

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER

SHRI ATUL CHATURVEDI,
HON'BLE TECHNICAL MEMBER

IA No. 423/JPR/2023
CP No. (IB)- 23/9/JPR/2022

(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:

I-FIELD LIMITED

...Operational Creditor

Versus

NEWTECH BUILHOME PRIVATE LIMITED

...Corporate Debtor

MEMO OF PARTIES

M/s I-Field Limited

R/o Flat 1308, 13/F CEO Tower,
77 Wing Hong Street,
Cheung Sha Wan,
Hong Kong

...Applicant

VERSUS

M/s Newtech Buildhome Private Limited

R/o Sterling Ground Floor,
B-6b, Prithviraj Road,

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IA No. 423/JPR/2023
CP No. (IB)- 23/9/JPR/2022



C Scheme, Jaipur,
Rajasthan-302001

...Respondent

AND IN THE MATTER OF
IA (IBC) NO. 423/JPR/2023

MEMO OF PARTIES

Newtech Buildhome Private Limited
R/o Sterling Ground Floor,
B-6b, Prithviraj Road,
C Scheme, Jaipur,
Rajasthan-302001.

...Applicant

VERSUS

I-Field Limited
Through its Authorized Representative
R/o Flat 1308, 13/F CEO Tower,
77 Wing Hong Street,
Cheung Sha Wan, Hong Kong

...Respondent

For the Applicant : Sushant Tomar, Adv.
For the Respondent : Mohit Khandelwal, Adv.
Arpit, Adv.

Order Pronounced On: 12.10.2023

ORDER

Per: Shri Deep Chandra Joshi, Judicial Member

IA No. 423/JPR/2023
CP No. (IB)- 23/9/JPR/2022



1. This Application is filed by M/s I-Field Limited through its authorised signatory Mr. Jeevesh Sabharwal ('Operational Creditor' / 'Applicant'), seeking to initiate Corporate Insolvency Resolution Process ('CIRP') against M/s Newtech Buildhome Private Limited ('Corporate Debtor' / 'Respondent'), under Section 9 of the Insolvency and Bankruptcy Code 2016 ('IBC' / 'Code') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 ('Rules').
2. The Applicant, M/s I-Field Limited, is engaged in the business of manufacturing furniture, fixtures, and equipment. Their registered office is located at Flat 1308, 13/F CEO Tower, 77 Wing Hong Street, Cheung Sha Wan, Hong Kong. The alleged default on the part of the Respondent for the non-payment of operational dues is USD 271,267.02 which amounts to Rs. 2,01,63,227/- (Rupees Two Crore One Lakh Sixty-Three Thousand Two Hundred Twenty-Seven Only) as of 20.06.2021.
3. The Corporate Debtor, M/s Newtech Buildhome Private Limited, is a private limited company incorporated under the Companies Act, 1956, on 16.08.2005, having CIN: U45201RJ2005PTC021150. The Respondent has its office situated at -Hotel Marriott, First Floor, Ramdas Agarwal Marg, Near Jawahar Circle, Jaipur, Rajasthan 302015. The Corporate Debtor has an Authorised Share Capital of Rs. 21,00,00,000/- (Rupees Twenty-One Crore Only) and Paid-Up Share Capital of Rs. 20,33,60,920/- (Rupees




Twenty Crore Thirty-Three Lakh Sixty Thousand Nine Hundred Twenty Only).

4. The details of the transactions leading to the filing of this Application are averred by the Applicant *vide* Diary No. – 625/2022 dated 28.02.2022 as follows:
 - a. The Corporate Debtor approached the Applicant to purchase furniture, fixtures, and marble ('Goods') for their hotel project "Le Meridian" in Hyderabad. Further, the Corporate Debtor placed an order for furniture, fixtures, and marble.
 - b. Subsequently the Applicant raised various Performa Invoices ('PI') namely PI 742 for furniture for an amount of USD 1,323,648 and PI 766 for marble for an amount of USD 170,520.62. Later on, PI 742, invoices for furniture were split into 6 PIs and were sent to the Corporate Debtor *vide* E-mail dated 31.01.2018.
 - c. The Applicant shipped the goods and raised multiple invoices. The Corporate Debtor made part advance payments in January 2018 prior to the shipments of the goods. From all the invoices raised for a value of USD 1,235,886.02, the Corporate Debtor made a payment of USD 946,619.
 - d. Therefore, an amount of USD 271,267.02 remains due and payable which is equivalent to Rs. 2,01,63,227/- (Rupees Two Crore One Lakh Sixty-

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Three Thousand Two Hundred Twenty-Seven Only). Despite numerous demands by the Applicant, the Corporate Debtor has failed to clear the balance payment. The Applicant has also addressed many emails to the Corporate Debtor for repayment of the outstanding dues.

- e. Subsequently the Applicant has issued a Demand Notice dated 30.06.2021 under Section 8 of the Code, 2016 for demanding the payment of a balance payment of USD 271,267.02 equivalent to Rs. 2,01,63,277.60 (Rupees Two Crore One Lakh Sixty-Three Thousand Two Hundred Seventy-Seven and Sixty Paisa). The Corporate Debtor has replied to the said Demand Notice and denied its liability to make the balance payment towards the operational dues.
- f. The aforementioned details, as reflected in Part IV of the Application, are as follows:

Part IV

PARTICULARS OF OPERATIONAL DEBT

1.	Total Amount of Debt, Details of Transactions on account of which debt fell due, and the Date from which such debt fell due.	Total amount of debt: USD 217,267.02 (USD to INR Exchange Rate as on 30.06.2021 is INR Rs. 2,01,63,227 (Rupees Two Crore One Lakh Sixty-Three Thousand Two Hundred Twenty-Seven Only)
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2.	Amount claimed to be in default and the date on which the default occurred	Amount Claimed to be in default: USD 271,267.02 (USD to INR Exchange Rate as on 30.06.2021 is INR Rs. 2,01,63,227 (Rupees Two Crore One Lakh Sixty-Three Thousand Two Hundred Twenty-Seven Only) is due and payable by the Corporate Debtor as on 30.06.2021
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5. Notices were issued in the aforesaid Application, and the Respondent filed a Reply *vide* Diary No. 2065/2022 dated 12.07.2022 stating that: -

a. The Applicant has not approached the Tribunal with clean hands and has concealed material information to place itself as an Operational Creditor.

It has also been stated that, as it has been submitted there is no default committed by the Corporate Debtor and there exists a pre-existing dispute between the parties.


b. The Applicant has filed the present petition with the intent to create inordinate pressure on the Corporate Debtor in order to extort the money.

The Corporate Debtor also relied on the following judgments:

- I. *Swiss Ribbons Pvt. Ltd. & Anr. vs Union of India & Ors., 2019 SCC Online SC 73* wherein it was held that “*the Code is thus a beneficial legislation which puts the corporate debtor back on its feet, not being a mere recovery legislation for creditors*”.

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II. *R.S. Cottmark (India) Pvt. Ltd. V. Rajvir Industries Ltd., Company Appeal (AT) (Insolvency) No. 653 of 2018* wherein it was held that

“It is reiterated that the IBC, 2016 is not a recovery proceeding”.

- c. Moreover, the Applicant has failed to comply with the statutory requirement stipulated under Section 9(3)(b) of the Code, 2016. In accordance with the said Section, the Applicant is required to file an affidavit stating that no notice has been given by the Corporate Debtor acknowledging any dispute related to default or unpaid debt. The Applicant has filed the affidavit under Section 9(3)(b) of the Code, 2016 however the contents of the said affidavit are ambiguous and are not in consonance with the said Section. Further, the Applicant has also failed to comply with the statutory requirement under Section 9(3)(c) of the Code, 2016. In consonance with the said section, the Applicant was required to furnish a certificate from the financial institution maintaining accounts of the Operational Creditor confirming that there is no payment of the unpaid operational debt by the Corporate Debtor.
- d. The Corporate Debtor states that the Applicant Company was approached to supply requisite products in the Hotel Project in Hyderabad. The products supplied by the Applicant Company failed to meet the requisite quality and specifications.



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- e. The Corporate Debtor further submits that the furniture provided by the Applicant Company was not of the same quality and specification as approved and confirmed. The necessary accessories like door closures and LED Lights were not provided along with the Furniture which is an integral part of it. It is pertinent to state that as per the agreed design of the room furniture, it was agreed that the LED light strip would be placed on the headboard bedside, on the outer of the study/ writing table, and on the outer TV Cabinet however the Applicant Company failed to provide the same.
- f. Further it is submitted that the quality and polish of the furniture was also sub-standard and poor which was confirmed by one Mr. Arif Khan, Chief Engineer of the Respondent, and the Corporate Debtor asked the managing director of the Applicant Company to visit the site and take a look of the quality of goods supplied. The Affidavit of the Chief Engineer of the Respondent Company is annexed as Annexure-3 of the Reply.
- g. The Respondent Company had to pay huge penalties and demurrage charges to clear the shipment since the Applicant sent all LED lights and marble stones in one container without a proper invoice which led to confiscation of all LED lights by the customs authorities. Such negligent conduct of the Applicant Company had brought the Respondent Company on the verge of debarment/blacklisting by the customs authority. This

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incident has caused great reputational loss to the Respondent Company and other group companies of the Respondent. Copy of the order passed by the assistant commissioner of Customs dated 25.09.2018 annexed as Annexure-4 of the reply.

h. The Corporate Debtor states that the quality of the furniture was also not proper. The Respondent had to purchase furniture from the local market which led to incurring extra cost to the Corporate Debtor. Further, the Applicant Company claims that USD 264,711 is outstanding however the said amount is not matching with the accounts maintained by the Respondent Company.

i. The Respondent has also placed reliance on the Judgement of the Hon'ble Supreme Court in the matter of *Innoventive Industries Ltd. v. ICICI Bank, Civil Appeal Nos. 8337-8338 of 2017* wherein it was held that:

“29. The scheme of Section 7 stands in contrast with the scheme under Section 8 where an operational creditor is, on the occurrence of a default, to first deliver a demand notice of the unpaid debt to the operational debtor in the manner provided in Section 8(1) of the Code. Under Section 8(2), the corporate debtor can, within a period of 10 days of receipt of the demand notice or copy of the invoice mentioned in sub-section (1), bring to the notice of the operational creditor the existence of a dispute or the record of the pendency of a suit or arbitration proceedings, which is pre-existing – i.e. before such notice or invoice was received by the corporate debtor. The moment there is existence of such a dispute, the operational creditor gets out of the clutches of the Code.”



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j. Similarly the Corporate Debtor has relied on the Judgement of the Hon'ble Supreme Court in the matter of *Mobilox Innovations (P) (Ltd.) Vs Kirusa Software (P) Ltd. (2018) 1 SCC 353* wherein it was held that:

“Within a period of 10 days of the receipt of such demand notice or copy of invoice, the corporate debtor must bring to the notice of the operational creditor the existence of a dispute and/or the record of the pendency of a suit or arbitration proceeding filed before the receipt of such notice or invoice in relation to such dispute (Section 8(2)(a)). What is important is that the existence of the dispute and/or the suit or arbitration proceeding must be pre-existing – i.e., it must exist before the receipt of the demand notice or invoice, as the case may be.”

k. It is pertinent to note that the present Application is liable to be dismissed with cost and the proceeding should be ordered against the Applicant under Section 65 of the Code, 2016. Additionally, the Corporate Debtor has relied on the Judgement of the Hon'ble Supreme Court in the matter of *Krishna Lal Chawla v. State of U.P. (2021) 5 SCC 435* where it was held that:

“It is the litigant's bounden duty to make a full and true disclosure of the facts. It is a matter of trite law, and yet bears repetition, that suppression of material facts before a court amount to abuse of the process of the court, and shall be dealt with a heavy hand”.

6. The Applicant has also filed its rejoinder *vide* Diary No. 2482/2022 dated 22.08.2022, submitting the following:

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- a. It is pertinent to note that the Respondent never raised any/such concerns regarding the quality of the goods until the Applicant *vide* several email reminders approached the Corporate Debtor to clear its dues. Moreover, the Respondent has been ignoring its liability to clear the dues of the Applicant. The alleged dispute raised by the Corporate Debtor is not a genuine dispute and it is an afterthought to save itself from the clutches of the bankruptcy.
- b. It is submitted that the quality issue raised by the Corporate Debtor does not hold any ground since the managing director personally visited the factory in China and approved the goods manufactured and instructed the Applicant to ship.
- c. It is denied that there exists a pre-existing dispute between the parties. The Applicant has repeatedly written E-mails and had telephonic conversations with the Corporate Debtor to clear its dues.
- d. It is submitted that the Applicant had sent all the components of the furniture. The door accessories were shipped *vide* Invoice No. 742-3-2 dated 03.02.2018 and *vide* BL No. 0248A04632 dated 10.02.2018. Further, an E-mail dated 24.06.2018 was also sent by the managing director of the Applicant Company for confirmation of the shipment of the door closures. The door closures were sent *vide* Invoice no. 748-2 dated 22.06.2018 *vide* BL No. SDBBDS243483 dated 18.06.2018.

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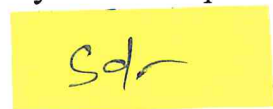
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e. The Respondent is trying to raise a frivolous dispute to save himself from paying its liability to the Applicant however there exists a clear liability to pay the dues of the Applicant. Moreover, the Respondent never raised any dispute over a period of one year, when the Applicant *vide* several E-mails approached the Corporate Debtor to clear its dues and the Respondent raised the dispute as an afterthought.

7. The Respondent filed an IA (IBC) No. 423/JPR/2023 vide Dairy No. 1851/2023 dated 31.07.2023 under Section 60(5) of the Code, 2016 read with Rule 11 of the NCLT Rules wherein it was stated that the present Application has been filed by Mr. Jeevesh Sabharwal on behalf of the Applicant. However, the Applicant has failed to show in what capacity Mr. Jeevesh Sabharwal filed the present Application. Mr. Sabharwal does not fall under the category of secretary or director of the Applicant Company as there is no documents are placed on record to establish it. Therefore, the Application is not filed by the competent person and is liable to be dismissed with the heavy cost for want of proper authorization.

8. The Respondent, through an additional affidavit, has filed an Audited Financial Statement of the Company for the Financial Year ('FY') 2021-22, which states an opinion of the independent auditor and the solvency certificate issued by the Chartered Accountant vide Dairy No. 1864/2023 dated 02.08.2023 and stated that the Respondent Company is a complete





solvent company and is well in position to pay its debt. Copy of the Audited Financial Statement for FY 2021-22, Opinion of Independent Auditor, and Solvency Certificate are annexed as Annexure-AA-1 and AA-2 of the additional affidavit respectively.

9. The Applicant has filed its written submission *vide* Diary No. 1955/2023 dated 10.08.2023 whereby they have reiterated the same as mentioned in their earlier submission and additionally relied on the Judgement of the Hon'ble NCLAT in the matter of *Deepak Modi v Shalfeyo Industries Pvt. Ltd. 2023 SCC OnLine NCLAT 169*.
10. We have heard the Learned Counsels for the parties and perused the averments made in the Application, Reply, Rejoinder, and the Documents enclosed with the Application.
11. This Adjudicating Authority has perused all the relevant papers and found them in order. The Registered Office of the Respondent is situated in Jaipur; therefore, this Adjudicating Authority has jurisdiction to entertain and try this Application. Further, the learned counsel for the Corporate Debtor had contended that this matter is not within the purview of Laws of Limitation, as the last payment was made by the Corporate Debtor on 18.04.2018, and the Application was filed before this Adjudicating Authority on 28.02.2022. It is duly noted that the date of default as mentioned in PART IV of the Application is 30.06.2021, however, the last payment made by the Corporate



Debtor was on 18.04.2018 and the date of the last invoice was 14.09.2018. The Applicant is computing the date of default from the date of demand notice. The date of default is not computed from the date of demand notice but from the date when the debt became due. Limitation in the matter shall be computed from the date when the debt became due or the date of the last payment, whichever is later. The last payment was made by the Corporate Debtor on 18.04.2018 and the date of the last invoice is 14.09.2018. Hence, in the present matter, we are considering the date of default from the date of the last invoice raised i.e., 14.09.2018. However, in view of the situation of the COVID-19 pandemic, the Hon'ble Supreme Court of India in *Suo Motu Writ Petition (Civil) No(s). 3/2020 In Re: cognizance for extension of Limitation, vide* order dated 10.02.2022 had extended the period of limitation from 15.03.2020 to 28.02.2022. The Applicant preferred the present Application on 28.02.2022. In view of the order passed by the Hon'ble Supreme Court, the period of 3 years for computation of limitation from the date of default i.e., 14.09.2018 in the present case shall exclude the period between 15.03.2020 to 28.02.2022 Therefore, the period of three years from the date of default to prefer the Application under Section 9 of the Code had not exhausted on the date of filing of the present Application. Therefore, the present Application has been filed within the prescribed period of limitation.

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12. Posterior to perusing the documents on record, we observed that the default has occurred with respect to the payment of the Operational Debt due to the Applicant. It is abundantly clear from the documents produced before us that the Respondent has defaulted in making full payments against the goods received by the Operational Creditor. The Corporate Debtor ambiguously states in its Reply that the Operational Creditor failed to meet the quality requirements in the goods supplied and there exists severe dispute regarding the quality of the goods supplied.

13. In the instant case, the Operational Creditor has annexed invoices raised for the goods supplied from Page No. 57-69 of the Application. The said invoices were raised by the Applicant in the year 2018 and the alleged dispute was raised by the Corporate Debtor *vide* E-mail dated 03.12.2019 which is a year after the goods supplied by the Applicant. Thus, the defence taken by the Corporate Debtor was an afterthought to shrug off liability and was not covered in a pre-existing dispute. Therefore, it is considered an afterthought with the sole intention to stall the commencement of insolvency resolution proceedings against the Corporate Debtor. Therefore, it is held that there exists no dispute, as contemplated under Section 8(2)(a) of the Code.

14. This leaves no doubt that the default has occurred for the payment of the Operational Debt for which the invoices were raised by the Applicant and the

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so-called dispute raised by the Corporate Debtor is merely a moonshine dispute as laid down in *Mobilox Innovations (P.) Ltd. v. Kirusa Software (P.) Ltd.* [2017] 85 taxmann.com 292 (SC), the Hon'ble Supreme Court held that:

“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 that 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. 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.”

15. In view of the above observation, it can be concluded that the dispute raised by the Corporate Debtor, is spurious, plainly frivolous, and unable to

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categorize as a genuine dispute as reproduced above. Hence, the contention of the Corporate Debtor, of a pre-existing dispute without any evidence and merit is a clear afterthought to defeat the claim of the Applicant.

16. It is evident from the above that the Corporate Debtor has defaulted in payment of the Debt to the Operational Creditor. Further, it has raised the contention that the dispute flouts the principle of law, which states that if there is a pre-existing dispute between the parties, an Application filed under Section 9 is not maintainable.
17. The first issue for consideration is whether the Demand Notice in Form-4 dated 30.06.2021 was served upon the Respondent. The said Demand Notice has been supplied to the Corporate Debtor and it is by the Respondent stating that the claims of the Applicant are highly under dispute and there exists no legitimate outstanding claim against the Applicant. Copy of the Demand Notice dated 30.06.2021 and Reply to Demand Notice are annexed as Annexure A-31 and Annexure-33 of the Application.
18. The next issue for consideration is whether the Respondent disputed the Operational Debt. The Respondent / Corporate Debtor has filed a Reply and argued that the quality and polish of the furniture was sub-standard and poor. However, no documentary evidence or correspondence was placed on record by the Corporate Debtor to support its contentions. It is noted that only when the Applicant demanded the dues payable against the invoices raised, the

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Corporate Debtor *via* e-mail raised the matter of sub-standard quality of the goods supplied earlier. There was no mention of the quality of goods being sub-par at any time before the said scenario. This tends to showcase the intention of the Corporate Debtor. Only when the Applicant demanded the money due on behalf of the Corporate Debtor, the Corporate Debtor raise contention of dispute just to negate its liability or run away from paying the legitimate dues owed to the Applicant. While going through documents, we came across the multiple reminders preferred by the Applicant which demonstrate that the demand was made time and again. In response to these multiple demands, the Corporate Debtor has, *via* the alleged email dated 03.12.2019, tried to escape from payment by raising a defence which on the face of things is nothing but a ruse. It is not a *bona fide* dispute and it is only a dispute raised for the sake of raising a dispute. Thus, as per the documents placed on record with the Adjudicating Authority, there is no dispute as to the outstanding liability of the Corporate Debtor towards the Operational Creditor. Copy of the E-mail reminders for the payment of dues are annexed as Annexure A-30(Colly) of the Application.

19. In *Mobilox Innovations Private Limited Vs Kirusa Software Private Limited(supra)*, para 34, the Hon'ble Supreme Court laid down what the Adjudicating Authority has to examine in an Application under Section 9.

Para 34 is as follows: -

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“34. 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 15 Company Appeal (AT) (Insolvency) No. 256 of 2021 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. Apart from the above, the adjudicating authority must follow the mandate of Section 9, as outlined above, and in particular the mandate of Section 9(5) of the Act, and admit or reject the Application, as the case may be, depending upon the factors mentioned in Section 9(5) of the Act.”

However, the defence must be plausible, and while not examining it on merits, it must not appear as a moonshine defence. Therefore, in the present matter at hand, there is a clear debt, repayment of which has been defaulted by the Corporate Debtor, and there appears to be no pre-existing dispute between the parties. Any allusion to such a dispute seems to be confirmed.

20. In the present case, the occurrence of default is evidenced by the details furnished by the Applicant. Further, the copies of the invoices, bills of lading, and the copies of the books of account, and the copy of the Demand Notice dated 30.06.2021 are attached to the Application. This Adjudicating Authority has held above that the Operational Creditor correctly delivered the Demand Notice in Form No. 4, and no pre-existing dispute is proved.

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21. It has been shown that the Corporate Debtor has failed to make payment of the amount due as mentioned in the statutory notice to date. It is also observed that the conditions under Section 9 of the IBC stand satisfied. Hence, this Adjudicating Authority is inclined to commence CIRP against the Corporate Debtor as envisaged under the provisions of IBC.

22. Under sub-section (4) of Section 9 of the Code, the Operational Creditor may propose the name of a Resolution Professional to be appointed as Interim Resolution Professional ('IRP'), but it is not obliged to do so. In the instant case, the Operational Creditor has not proposed the name of any person to be appointed as IRP. Hence, this bench will appoint the IRP from the pool of RPs empanelled with the IBBI. Therefore, the bench is appointing Mr. Shreyansh Jain, bearing Registration No. IBBI/IPA-001/IP-P01683/2019-2020/12727 with the e-mail address ca.shreyansh@gmail.com as the IRP in the present matter. The said IRP is directed to file the written consent to act as an interim resolution professional in Form – 2 provided under Rule 9 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016.

23. In this matter, the Interim Resolution Professional appointed herein, Mr. Shreyansh Jain, shall exercise all the powers enumerated under the Code read with Rules made thereunder. The Applicant shall provide a copy of the

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Application, if not provided already, along with this order to IBBI for its records.

24. The IRP is directed to take all such steps as are required under the statute, inter-alia in terms of Sections 15, 17, 18, 19, 20, and 21 of the Code and transact proceedings with utmost dedication, honesty and strictly under the provisions of the Code, and Rules and Regulations thereunder.
25. Consequences of commencement of CIRP shall be inter-alia as follows:
- i. The IRP appointed by the Adjudicating Authority, Mr. Shreyansh Jain, is directed to take over the affairs of the Corporate Debtor and duties as required to be performed by him under the provisions of Code including the issue of a publication in widely circulated Newspapers as contemplated under the provisions of the Code and calling for claims from the creditors of the Corporate Debtor; and collation of the same shall be done.
 - ii. Further, as a sequel of admission, moratorium, as envisaged under Section 14 of the Code, is invoked concerning the Corporate Debtor, which will be in vogue during the CIRP of the Corporate Debtor. The IRP shall carry out CIRP strictly as per the timelines specified and as envisaged under the provisions of the Code concerning the Corporate Debtor.
 - iii. The said IRP shall act strictly following the provisions of the Code, and to defray his expenses to be incurred and fees on the account, the Applicant is directed to deposit a sum of Rs. 2,00,000/- (Two Lakhs Only) to the account of IRP within three days from the date of this order. The IRP shall

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duly file a status report apprising this Adjudicating Authority about the progress of CIRP as unfolding concerning the Corporate Debtor. In terms of Sections 17 and 19 of the Code, all personnel of the Corporate Debtor including promoters and Board of Directors, whose powers shall stand suspended, shall extend all cooperation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP.

- iv. In terms of Section 9 of the Code, this order shall be communicated at the earliest, not exceeding one week from today, to the Applicant, Corporate Debtor, as well as the IRP appointed by this Adjudicating Authority to carry out CIRP. A copy of this order shall also be communicated to IBBI for its records.

26. Copy of this order is to be supplied to the Applicant. The Applicant and his counsel are directed to serve a copy of this order along with a copy of the Application and documents on the Interim Resolution Professional by all modes for information.

27. The Registry is directed immediately to send a soft copy of the instant Application along with this order to the IRP nominated herein on his E-mail ID.

28. Accordingly, CP No. (IB)- 23/9/JPR/2022 is admitted.

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**IA No. 423/JPR/2023**

29. The Corporate Debtor filed this IA under Section 60(5) of the Code read with Rules 11 of the NCLT Rules, 2016, wherein it is stated that the present Petition is not filed by an authorized representative of the Applicant Company.
30. Upon the perusal of the Application, it is observed that a Board Resolution of the Director dated 30.06.2021 to appoint/ authorize one Mr. Jeevesh Sabharwal has been attached to the Application as Annexure-A/2. The person authorized by the Board of Directors is duly empowered to initiate or defend any legal proceedings by or against the Corporate Debtor in any Court of law including the matters relating to Insolvency and Bankruptcy proceedings.
31. In the present matter at hand, it is seen that the Board Resolution of Mr. Sabharwal has been duly filed by the Applicant Company which empowers him to file the present Application under IBC, 2016.
32. In light of the foregoing, this Interim Application is dismissed and is disposed of accordingly.

**DEEP CHANDRA JOSHI
(JUDICIAL MEMBER)**

**ATUL CHATURVEDI
(TECHNICAL MEMBER)**