IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT– I) CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **30.10.2025** THROUGH VIDEO CONFERENCING

PRESENT: **HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)**
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

APPLICATION NUMBER	**:**
PETITION NUMBER	**:** CP(IB)/241(CHE)/2024
NAME OF THE PETITIONER(S)	**:** Tata Steel Ltd
NAME OF THE RESPONDENTS	**:** Hi- Esteem Auto Komponents Pvt Ltd
UNDER SECTION	**:** Sec 9 Rule 6 of IBC, 2016

ORDER

Present: None for the Petitioner.

Ld. Counsel Shri. Vairava Subramanian for the Respondent / Corporate Debtor .

Vide separate order pronounced in Open Court, petition is admitted. CIRP is initiated against Hi- Esteem Auto Komponents Pvt Ltd. Ananthachari Mahesh is appointed as the IRP.

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

MG

Date: 30.10.2025

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

CP(IB)/241(CHE)/2024

(filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In the matter of ***M/s. Hi-Esteem Auto Komponents Private Limited***

Tata Steel Limited,
Having Registered Office at:
Bombay House, 24,
Homi Mody Street, Fort,
Mumbai-400 001

Also at:
Tata Cemtre,
43, Jawaharlal Nehru Road,
Kolkata-700071

Also at:
No. 104/3, SIPCOT Industrial Complex,
Zuzuwadi Post, Hosur,
Krishnagiri, Hosur-635 126

… Petitioner/Operational Creditor

Vs

Hi-Esteem Auto Komponents Private Limited,
Having its Registered Office at:
S. No. 88/1 & 88/2, Mettupalayam Road,
Panrutti Village, Thennery Post,
Sriperumbudur Taluk,
Kancheepuram, Pin-631 604

… Respondent / Corporate Debtor

Present:

For Petitioner : Shri. Thriyambak Kannan, Advocate
For Respondent : Shri. G. Vairava Subramanian, Advocate

CORAM:

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

Order Pronounced on 30th October, 2025

O R D E R
(Heard Through Hybrid Mode)

1. This petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 {"**IBC**") read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 has been filed by s **Tata Steel Limited** (hereinafter referred to as **"Petitioner / Operational Creditor(OC)"**) against **Hi-Esteem Auto Komponents Private Limited** (hereinafter referred to as ("**Respondent / Corporate Debtor(CD)"**) for initiating Corporate Insolvency Resolution Process ("**CIRP"**) against the Corporate Debtor.

2. **Part-I** of the petition sets out the details of the Petitioner i.e. Tata Steel Limited. It has its Registered Office at Bombay House, 24, Homi Mody Street, Fort, Mumbai-400 001. **Part-II** of the petition sets out the particulars of the Corporate Debtor i.e. Hi-Esteem Auto Komponents Private Limited. It was incorporated with Authorised Share Capital of Rs.3,00,00,000/- and Paid-up Share capital of Rs.3,00,00,000. Its Registered Office is at S. No. 88/1 & 88/2, Mettupalayam Road, Panrutti Village, Thennery Post, Sriperumbudur Taluk, Kancheepuram, Tamil Nadu, Pin-631 604. In **Part-III** of the petition, the Petitioner has not proposed the name of the Interim Resolution Professional.

3. **Part-IV** of the petition provides the particulars of the operational debt as Rs.2,01,64,219.73 along with interest. Date of default is stated as **21.02.2024.**

4. **Part-V** of the petition provides the details of the operational debt and list of documents attached with the petition to prove the existence of operational debt and the amount in default.

5. It is stated that, the CD and the OC entered into two purchase orders dated 20.07.2023 and 14.12.2023 under which OC was required to supply various quantities and grades of steel for use by the CD as raw material for its business purpose. In accordance with the purchase order dated 20.07.2023, a period of 45 days was provided for payment of invoice from the date of raising of the invoice. It is stated that, the purchase order dated 14.12.2023 although did not provide for payment timeline, but as a matter of practice, 45 day time from the date of raising of the invoice has been computed for the purpose of date of default.

6. It is stated that, since there were defaults on the part of the Corporate Debtor in making payments in respect of the invoices, a meeting was held between the authorised representatives of the Corporate Debtor and the Operational Creditor on 27 June 2023 where the Corporate Debtor undertook to make payments to the tune of INR 2,78,74,669/- to the Operational Creditor. The total outstanding was inclusive of earlier invoices towards which the payments were due.

7. It is stated that, in furtherance of the meeting dated 27 June 2023 against the admitted sum of INR 2,78,74,669.00, a sum of INR 27,00,067.14 was received in an ad hoc manner from the CD. Another sum of INR 50, 10,382.86

was adjusted by way of credit notes in the light of revision of rates in the goods supplied. Therefore, the total outstanding at present stands as INR 2,01,64,219.73.

8. It is stated that, another meeting was held between the CD and the OC on 21.02.2024, where the CD was expecting payment from Royal Enfied. It was stated that once such payment would be received, the outstanding dues to the OC would be cleared. Subsequently, the CD sent an email dated 09.05.2024 where it represented that it is in the process of repaying to its creditors and the dues would be cleared.

9. It is stated that, from the date of the last invoice, being 31.12.2023, no payments forth came from the CD. The OC sent notice under From 4 dated 18.06.2024 through speed post. In response to the notice dated 18.06.2024, the CD sent reply dated 06.07.2024 raising a pre-existing dispute in respect of the quality of steel. It is stated that, the CD never raised any dispute prior to sending of the reply dated 06.07.2024 in any of the correspondence between the CD and OC.

REPLY FILED BY CORPORATE DEBTOR

10. It is stated that, the CD had been dealing with the OC since the year 2010. The CD had done more than Rs.15 crores of business, out of which more than Rs.12 Crores were already settled by the CD. The quality issues, which started in the year 2022 and continued during 2023, were the main cause of non-payment of invoices as the disputes were raised for the same.

11. It is stated that, the CD has been in operation for 15 years. It has been established as a high quality supplier of sheet metal and tubular auto-

component parts to two-wheeler OEM. The products of the CD consist of sheet metal and tubular parts ranging from spacer, brackets, chassis and exhaust pipes for two-wheeled motor vehicles. The OC has been supplying CEW and ERW MS tubes. The OC has been supplying the materials from its Hosur unit and the CD has been supplying the material to the OC's customers Royal Enfield, Oragadam, Thiruvotriyur in Tamil Nadu.

12. It is stated that, the OC has been supplying for nearly a decade to the Respondent; the CD did not face any major quality issues; and it has been making regular payments to the OC for the supplies made. It is stated that, the quality issues started cropping up in March 2022 and the supplies made till May 2023 were full of quality defects. The issues were raised through various emails and in the meetings. It is stated that, the CD brought to the notice of the OC about various quality issues on the tubes supplied by them. For example, in Dia 19.05*.1.6.182 mm ERW 1 length undersize, in 19.05*1.6*190 mm ERW – thickness undersize, 22.23*4.55*R/L thickness undersize and 25.4*1.6*675 mm – crack found in seam were some of the issues which were raised by the CD to the OC.

13. It is stated that, the CD received defective materials in 2022 which were duly notified and rectified either by replacing other materials or by issuing credit notes. Again, the issue cropped up in 2023 and the CD wrote various emails to the OC from March to June 2023, which are pending resolution. It is stated that, the defective materials will reduce the outstanding drastically. The OC categorically informed that unless the CD agrees on the payment plan, they would not talk about fixing the defects. It is stated that the CD had to

accept which has been clandestinely used by the OC as the confirmation from the CD without even mentioning a word on the disputes raised by the CD.

14. It is stated that, while the CD was waiting for the disputes to be addressed, the OC started sending mechanical reminders almost on a daily basis.

15. It is stated that, the CD made it clear that goods found to be of poor quality would be unaccepted and that the payment would not be made for those goods. There was a verbal agreement between the parties that the materials supplied would be on a running account basis. It is stated that, and all the transactions between the CD and the OC were on the understanding that strict standard of the quality would be adhered to.

16. It is stated that, the CD incurred substantial loss on account of defective material. Since the customers were disgruntled, the CD's reputation got damaged.

17. It is stated that, the demand notice dated 14.05.2024 was not served as mandated in Form-4 on the CD. OC sent another demand notice dated 18.06.2024 annexing the invoices which were said to be due from the CD. CD sent a reply dated 06.07.2024 to the legal notice stating all the disputes which were raised prior to the demand notice.

18. It is stated that, the OC did not attach any resolution to establish the power granted to the person to file this Petition. OC may be put to strict proof of the authority granted to the person by any supporting documents authenticated by the authority.

Rejoinder by Petitioner

19. It is stated that, the CD has raised a technical issue pertaining to authorisation of the signatory of the Petitioner. It is stated that, Mr.A.V.S.K.R.N. Murthy, is the signatory of the Petition under Section 9 of the IBC, 2016. He has been authorised vide letter of authority dated 25.09.2024 to represent the Petitioner in proceedings against the CD. The letter of authority dated 25.09.2024 has been issued by Mr. T.V.Narendran, the CEO and MD of the Petitioner duly authorised by the Board Resolution dated 30.10.2017.

20. It is stated that, the CD has filed two sets of correspondences as Annexure 2 and Annexure 3 along with the typeset to establish the existence of a dispute. Annexure 2, which is from the year 2022, is completely irrelevant to the present petition as the subject matter of this Petition is the invoices that were raised between 18.04.2023 and 31.12.2023.

21. It is stated that, the correspondence contained in Annexure 3 pertains to the supply made in the year 2023, in particular March, May, June 2023. The majority of the correspondences filed in Annexure 3 do not contain any address of a recipient of the email and/or are incomplete. Thus, no reliance can be placed on such a correspondence.

22. It is stated that, the invoices were issued under the two purchase orders being,

a. Purchase Order bearing H12323/MAT/71 dated 20.07.2023 and

b. Purchase Order bearing H12324/MAT/102 dated 14.12.2023 ("collectively, "Purchase Orders") (*filed as Annexure II (4) and II (5) along with the Petition under Section 9 of the Code*)

23. It is stated that, the correspondence filed by the Respondent in Annexure 3 pertains to emails dated 17.03.2023, 10.05.2023, 13.05.2023, 01.06.2023, 03.06.2023, 07.06.2023, 09.06.2023, 13.06.2023 and 15.06.2023, which are prior to the issuance of purchase order and cannot be related in any manner to the purchase orders or the claim in the present Petition.

24. It is stated that, the correspondence in Annexure 3 do not contain any particulars of the invoices raised for the supply of goods which were allegedly suffering from quality issues. It is stated that, the Petitioner raised 48 invoices between 18.04.2023 and 31.12.2023. These invoices are in relation to purchase orders that were issued on 20.07.2023 and 14.11.2023. Neither the correspondence, nor the reply contain any particulars of quantum of the outstanding amount, which is allegedly disputed. Nor the specific invoice numbers under which the alleged defective goods were supplied.

25. It is stated that, the Purchase Orders specified a term of 45 days for making payment upon issuance of an invoice. At no time did the Respondent contest to make payment. It is stated that, nowhere in the correspondence contained in Annexure 3, the Respondent had intention of withholding payment for the supplies on account of quality issues. Nearly 187 email correspondence between May 2023 and April 2024 were sent by the Petitioner reminding to make payments qua the invoices in claim, however, the CD failed to respond to even a single reminder to the effect that it is refusing the goods and/or it is withholding the payments.

26. It is stated that, the OC has filed the GST statements in respect of the goods supplied. The CD has not filed any documents to indicate that it has sought to return the defective goods of the OC.

27. It is stated that, in the email correspondence dated 09.05.2024, the CD has stated to be taking steps to make the payments to the OC. Thus, the CD has admitted its liability.

28. It is stated that, the CD has failed to place any document qua the alleged dispute in regard to the quality of goods supplied under the invoices in claim. Further the CD has admitted its liability vide email dated 09.05.2024. It is stated that, the claim of the CD that there is a serious dispute in the goods supplied under the invoices is wholly unsustainable and is liable to be dismissed.

29. It is stated that, the CD has filed a criminal complaint dated 25.11.2024 qua the theft of goods from the factory premises by the staff of Royal Enfield, which goods incidentally happen to be the same goods affected by the quality issues that are being contested. This is nothing but a concoction and fabrication to avoid payments due to the Petitioner.

Analysis and Findings

30. We have heard Ld. Counsels for the parties and perused the records.

31. The main point for consideration in this instant petition is, whether the operational debt is due and payable by the CD and whether there exists a pre-existing dispute between the parties in the context of test laid down by the Hon'ble Supreme Court in the case of ***Mobilox Innovations (P) Ltd. v. Kirusa Software (P) Ltd. (2018) 1 SCC 353.***

32. The Operational Creditor raised 48 invoices between 18.04.2023 and 31.12.2023. These invoices were raised against two purchase orders dated 20.07.2023 and 14.12.2023. The Operational Creditor has stated that the total operational debt that is required to be paid by the CD is Rs.2,01,64,219.73 along with interest at the prevailing market rate.

33. The case of the CD is that, there is a pre-existing dispute between the parties as the goods supplied by the OC were defective and the CD had written various emails between March 2023 to June 2023, raising the issue of defective materials. The defective materials were received back in 2022 which were notified and rectified. The issue of defective materials again cropped up in 2023. The CD in its reply has annexed two sets of email correspondences being Annexure 2 and Annexure 3.

34. On a perusal of mail trails and correspondences from the year 2022 in Annexure 2 in support of arguments qua pre-existing dispute, we are of the opinion that these correspondences are irrelevant to the present petition as the invoices in claim which are due and payable are of the period between 18.04.2023 and 31.12.2023. Further, the correspondence in the year 2022 are not contemporaneous with the invoices in claim and do not refer to any invoice number in specific. The receiver mail address is also not shown in the annexure.

35. The correspondences relied upon by the CD in Annexure 3 are of dated 17.03.2024, 10.05.2023, 13.05.2023, 01.06.2023, 03.06.2023, 07.06.2023, 09.06.2023, 13.06.2023, 15.06.2023, 19.06.2023. The correspondences do not contain the

particulars of the invoices in claim. Some of the correspondences are reproduced below:

Re: 25.40x1.60x354 - Length Under Size Problem.

Me <pqc@hi-esteem.com>
Sat, 13 May 2023 12:42:39 PM +0530 •

To "santoshvarghese" <santosh.varghese@tatasteel.com>, "ravikumarchinappan" <ravikumar.chinappan@tatasteel.com>

Cc "Madhumitha K" <purchase@hi-esteem.com>, "STORES 2" <stores2@hi-esteem.com>, "Saravanan G" <cmm@hi-esteem.com>, "Velavan" <quality@hi-esteem.com>, "Balaji M" <planthead@hi-esteem.com>, "Nitharshan Janakiraman" <nitharshan@hi-esteem.com>, "K Janakiraman" <kjr@hi-esteem.com>

Gentle Reminder

Action Plan Still not received.

Thanks & Regards
Thamizholi C
Hi-Esteem - QA

---- On Wed, 10 May 2023 17:40:45 +0530 **Thamiloli <pqc@hi-esteem.com>** wrote ---

Dear TATA Steels Team,

Refer attached NCR Information report with invoice details for reference.

25.40x1.60x354 - Length **Under Size Problem** found, kindly share the **ICA and Action plan report without fail.**

Spec: 25.40x1.60x354 mm
Actual: 25.40x1.60x**351 ~352.9 mm**

Thanks & Regards
Thamizholi C
Hi-Esteem - QA

Deep Surface Line Mark problem -CEW - 57*5*203mm (Action plan Still pending 41.28 X 3.00 X 358) Repeated Issue

Me <pqc@hi-esteem.com>
Fri, 09 Jun 2023 10:44:30 AM +0530

To "santoshvarghese" <santosh.varghese@tatasteel.com>, "ravikumarchinappan" <ravikumar.chinappan@tatasteel.com>, "yatavellyreddy" <yatavelly.reddy@tatasteel.com>

Cc "Madhumitha K" <purchase@hi-esteem.com>, "STORES 2" <stores2@hi-esteem.com>, "Saravanan G" <cmm@hi-esteem.com>, "Velavan" <quality@hi-esteem.com>, "Balaji M" <planthead@hi-esteem.com>, "Nitharshan Janakiraman" <nitharshan@hi-esteem.com>, "K Janakiraman" <kjr@hi-esteem.com>

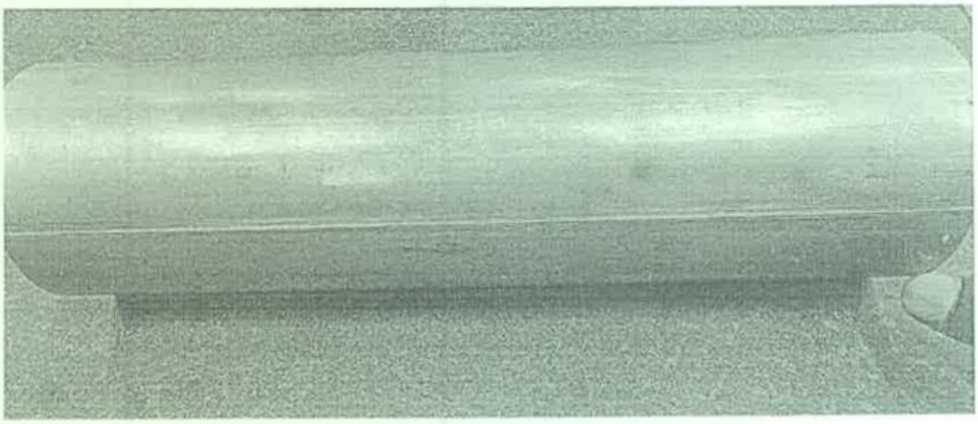
Dear TATA Steels Team,

Refer attached the pictures for your reference with invoice details for reference.

CEW - 57*5*203mm - Deep Surface Line Mark problem kindly share the **ICA and Action plan report without fail.**

Spec: Free from all type of visual defects.
Actual: **Deep surface line mark problem**
Invoice Details attached for your reference.

Note: Still action plan pending for same type of issue in 41.28 X 3.00 X 358 now in CEW - 57*5*203mm



Thanks & Regards
Thamizholi C
Hi-Esteem - QA

Re: Deep Surface Line Mark problem -CEW - 57*5*203mm (Action plan Still pending 41.28 X 3.00 X 358) Repeated Issue

Me <pqc@hi-esteem.com>
Mon, 19 Jun 2023 10:44:37 AM +0530

To "Santosh Varghese" <santosh.varghese@tatasteel.com>

Cc "Yatavelly Abilash Reddy" <yatavelly.reddy@tatasteel.com>, "Ravikumar Chinappan" <ravikumar.chinappan@tatasteel.com>, "Vikram Prasad" <vikram.prasad@tatasteel.com>, "Madhumitha K" <purchase@hi-esteem.com>, "STORES 2" <stores2@hi-esteem.com>, "Saravanan G" <cmm@hi-esteem.com>, "Velavan" <quality@hi-esteem.com>, "Balaji M" <planthead@hi-esteem.com>, "Nitharshan Janakiraman" <nitharshan@hi-esteem.com>, "K Janakiraman" <kjr@hi-esteem.com>, "Indal Raut" <indalraut@tatasteel.com>

Reminder!!

---- On Thu, 15 Jun 2023 16:00:50 +0530 **Santosh Varghese** <santosh.varghese@tatasteel.com> wrote ---

...

-->>>If you are not the intended recipient of this mail, we request you - not to use the contents, report to the sender and delete the mail immediately. We appreciate your efforts. Hi-Esteem Auto Komponents Private Limited.

36. The correspondences relied upon by the CD do not in anywhere mention that the CD is withholding the payment due and payable to the OC on account of defective materials. The OC has annexed the Minutes of Meeting (MoM) dated 27.06.2023, wherein the authorised representative of the CD has undertaken to make payments to the tune of Rs.2,78,74,669 to the OC. The total outstanding on the date of meeting i.e., 27.06.2023 was inclusive of earlier invoices towards which the payments were due. The OC has also relied on the MoM dated 21.02.2024, wherein CD had acknowledged the pending dues. The extract of the MoM dated 21.02.2024 is herein below:

OPPO A55
2024/02/22 09:41

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Venue → Face to Face meeting between TSL & Mr Nitharsom held on 21/02/24 at Hi-Esteem's office on 21/02/24.

MoM of Discussions between Tata Steel Ltd (Tubes SBU)
&
Hi-Esteem Auto Komponents Pvt. Ltd.

Persons Attended from Hi-Esteem

Mr. Nitherson Janakiraman
Director.

Hi-Esteem Auto Komponents Private Limited
HI-ES
Chennai-600117

21/02/24

TSL.

21/2/24

Mr. Siddhartha Mishra
Mr. Suresh K Murthy
Mr. Abishek Singh.

Sub:- Hi-Esteem is having an overdue & payable to TSL as on date amount of 2.02 Cr.

Discussions held to make the above payment to TSL.

(1) Hi-Esteem informed that M/S RE has to pay them around 25 lac which Hi-Esteem has asked RE to pay directly to TSL. Joint meeting with RE is scheduled on 22/02/24.

(2). Hi-Esteem is organising to pay the balance amount by March'24. They are engaging with their Investors ~~from Dubai~~ who will be visiting Chennai by 15th Mar'24 to conclude to the investment proposal.

(3) TSL shared the concerns on the overdue issue and has asked to organise the payments at the earliest.
In the past Hi-Esteem has not honoured the Commitments made for the payments.
In absence of payments from Hi. Esteem, TSL shall be forced to explore all the options including the legal way to recover the due amount.

37. Pursuant to the MoM dated 21.02.2024, the CD sent an email dated 09.05.2024, wherein it was stated that the CD is in the process of making arrangement and repaying to its creditors.

From: J Nitharshan <nitharshan@hi-esteem.com>
Sent: Thursday, May 9, 2024 10:50 AM
To: Abhishek Singh <singh.abhishek@tatasteel.com>
Cc: R Venkataramani <rvr@hi-esteem.com>; KJ Raman <kjr@hi-esteem.com>; Niranjethan P <niran@royalenfield.com>; S Senthil Kumar <sak@royalenfield.com>; ssenthil <ssenthil@royalenfield.com>; G Nagarjunan <nagarjunan@royalenfield.com>; Gunasekaran B <bguna@royalenfield.com>; Madhumitha K <purchase@hi-esteem.com>; Shrikant B. Deshpande <s.deshpande@tatasteel.com>; kotteeshwaran <kottee@royalenfield.com>; sjeyakumar <sjeyakumar@royalenfield.com>; Ponselvaraj <ponselvaraj@royalenfield.com>; ashwini <ashwini@royalenfield.com>; R Karthick <rkr@royalenfield.com>; Suresh Krishna Murthy <skrishnamurthy@tatasteel.com>; T.V.D.K. Prasad <tvdkprasad@tatasteel.com>; vivekagrawal67 <vivekagrawal67@royalenfield.com>; syed saleem saveen <sssaveen@royalenfield.com>; Kaarthikeyan Subramani <kaarthikeyan@royalenfield.com>
Subject: Re: Fw: Fw: Fw: PAYMENT OVERDUE Rs.2.02 crore

⚠ "External email: Do not click on links if sender is unknown"

Dear Sir,

Greetings!

We write to inform you that we have made all arrangements through couple of sources to get finance for repayment of creditors dues and
revival of company business. In all possibility, this will definitely happen by mid July to end July 2024. We will be knowing the exact status
by end June 2024, when we will keep you updated of the status.

We are also taking all our efforts to revive the business, which also throws a positive trend.

We are sure will hopefully turnaround during FY 2024-25 and will approach you for further business.
We are confident that you will extend your support to us.

Thanking you for your patience and support.

Warm Regards
Nitharshan J

38. This Tribunal observes that, although the email correspondences refer to some defects but the CD never raised any dispute relating to defective goods. Further, the CD has acknowledged its debt vide MoMs dated 27.06.2023, 21.02.2024 and email dated 09.05.2024.

39. In the instant case, the OC had sent multiple payment reminders through email to the CD between 17.05.2023 and 19.04.2024. There is no documentary evidence placed by the CD to show that the CD had disputed the amount payable to the OC. In fact, the CD had assured the OC that the payments would be made.

40. During the proceedings dated 24.02.2025, the CD has stated that the account between the CD and OC was the running account and was not invoice to invoice basis. The Petitioner was directed to produce the statement of accounts of the transaction between the CD and OC. Pursuant to the order dated 24.02.2025, the OC has filed a memo vide SR No. 1601 dated 23.04.2025 and annexed the statement of account to show that the accounting between the CD and the OC was on invoice to invoice and not a running account.

41. At this juncture, it is relevant to refer to the case of ***Mobilox Innovations Pvt. Ltd. v/s. Kirusa Software Pvt. Ltd., reported in MANU/SC/1196/2017,*** wherein the Hon'ble Supreme Court has laid down tests on which the petition under Section 9 of IBC, 2016 needs to be tested. The relevant extract is reproduced as under:

> *Para 25 - Therefore, the adjudicating authority, when examining an application Under Section 9 of the Act will have to determine:*
> *(i) Whether there is an "operational debt" as defined exceeding Rs. 1 lakh? (See Section 4 of the Act)*
> *(ii) Whether the documentary evidence furnished with the application shows that the aforesaid debt is due and payable and has not yet been paid? And*
> *(iii) Whether there is existence of a dispute between the parties or the record of the pendency of a suit or arbitration proceeding filed before the receipt of the demand notice of the unpaid operational debt in relation to such dispute?*

If any one of the aforesaid conditions is lacking, the application would have to be rejected.

…..

Para 40 –

.... 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.

42. Applying the above tests, the claim of Rs. 2,01,64,219.73 as operational debt from the CD, is more than the threshold limit of Rupees 1.0 Crore. The OC has also shown the documentary evidence to prove that the debt is due and payable.

43. Coming to the third test, whether there was a dispute between the parties prior to the issuance of demand notice. On a consideration of records we find that there is no document to show that the CD had disputed the outstanding dues claimed by the Operational Creditor prior to the issuance of demand notice. No evidence of any outright denial of liability to pay is placed by the Corporate Debtor. The alleged pre-existing dispute by the CD is feeble and not supported by credible evidence. We are of the view that, there is no good ground to establish any real and substantial pre-existing dispute which can thwart the admission of section 9 Petition against the Corporate Debtor.

44. This Tribunal finds it relevant to refer to Hon'ble NCLAT judgment in ***Surendra Sancheti v. Gospell Digital Technologies, Company Appeal (AT) (Insolvency) No. 583 of 2024,*** wherein it was held as

> *"Coming to our analysis and findings, we notice that no material has been placed on record by the Corporate Debtor to show that they had categorically rejected the outstanding dues claimed by the Operational Creditor prior to issue of demand notice. There is no evidence of any outright denial of the liability to pay which has been placed on record by the Corporate Debtor. Furthermore, we notice that Corporate Debtor while admitting the outstanding debt had also admitted in the same breath that they were working to promote the global presence of the Operational creditor in India which affirms that there were no differences between them with regard to the agreement basis which they were conducting their business operations. When we look at the impugned order, we find that the Adjudicating Authority has considered the entire gamut of facts holistically. We are also satisfied with the findings of the Adjudicating Authority that facts on record speak loud and clear that the Corporate Debtor/Appellant all along admitted that it owed an operational debt to the Operational Creditor which amount was in excess of the threshold limit until their reply to the Section 8 demand notice. When the operational debt had already arisen and become due and invoices raised were not specifically disputed there is nothing on record which detracts from the operational debt having become due and payable. We also notice that debit notes notwithstanding, the Appellant had acknowledged that they were liable to pay the outstanding operational debt. The Corporate Debtor never disputed or questioned the offer made by the Operational Creditor to look into the debit*

notes for making appropriate credit adjustments. This puts a serious question mark on the bona-fide of the bogey of pre-existing disputes being subsequently raised by the Corporate Debtor. The alleged disputes claimed by the Corporate Debtor are feeble and not supported by credible evidence. In sum, no real pre-existing dispute is discernible. There is no good ground to establish any real and substantial pre-existing dispute which can thwart the admission of section 9 application against the Corporate Debtor. The Adjudicating Authority therefore does not appear to have committed any error in holding that all requisite conditions necessary to trigger CIRP under Section 9 stands fulfilled."

45. In the case of ***Surendra Sancheti (supra),*** similar to this present factual matrix, the CD had acknowledged the operational debt and never disputed the outstanding dues. The CD raised dispute only after the issuance of demand notice. Thus, the Hon'ble NCLAT held that, the defence raised by the CD is nothing but a feeble and upheld the initiation of CIRP against the CD.

46. In the light of what has been stated above, this Tribunal is of the considered view that, the CD has not proved the existence of dispute prior to the issuance of demand notice. The contention of pre-existing dispute by the CD is just a moonshine. The Petition filed by the Petitioner is complete in all respects as required by law. **This Tribunal, therefore, admits this Petition and orders for initiation of CIRP against the Corporate Debtor.**

Directions for appointment of IRP:

47. For the foregoing reasons, we admit the petition, initiating CIRP against the Corporate Debtor ISPT India Private Limited.

48. The Operational Creditor has not proposed any name for the appointment of Interim Resolution Professional ("IRP"). We therefore appoint **Mr. ANANTHACHARI MAHESH with Registration Number: IBBI/IPA-001/IP-P-01723/2019 -2020/12673, email ID: maheshananth@yahoo.com** as the Interim Resolution Professional from the List of Panel Resolution Professionals where the Authorization for Assignment is valid till 31.12.2025. The IRP who is appointed shall take forward the process of Corporate Insolvency Resolution of the Corporate Debtor. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15,17,18 of the Code and file his report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Guarantor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

49. The Financial Creditor is directed to pay a sum of Rs. 3,00,000/- (Rupees Three Lakhs Only) to the Interim Resolution Professional to meet out the expenses and to perform the functions assigned to him in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

50. As a consequence of the petition being admitted in terms of Section 9 of the Code, the moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:

a. The institution of suits or continuation of pending suits or proceedings against the respondent 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 respondent 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 respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

d. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the respondent.

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

51. However, during the pendency of the moratorium period in terms of Section 14(2) (2A) and 14(3) as extracted hereunder:

> (2) The supply of essential goods or services to the Corporate Guarantor as may be specified shall not be terminated or suspended or interrupted during moratorium period.
>
> (2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.
>
> (3) The provisions of sub-section (1) shall not apply to
>
> (a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;
>
> (b) a surety in a contract of guarantee to a corporate debtor.

52. The duration of the period of moratorium shall be as provided in Section 14(4) of the Code and for ready reference reproduced as follows:

(4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be.

53. Based on the above terms, the petition **CP(IB)/241(CHE)/2024** stands admitted in terms of Section 9 of IBC, 2016 and the moratorium shall come in to effect as of this date. A copy of the order be communicated to the Financial Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the order be also forwarded to IBBI for its records. Further, the Interim Resolution Professional above named who is figuring in the list of Resolution Professionals forwarded by IBBI be also furnished with copy of this Order forthwith by the Registry, who will also communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.

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

Kishore P