IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

COURT-IV

COMPANY PETITION IB (IBC)/83 (ND) 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:

M/s C.S Construction Co. Pvt. Ltd.

.... Operational Creditor/Applicant

Versus

Sampoorn IAS Academy Pvt. Ltd.

.... Corporate Debtor/Respondent

CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)
SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

Order Delivered on: 12.08.2025

PRESENT:

For the Applicant	**:**	Mr. Aditya Swarup, Mr. Manish Kaushik, Mr. Madhav Aggarwal, Advs.
For the Respondent	**:**	Ms. Shivani Aggarwal, Adv.

ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. This instant application was filed by **M/s C.S Construction Co. Pvt. Ltd.** (hereinafter referred as 'Applicant'/ 'Operational Creditor') under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'the Code') with a prayer to initiate Corporate Insolvency Resolution Process in respect of **Sampoorn IAS Academy Pvt. Ltd.** (hereinafter referred as

'Respondent' or 'Corporate Debtor') for defaulting the payment of total amounting to Rs. 3,25,02,092.88 (Indian Rupees Three Crores Twenty Five Lakhs Two Thousand Ninety Two and Eighty Eight paisa only)

2. The Respondent Company **Sampoorn IAS Academy Pvt. Ltd.** having CIN: U80903DL2020PTC367521, incorporated on 06.08.2020 under the provisions of the Companies Act, 2013, is having its registered office situated at MPL No. 320/323, Room No. 201, Indira Jeet Singh Place, Main Delhi, Central Delhi, Delhi, India, 110002. Since the registered office of the Respondent/ Corporate Debtor is in New Delhi, this Tribunal having jurisdiction over the NCT of Delhi is the Adjudicating Authority in relation to the prayer for initiation of Corporate Insolvency Resolution Process in respect of respondent corporate debtor under sub-section (1) of Section 60 of the Code.

3. **Briefly stated the facts of the present case as averred by the Applicant/ Operational Creditor are: -**

   a) The Applicant has submitted that the Corporate Debtor, **Sampoorn IAS Academy Pvt. Ltd.**, is engaged in the business of operating coaching and training institutes across India, primarily focused on preparing and guiding students for the UPSC Civil Services Examination. The Operational Creditor, C.S. Construction Co. Pvt. Ltd., is the lawful and undisputed owner of the premises situated on the 1st and 2nd floors of Felicity Tower, located at Shankar Marg, Jaipur, Rajasthan (hereinafter referred to as the "Tenanted Premises"). The title and ownership of the

Operational Creditor over the Tenanted Premises are not under challenge or dispute.

b) That between the years 2016 and 2019, the Operational Creditor, *C.S. Construction Co. Pvt. Ltd.*, entered into the following duly registered Lease Deeds with the Corporate Debtor, *Chanakya Academy for Education and Training Pvt. Ltd. (hereinafter referred as* ***'Chanakya Academy'****)*, in respect of various portions of the Tenanted Premises owned by the Operational Creditor, situated at Felicity Tower, Shankar Marg, Jaipur, Rajasthan:

i. **Lease Deed dated 17.08.2016**, in respect of the 1st Floor of the Tenanted Premises;

ii. **Lease Deed dated 02.08.2017**, in respect of a portion of the 2nd Floor of the Tenanted Premises;

iii. **Lease Deed dated 04.09.2019**, in respect of another portion of the 2nd Floor of the Tenanted Premises.

iv. Under the terms of the aforesaid Lease Deeds, Chanakya Academy was obligated to pay monthly rental amounts as consideration for the lawful use and occupation of the leased premises. However, Chanakya Academy committed persistent defaults in payment of the agreed rental amounts, thereby breaching the terms of the lease agreements. Despite repeated requests and demands made by the Operational Creditor, Chanakya Academy failed and neglected to regularize the outstanding rental dues. The said default in payment of operational dues continued up to January 2021.

c) That it has been submitted that in 2021, Chanakya Academy approached the Operational Creditor with a request for termination of the aforementioned three Lease Agreements and, in that context, introduced **Sampoorn IAS Academy Pvt. Ltd** Corporate Debtor herein to the Operational Creditor as a prospective tenant for the tenanted premises.

d) That On 26.02.2021, a Memorandum of Understanding **('MoU')** was executed between Chanakya Academy, the Corporate Debtor, and the Operational Creditor in relation to the outstanding rental dues for the period from February 2020 to February 2021 arising under the aforementioned three Lease Agreements. In the said MoU, Chanakya Academy expressly admitted its default and acknowledged its liability towards the Operational Creditor. Pursuant to the terms of the MoU, the Operational Creditor agreed to accept a sum of ₹65,91,363/- (Rupees Sixty-Five Lakhs Ninety-One Thousand Three Hundred Sixty-Three only) ("Settlement Amount") in full and final settlement of the total outstanding amount of ₹1,01,03,318/- (Rupees One Crore One Lakh Three Thousand Three Hundred Eighteen only) in respect of the rental arrears pertaining to the tenanted premises, subject to the condition that the Settlement Amount would be paid strictly in accordance with the terms stipulated in the MoU.

e) It was further argued upon through the same MoU, that in the event of non-payment of the Settlement Amount in accordance with the terms of the MoU, the Operational Creditor was entitled to recover the entire actual due amount towards rental arrears, along with applicable interest, from Chanakya Academy and the Corporate Debtor, jointly and severally. Clause 6 of the MoU unequivocally provided that, in the event of any breach or non-compliance by Chanakya Academy with the terms and conditions of the MoU, the Corporate Debtor shall be liable to discharge the said obligations. Furthermore, the Lease Agreements stipulated that any default in payment shall attract interest at the rate of 18% per annum. Accordingly, the Corporate Debtor effectively assumed the role of an unconditional guarantor in respect of the payment obligations of Chanakya Academy under the MoU.

f) Subsequent to the execution of the MoU, a Lease Agreement dated 02.03.2021 was entered into between the Operational Creditor and the Corporate Debtor in respect of the Tenanted Premises, for a term of five years commencing from 01.03.2021 to 28.02.2026, at a monthly rent of ₹6,00,000/- (excluding GST). However, the Corporate Debtor committed default in payment of rent under the said Lease Agreement, in breach of its terms, despite having acknowledged its liability in multiple communications and failed to respond to several reminders, including Legal Notices dated 11.05.2022, 21.10.2023, and 05.02.2024.

g) Chanakya Academy defaulted in payment of the Settlement Amount, having paid only a sum of ₹18,50,000/- on various dates in a piecemeal manner. In light of such default, and in view of the Corporate Debtor's unconditional guarantee under the MoU, the

Corporate Debtor has become liable to pay the entire Actual Due Amount to the Operational Creditor.

h) Owing to the persistent default and non-cooperative conduct of the Corporate Debtor, the Operational Creditor was constrained to issue a Demand Notice dated 22.10.2024 under Section 8 of the Insolvency and Bankruptcy Code, 2016. Despite due service of the said Demand Notice, the Corporate Debtor neither responded to the same nor discharged its liability by making payment of the outstanding dues and the accrued interest thereon.

4. We have heard the Learned Counsels for the Applicant and Respondent and perused the records made available by the parties.

5. The matter was taken up on 06.02.2025, when this Adjudicating Authority directed the Applicant to serve notice in Form-5 under the NCLT Rules through all permissible modes, returnable by 03.03.2025, and to file proof of service by way of affidavit before the next date of hearing. On 03.03.2025, the Learned Counsel appeared and took notice on behalf of the Respondent. Further, on 24.03.2025, this Authority noted that, as per the order dated 03.03.2025, the Respondent was required to file a reply within ten days. However, the said direction was not complied with. On the said date, the Learned Counsel for the Respondent sought further time to file the reply. In the interest of justice, as a last and final opportunity, one week's time was granted, failing which appropriate orders were to be passed. However, no reply has been filed by the Respondent.

6. On a perusal of Part-IV of Form 5 giving particulars of the operational debt claimed by the applicant in the instant, we notice that the applicant has claimed a sum of 3,25,02,092.88 (Indian Rupees Three Crores Twenty Five Lakhs Two Thousand Ninety Two and Eighty Eight paisa only) to be paid by the Corporate Debtor.

7. In accordance with the information provided to the Adjudicating Authority concerning the instant application, the debt that has been termed as 'default' under Section 9 of the Code hereof, cannot be considered as 'operational debt' due to the basis of the said debt not falling under the aforementioned pre-requisite conditions.

8. In the judgment passed by Ld. National Company Law Tribunal, Indore Bench in the matter of *Permali Wallace Pvt. Ltd. vs Narbada Forest Industries Pvt. Ltd.*; C.P(IB) No. 668 of 2019, it was held that any amount outstanding arising out a settlement agreement cannot be said to be 'operational debt' in accordance with Section 5(21) of the Code. The germane excerpt from the said judgement is reproduced hereinbelow—

> *"8. At the outset, we note that this application is filed by the Operational Creditor for execution of terms of settlement agreement dated 07.11.2017. In our considered opinion, the amount arising out of some settlement agreement cannot be termed as operational debt within the meaning of Section 5(21) of the IBC, 2016."*

9. It is pertinent to mention herein that the aforementioned judgement was been upheld by the Hon'ble National Company Law Appellate

Tribunal, New Delhi in the matter of *Permali Wallace Pvt. Ltd. vs Narbada Forest Industries Pvt. Ltd.; C.A. (AT) (Ins.) No.:36 of 2023*. The Hon'ble Appellate Authority has further formed a view that such an attempt can be viewed as a recovery tool as well. The germane excerpt from the judgment is mentioned hereinbelow—

> "*5. …we are of the view that Adjudicating Authority did not commit any error in rejecting Section 9 Application. It has been laid down by the Hon'ble Supreme Court in "Swiss Ribbon Pvt. Ltd. Vs. Union of India" ((2019) 4 SCC 17), IBC is not a recovery proceeding and the Application which has been filed by the appellant in the present case is only the application for recovery of balance amount of the interest and application was not filed for resolution of any insolvency of the Corporate Debtor…*"

10. Further, in the order dated 14.05.2019 passed by the Ld. NCLT, Allahabad Bench in C.P.(IB) No. 343/ALD/2018 between *M/s. Delhi Control Devices (P) Limited vs Fedders Electric and Engineering Limited*, similarly it was held that unpaid instalment cannot be treated as operational debt as per section 5(21) of IBC, 2016; and the breach of said agreement due to not paying the instalments cannot be ground to trigger CIRP against the Corporate Debtor. Further, in another order dated 11.08.2022 passed by the co-ordinate Bench of New Delhi in I.A. No. 3247 of 2022 in C.P. (IB) No. 1441/ND/2018 in the matter of *Bajaj Rubber Company Private Limited vs Saraswati Tumber Private Limited,* it was held that breach of the terms and conditions of payment according to a settlement agreement does not come under the purview of the operational debt as defined under the IBC, 2016 and it cannot be ground to trigger CIRP against the Corporate Debtor.

11. Therefore, considering the above discussion, the unpaid under the settlement agreement dated 26.02.2021 would not constitute the term 'operational debt' defined under Section 5(21) of the IBC, 2016. Further we note that the Lease Agreement dated 02.03.2021 has arisen out of Settlement agreement/ MOU entered between and executed between Chanakya Academy, the Corporate Debtor, and the Operational Creditor in relation to the outstanding rental dues to be paid by Chanakya Academy. Based upon the execution of MoU, a Lease Agreement dated 02.03.2021 was executed between the Operational Creditor and Corporate Debtor Academy *qua* the Tenanted Premises for a term of 5 years with effect from 01.03.2021 till 28.02.2026 for an initial rental amount of Rs. 6,00,000/- per month. Therefore, the Corporate Debtor had stood as a guarantor and entered into the shoes of Chanakya Academy. Therefore, Sampooran IAS entered into the agreement which is based upon the settlement agreement entered between the partiers dated 26.02.2021. On that ground the Applicant has failed to prove its contention qualifying the debt as an operational debt and therefore, the unpaid debt would not constitute the term 'operational debt' defined under Section 5(21) of the IBC, 2016.

12. Thus, the cardinal question for consideration is whether the debt claimed by the Operational Creditor qualifies as an 'operational debt' so as to invoke the provisions of Section 9 of the Insolvency and

Bankruptcy Code, 2016. It is evident that the foundation of the claim is not arising out of any services but rather from a settlement arrangement arising from a prior tenancy obligation. Therefore, once it is held that the prior underlying debt does not fall within the definition of 'operational debt' as contemplated under Section 5(21) of the Code, any subsequent transaction undertaken in furtherance of such Settlement Agreement cannot be construed to give rise to an operational debt under the Code. In view of the foregoing, the Applicant has failed to establish that the alleged unpaid dues fall within the ambit of 'operational debt' as defined under Section 5(21) of the Insolvency and Bankruptcy Code, 2016.

13. Further, as per the averments made by the Applicant, it is stated that the last payment from the Corporate Debtor was received on 01.11.2022. However, upon perusal of the record, it is observed that the Operational Creditor has failed to furnish any supporting documents, such as bank statements or transaction records, to substantiate the receipt of the said payment. On examination of the terms of the Lease Deed/Agreement, it is further noted that in the event of default in payment by the Corporate Debtor/Lessee, an interest at the rate of 18% per annum is payable on the outstanding rent for the period of delay. It is further observed that the present Application has been filed before this Adjudicating Authority on 18.02.2025, and the date of default has been claimed as 01.11.2022. However, in the absence of any documentary evidence substantiating the receipt of the alleged last payment on the said date, the claim regarding the date of default remains uncorroborated.

14. Accordingly, we are of the considered view that the outstanding debt claimed as per the petition filed under Form No. 5 under section 9 of the IBC, 2016 does not fall under the definition of operational debt as defined under section 5(21) of the Code. Resultantly, **C.P. IB (IBC)/83 (ND)2025 is hereby dismissed.**

However, this order shall not preclude the Applicant from seeking remedies, if so advised, under other laws that may be applicable in the facts of the case. There shall be no order as to costs.

Sd/-	**Sd/-**
ATUL CHATURVEDI **MEMBER (TECHNICAL)**	**MANNI SANKARIAH SHANMUGA SUNDARAM** **MEMBER (JUDICIAL)**