly promised to supply the goods and further gave a cheque to the Applicant as a security in case he could not make the delivery on time. As he could not make the delivery the Applicant presented the cheque for encashment, which was subsequently returned dishonored on 16.03.2024. The said judgment of Ramesh Kymal Vs. Siemens Gamesa Renewable Power Pvt. Ltd pertains to Section 10-A of the Code and in this case the default is clearly out of the period specified i.e. from 25.03.2020 to 24.03.2021. Hence this judgement does not have any relevancy with regard to this case.

6.12. In view of the above, this Tribunal is of the considered view that an operational debt exists, which the Corporate Debtor has defaulted in paying. The debt and default is withing limitation and exceeds a sum of Rs. 1 Crores as prescribed under Section 4 of the Code. The application is also complete.

6.13. Under the scheme of the Code, the Adjudicating Authority is strictly confined to determining whether a debt is due and payable, and whether a default has occurred. Consequently, we are of the considered view that the Operational Creditor has placed sufficient, cogent, and incontrovertible evidence on record to substantiate both the existence of an operational debt and the Corporate Debtor's default in repayment thereof.

6.14. 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 payment 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.

6.15. In view of the above, 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.

6.16. As the Applicant has not proposed the name of an IRP, this Tribunal appoints Mr. **Sabbani Maruthi** having registration no. IBBI/IPA-001/IP-P02752/2022-2023/14202 from the panel of IPs maintained to act as the Interim Resolution Professional (IRP) having AFA valid till 31.12.2026.

6.17. We make it clear that at this stage we have not crystalized the amount as claimed in this Application, the same is left to be collated by the IRP.

ORDER

In view of the aforesaid findings, Application bearing C.P.(IB) No.917/MB/2025 filed under Section 9 of the Code by NTEx Transportation Services Private Limited , the Applicant, for initiating CIRP in respect of **Shree Nagai Devi Sugar Private Limited**, the Corporate Debtor is hereby **Admitted.**

We further declare moratorium under Section 14 of the Code with consequential directions 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. Sabbani Maruthi** a registered Insolvency Professional having Registration Number IBBI/IPA-001/IP-P02752/2022-2023/14202 and e-mail address MARUTHI.SABBANI18@GMAIL.COM having valid Authorisation for Assignment up to 31.12.2026 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 are directed to provide effective assistance to the IRP as and when he takes charge of the assets and management of the Corporate Debtor. 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 monthly 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. The IRP is directed to issue notice of admission upon all the statutory authorities of the Corporate Debtor without fail within a period of 7 days from the date of this order.

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

XIII. 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.

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

Sd/-	**Sd/-**
NILESH SHARMA **MEMBER (JUDICIAL)**	**SAMEER KAKAR** **MEMBER (TECHNICAL)**

//Sumant//