



NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

3. C.P. (IB)/1054(MB)2024

IN THE MATTER OF

Nu World Global Hongkong Limited
Vs
Silveroak Home Appliances Private Limited
Section 9 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on:25.08.2025

CORAM:

SH. MOHAN PRASAD TIWARI
MEMBER (J)

SH. CHARANJEET SINGH GULATI
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Petitioner:

For the Respondent:

ORDER

C.P. (IB)/1054(MB)2024: The above CP is listed for pronouncement of the order. The same is pronounced in open court, vide a separate order.

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)

//Rahul//

Sd/-
MOHAN PRASAD TIWARI
Member (Judicial)



**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT – V**

C.P.(IB)-1054(MB)/C-V/2024

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

NU WORLD GLOBAL HONG KONG LIMITED

Office At: FAT/RM 15/F, CKK Commercial Centre, Hennessy Road, Wanchai, Hong Kong.

...Petitioner/ Financial Creditor

Versus

**M/S. SILVEROAK HOME APPLIANCES
PRIVATE LIMITED**

Office At: Row House No. 6, Pratapnagar, Osmanpura, Aurangabad, Maharashtra - 431005. Also, at: Auto Cars Compound, Adalat Road, Aurangabad, Maharashtra - 431005.

...Respondent/ Corporate Debtor

Order pronounced on: 25.08.2025

Coram:

Hon'ble Sh. Mohan Prasad Tiwari, Member (Judicial)

Hon'ble Sh. Charanjeet Singh Gulati, Member (Technical)

Appearances:

For the Petitioner: Adv. Zerik Dastur a/w Adv. Palak Agarwal and Adv. Anubhav Singh i/b Adv. Anubhav Sinha (PH)



For the Respondent: Adv. Rahul Totala a/w Adv. Mitesh Jain i/b Siddhant Somani; (PH)

1. The present Company Petition has been filed by Nu World Global Hong Kong Limited (hereinafter referred to as the “**Petitioner/Operational Creditor**”) as per the provisions of 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 against M/s. Silveroak Home Appliances Private Limited (hereinafter referred to as the “**Respondent/Corporate Debtor**”) to initiate the Corporate Insolvency Resolution Process (hereinafter referred to as the “**CIRP**”) for the Corporate Debtor’s inability to repay the outstanding debt of **INR 13,27,77,397.55** (*Rupees Thirteen Crore, Twenty-Seven Lakhs, Seventy-Seven Thousand, Three Hundred Ninety-Seven and Fifty-Five Only*) [**USD 15,86,600**].

Averments by the Petitioner

2. The facts averred by the Operational Creditor which lead to the filing of the present Petition are enumerated below: -
 - a. The Operational Creditor is a limited liability company registered under the laws of Hong Kong and is the authorized license holder for JVC Branded Television units in the contractual territory of India.
 - b. The Operational Creditor entered into an Exclusive Distribution Agreement with Corporate Debtor on 02.11.2020 (hereinafter referred to as “**the Agreement**”). The Agreement granted the Corporate Debtor the right to sell/resell/rent or to provide services in the territory of India for the products. As per Clause 3.1.1 of the



Agreement, the Corporate Debtor was to use the materials bearing trademarks and/or copyrights belonging to the Operational Creditor in manner approved by the Operational Creditor.

- c. As per Clause 6.1.1 of the Agreement, the Corporate Debtor was required to make fixed royalty payments to the Operational Creditor and other payments under Clause 6.1.2 and 6.1.2.1 of the Agreement.
- d. As per Clause 6.1.1 and 6.1.2 of the Agreement, the Operational Creditor raised various invoices from 12.11.2020 until 01.11.2023. The invoices raised by the Operational Creditor are tabulated below: -

Sr. No.	Invoice no.	Date	Amount in (USD)
1.	NWG INV 4452	12.11.2020	30,000
2.	NWG INV 4490	23.12.2020	30,000
3.	NWG INV 4494	01.01.2021	30,000
4.	NWG INV 4535	09.02.2021	48,000
5.	NWG INV 4536	01.03.2021	48,000
6.	NWG INV 4572	19.04.2021	54,000
7.	NWG INV 4589	01.05.2021	1,80,000
8.	NWG INV 4590	01.08.2021	2,10,000
9.	NWG INV 4591	01.11.2021	1,80,000
10.	NWG INV 4621	01.12.2021	1,20,000
11.	NWG INV 4592	01.02.2022	1,80,000
12.	NWG INV 4593	01.05.2022	1,80,000
13.	NWG INV 4594	01.08.2022	1,80,000
14.	NWG INV 4595	01.11.2022	60,000
15.	NWG INV 4596	01.02.2023	60,000
16.	NWG INV 4622	01.12.2022	1,28,400



17.	NWG INV 4597	01.05.2023	60,000
18.	NWG INV 4598	01.08.2023	60,000
19.	NWG INV 4599	01.11.2023	20,000
20.	NWG INV 4699	01.12.2023	1,39,200

- e. The Operational Creditor issued the following credit notes to the Corporate Debtor for financial assistance during Covid: -

Sr. No.	Credit note	Date	Amount in (USD)
1.	NWG-CR052	01.05.2021	1400
2.	NWG-CR0822	01.08.2022	240,000

- f. It is submitted that the Corporate Debtor made payments with respect to the invoices and the last payment towards these invoices was made on 01.03.2024, however through email dated 11.03.2024, the Corporate Debtor partially admitted the Operational Debt and referred to a remittance of a partial payment towards the Operational Debt and that the Corporate Debtor admitted an amount of INR 3,34,91,834/- on the date of the email.
- g. On 11.07.2024, the Operational Creditor issued a Demand Notice to the Corporate Debtor vide email and Registered Post (RPAD). The Demand Notice was sent to the Corporate Debtor's Registered Address, which was returned back with the remark "*Addressee not found left without instructions*". The Demand Notice was also sent to the Corporate Debtor's Corporate Address, which was delivered with the remark "*Item Delivered to silver oak company (Addressee)*". The Demand Notice was also served through an email to the Key Managerial Persons of the Corporate Debtor. The Operational Creditor has not received any Reply to the Demand Notice nor has the Corporate Debtor raised any dispute with respect to the Operational Debt.



- h. The Operational Creditor relied on the following case laws: -
- i. Ashish Goyal Vs. Padam Electricals., [2022 SCC OnLine NCLAT 1199]
 - ii. Somesh Choudhary Vs. Knight Riders Sports (P) Ltd., [Company Appeal (AT)(Insolvency) No. 501 of 2021]
 - iii. OM Industries Vs. Birla Precision Technologies Ltd., [C.P. 1260/IB/MB/2021 & I.A. No. 847 of 2022]
 - iv. Excel Metal Processors Private Limited Vs. Benteler Trading International GMBh., [2019 SCC OnLine NCLAT 1037]

Submission of the Respondent in Written Submissions

3. The Respondent made the following submissions: -
- a. This Tribunal has no jurisdiction under Insolvency & Bankruptcy Code, 2016 since Clause 12.1 of Exclusive Distribution Agreement dated 02.11.2020 provides for resolution of disputes between all the four signatories to the agreement to be governed by the laws of Hong Kong and place of jurisdiction at Hong Kong.
 - b. The captioned Petition is not maintainable at behest of Nu World Global Hong Kong Ltd. in absence of any supply of goods or services to the Corporate Debtor under the Exclusive Distribution Agreement dated 02.11.2020 being signed by four separate entities. As per clause 1B of the agreement, "NU WORLD" is the authorized license holder for JVC Branded Television units (Products) in the contractual territory in terms of written license agreement between "Nu World" and "JVC Kenwood Corporation". There is no written license agreement produced on record by the Operational Creditor in the captioned Petition and as such there is no operational debt.



- c. The present company petition was filed on 04.11.2024 pursuant to issuance of Form 3 Notice dated 11.07.2024 which was hit by Section 10A of the Code since it included invoices, falling within the period of Covid. However, as per Daily Order dated 31.01.2025, the Tribunal allowed the Operational Creditor to amend Form 5 and refile the same without any application seeking amendment and calling for objections from the Respondent on the said amendment. It is a well settled principle of law that the Tribunal cannot allow the amendment in the Petition without any amendment application or specific pleading made for such an amendment.
- d. The Form 3 Notice dated 11.07.2024 was not received by speed post on the registered address of the Corporate Debtor. The tracking report at Page No. 104-105, relied upon by the Operational Creditor to show the notice has returned for the remark "*Addressee Left Without Instructions*", cannot be deemed to be a valid service as it was not sent to the registered address. There is no corporate office of Corporate Debtor at the address mentioned and as such no demand notice has been served on the corporate address of the Corporate Debtor and as such the name of the Corporate Debtor is "*Silveroak Home Appliances Private Limited*" and not "*Silver Oak Company*". It was further submitted that Form 3 notice dated 11.07.2024 was intentionally not served upon the registered Email Id of the Corporate Debtor i.e., silveroaksecdept@gmail.com.
- e. The invoices relied upon by the Operational Creditor in filing the present Petition were never raised by the Operational Creditor upon the Corporate Debtor. There is no evidence on record in the Petition to show that the said invoices were ever raised by



the Operational Creditor or even issued by the and served upon the Corporate Debtor and in absence of the same the Petition deserved to be dismissed.

- f. The Corporate Debtor relied on the following submissions: -
- i. Royal Construction Vs. Gannon Dunkerley & Company Limited [Company Appeal (AT)(Insolvency) No. 393 of 2025]
 - ii. M/s. Shri Sadguru Traders Vs. M/s. Gajalee Coastal Foods Private Limited [C.P. No. 3443/IBC/MB/2019]
 - iii. Mr. Shailendra Sharma; Director of R&M International Private Limited Vs. Ercon Composites & Others [Company Appeal (AT)(Insolvency) No. 159 of 2020]
 - iv. Quess Corp Limited Vs. Wardwiz (India) Solutions [C.P.(IB) No. 523/MB/2022]
 - v. Spik Enviro Management Private Limited Vs. Vision Earthcare Private Limited [Company Appeal (AT) (Insolvency) No. 1507 of 2023]

Findings & Analysis

4. We have heard the Ld. Counsel for both the parties and perused the documents placed on record.
5. In the present case, as per Daily Order dated 31.01.2025, the Respondent was directed to file a Reply before the next date of hearing and the matter was adjourned to 03.03.2025. However, on 03.03.2025, the matter was listed but could not be heard due to paucity of time and thereafter the matter was adjourned to 07.04.2025. In Daily Order dated 07.04.2025, the Bench observed that since no Reply had been filed by the Respondent, the Respondent was set *ex-parte*.



6. The Respondent had filed I.A 2323 of 2025 in C.P.(IB)1054 of 2024 on 02.05.2025, seeking recall of the *ex-parte* order dated 07.04.2025 in which the Ld. Counsel for the Applicant submitted that since he was before the Hon'ble High Court in an unavoidable case, therefore he could not appear in the present case which was listed before this Tribunal on the same day. With regards to the issue raised by the Applicant in I.A. 2323 of 2025, we took the following cognizance in Daily Order dated 17.07.2025: -

“...In the said order dated 31.01.2025, respondents were directed to file their reply before the next date of hearing, which was scheduled on 03.03.2025. On 03.03.2025, the matter did not reach the board. When the matter was called on 07.04.2025, no one was present on behalf of the respondent and no reply was filed by the respondent. While non representation on behalf of the respondent could be understood for the reasons of the counsel being present before the Hon'ble High Court, but the time given right from 10.02.2025 till 07.04.2025 for filing the reply is not explained at all in the present IA. Further we note that this CP was heard on 09.05.2025, and parties of either side were given liberty to file their written submission and accordingly, for written submission, the case was posted on 12.06.2025. On that day written submission has been filed by the Petitioner and on behalf of the respondent which was tender across the bar and accepted.

*In view of the facts and circumstances and in view that no case has been made out by the applicant herein, for recall of the order dated 07.04.2025, the prayers made through this IA, is not found to be acceptable and the IA is accordingly, **dismissed.**”*

In view of the aforesaid facts, there is affidavit in reply filed by the Respondent in this case, however the written submission filed is being considered for deciding the case.



7. The Corporate Debtor has contended that, the invoices raised by the Operational Creditor come under Section 10A of the Code. We note that, as per section 10A of the Code, any default arising on or after 25.03.2020 for a period of six months but not exceeding one year from such date, no application shall be filed for initiating corporate insolvency resolution process of the Corporate Debtor for the default which has occurred during the said period. Pursuant to Clause 6.1.1 and 6.1.2 of the Agreement dated 02.11.2020, out of all the invoices that were raised by the Operational Creditor, invoices; (i) NWG INV 4452 dated 12.11.2020 for the amount of USD 30,000; (ii) NWG INV 4490 dated 23.12.2020 for the amount of USD 30,000; (iii) NWG INV 4494 dated 01.01.2021 for the amount of USD 30,000; (iv) NWG INV 4535 dated 09.02.2021 for the amount of USD 48,000 & (v) NWG INV 4536 dated 01.03.2021 for the amount of USD 48,000; fall within the time period established under Section 10A of the Code.
8. The Hon'ble NCLAT in **Décor Paper Mills Limited Vs. Mahashakti Plasto Private Limited** [Company Appeal (AT) (Insolvency) No. 2022 of 2024] observed that invoices which fall within the 10A period must be excluded from default claims. However, rest of the invoices which do not fall within the ambit of Section 10A of the Code, the amounts raised therein if add up to more than 1 Crore, need to be considered. In the present case, even after excluding above 5 invoices, the amount payable through rest of the invoices would be well above the threshold limit of 1 Crore. Accordingly, it cannot be said that the present petition is hit by the provisions of section 10A of the Code.
9. Another contention raised by the Corporate Debtor is that, the Demand Notice in Form 3 was not served upon the Corporate Debtor. On perusal of the Company Petition along with the exhibits, we observe that the Operational Creditor served the Demand Notice upon the Corporate Debtor's 'Registered Address' which was returned with



the endorsement “*Addressee Left without instructions*”. This Registered Address also reflects on the Corporate Debtor’s details on the MCA website. The Operational Creditor also served the Demand Notice on the Corporate Debtor’s ‘Corporate Address’ wherein as per the track report, the Demand Notice was delivered to the Corporate Debtor. The Demand Notice was also served upon the Key Managerial Persons of the Corporate Debtor: Mr. Sydersgab Shelgaocar, CEO; LM Narkhede, Production Head; RK Bang, Vice President and Hitendera Kapadia, Finance General Manager, through email. Also, as per the track report, the Demand Notice was served upon the Corporate Debtor. Therefore, the contention of the Corporate Debtor is not found to be acceptable, as it appears that despite service of the demand notice, the respondent is trying to make out as case of non-service of the same.

10. The Corporate Debtor has also raised a contention that the Agreement signed between both the parties was an exclusive agreement involving joint participation of both the parties not to establish a debtor-creditor relationship. Per contra, the Operational Creditor argued that as per the Agreement, the Corporate Debtor was supposed to use materials bearing trademark and/or copyrights involving belonging to the Operational Creditor in a manner approved by the Operational Creditor for which, the Corporate Debtor was required to make fixed royalty payments to the Operational Creditor. It is also noted that in terms of the Exclusive Distribution Agreement dated 02.11.2020 entered into between both the parties and as per Clause 6.1.1, 6.1.2 and 6.1.2.1 of the agreement, the Corporate Debtor was obliged to pay royalties to the Operational Creditor in respect of the use of materials bearing trademark and/or copyrights belonging to the Operational Creditor.



11. Further, in the case of **Somesh Choudhary & Ors. Vs. Knight Riders Sports Private Limited & Ors.** Company Appeal (AT)(Insolvency) No. 501 of 2021 Hon'ble NCLAT held as under: -

*“15. In the instant case, the Respondent has permitted the (a) use manufacture, sell, distribute and advertise the licensed products (b) use of intellectual property rights i.e., the trademark ‘Kolkata Knight Riders’/('KKR') brand logo and any other trademark which as the first Respondent may designate in its sole and absolute discretion or in association with the licensed products in India as well as on packaging, promotional and advertising material associated therewith. We are of the considered view that the ‘Claim’ of the Respondent is in respect of the provision of the Goods and Services for which the ‘Corporate Debtor’ is contractually obligated to make the payments towards such ‘Claim’. The clauses of the Agreement provided for Royalties to be paid as variable amount to the first Respondent and the minimum guaranteed amount to be paid as a fixed payment as stipulated under Clause 4.2 of the Agreement. Keeping in view the terms and conditions of the Agreement, we are of the earnest view that the first Respondent has established a ‘Right to Payment’ in respect of the provisions of goods and services. **We hold that granting an exclusive right and license to the ‘Corporate Debtor’, to use manufacture, sell, distribute and advertise the licenses products and to use the trademark in association with the licensed products as well as on packaging, promotional advertising material has a direct nexus with the business operations and sales and also with the actual product supplied by the ‘Corporate Debtor’. Hence, we hold that the ‘Claim’ in respect of such provisions of ‘goods and services’, under the terms of the Agreement, fall within the ambit of the definition of ‘Operational Debt’ as defined under Section 5(21) of the Code.”***



[Emphasis applied]

Accordingly, the Corporate Debtor's contention about the Agreement signed between the parties being an exclusive agreement involving joint participation of the parties and not establishing a debtor-creditor relationship is not found to be acceptable and is rejected.

12. Another contention raised by the Corporate Debtor is that the invoices raised by the Operational Creditor, were not delivered to the Corporate Debtor. The Operational Creditor argued that the invoices which were raised were duly sent to the Corporate Debtor from time to time and that the Corporate Debtor has made part payments towards discharge of their liability arising out of the invoices. The Operational Creditor also admitted a part of their liability towards the invoices raised, by way of an email dated 11.03.2024. After perusing the Demand Notice dated 11.07.2024 issued by the Operational Creditor, we note that out of all the invoices that form part of the Demand Notice, Invoices NWG-INV4452 and NWG-INV4490 have been paid. Whereas part payment has been made in Invoices NWG-INV4494, NWG-INV4535, NWG-INV4536 and NWG-INV4572. The Hon'ble NCLAT in the matter of **Ashish Sudeshkumar Goyal, Suspended Director of Superchem Coatings Pvt. Ltd. Vs. Padam Electronics and Another** [2022 SCC OnLine NCLAT 1199] observed as follow: -

"3. When part of the debt has been admitted by the Corporate Debtor, which debt was of more than Rupees One Lakh, no error has been committed by the Adjudicating Authority in admitting the application. We find no merit in this Appeal. Appeal is dismissed."

The payment of two invoices and part payment in other invoices is an acknowledgment and admission of debt by the Corporate Debtor. The rest of the invoices sum up to a lot more than the threshold of 1 Crore.



Therefore, the debt and the default in payment of the invoices on behalf of the Corporate Debtor is established.

13. During the course of the argument, the Corporate Debtor raised the contention that the invoices were raised by “NU WORLD GLOBAL LIMITED”, however the Operational Creditor who filed the present Company Petition and issued these invoices is “NU WORLD GLOBAL HONG KONG LIMITED”. In this regard it is noted that the Corporate Debtor has made payments and part payments as per the invoices raised by “NU WORLD GLOBAL LIMITED” which reflects that they were well aware of the fact that these two names are interchangeably used and that the invoices were issued and the present company petition was filed by the same company.
14. Although the Corporate Debtor hasn't replied to the Demand Notice issued by the Operational Creditor, the payments and part payments made with respect to the Invoices raised by the Operational Creditor, clearly establish the debt and consequent default on part of the Corporate Debtor. Under such facts, even if the Corporate Debtor is solvent and a going concern it cannot be absolved from the consequences under IBC, if the application filed by the Operational Creditor is complete and valid. We refer to the law laid down in the Hon'ble Supreme Court in the matter of **Vidarbha Industries Power Limited Vs. Axis Bank Limited (Civil Appeal No. 4633 of 2021)** decided on 12.07.2022 stated that: -

“76. the fact that Legislature used ‘may’ in Section 7(5)(a) of the IBC but a different word, that is, ‘shall’ in the otherwise almost identical provision of Section 9(5)(a) shows that ‘may’ and ‘shall’ in the two provisions are intended to convey a different meaning. It is apparent that Legislature intended



*Section 9(5)(a) of the IBC to be mandatory and Section 7(5)(a) of the IBC to be discretionary. **An application of an Operational Creditor for initiation of CIRP under Section 9(2) of the IBC is mandatorily required to be admitted if the application is complete in all respects and in compliance of the requisites of the IBC and the rules and regulations thereunder, there is no payment of the unpaid operational debt, if notices for payment of the invoice has been delivered to the Corporate Debtor by the Operational Creditor and no notice of dispute has been received by the Operational Creditor. The IBC does not countenance dishonesty or deliberate failure to repay the dues of an operational creditor.***

*79. As observed above, **the financial strength and nature of business of Financial Creditors and Operational Creditors being different, as also the tenor and terms of agreements/contracts with financial creditors and operational creditors, the provisions in the IBC relating to commencement of CIRP at the behest of an Operational Creditor, whose dues are undisputed, are rigid and inflexible. If dues are admitted as against the operational creditor, the corporate debtor must pay the same. If it does not, CIRP must be commenced.*** In the case of a financial debt, there is a little more flexibility. The Adjudicating Authority (NCLT) has been conferred the discretion to admit the application of the Financial Creditor. If facts and circumstances so warrant, the Adjudicating Authority can keep the admission in abeyance or even reject the application. Of course, in case of rejection of an application, the Financial Creditor is not denuded of the right



to apply afresh for initiation of CIRP, if its dues continue to remain unpaid.”
(Emphasis applied)

15. Further we refer to the Hon'ble Supreme Court, in the mater of ***Innoventive Industries Limited vs. ICICI Bank and Another (2018)1 SCC 407*** dated 31.07.2017 held as follows:

*“27. The scheme of the Code is to ensure that when a default takes place, in the sense that a debt becomes due and is not paid, the insolvency resolution process begins. Default is defined in Section 3(12) in very wide terms as meaning non-payment of a debt once it becomes due and payable, which includes non-payment of even part thereof or an instalment amount. For the meaning of “debt”, we have to go to Section 3(11), which in turn tells us that a debt means a liability of obligation in respect of a “claim” and for the meaning of “claim”, we have to go back to Section 3(6) which defines “claim” to mean a right to payment even if it is disputed. The Code gets triggered the moment default is of rupees one lakh or more (Section 4). **The corporate insolvency resolution process may be triggered by the corporate debtor itself or a financial creditor or operational creditor. A distinction is made by the Code between debts owed to financial creditors and operational creditors. A financial creditor has been defined under Section 5(7) as a person to whom a financial debt is owed and a financial debt is defined in Section 5(8) to mean a debt which is disbursed against consideration for the time value of money. As opposed to this, an operational creditor means a person to whom an operational debt is owed and an operational debt under Section 5 (21)***



means a claim in respect of provision of goods or services.

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.***”
(Emphasis applied)

16. At this juncture and for the purposes of completeness, we deem it appropriate to look into and deal with the decisions/authorities relied upon by the Corporate Debtor. The Corporate Debtor contended that the Adjudicating Authority cannot allow the amendment in the Petition without any amendment application and relied in the matter of **M/s. Shri Sadguru Traders Vs. M/s. Gajalee Coastal Foods Pvt. Ltd.** in [C.P. No. 3443/IBC/MB/2019] and **Royal Construction Vs. Gannon Dunkerley & Company Ltd.** [Company Appeal (AT)(Insolvency) No. 393 of 2025] wherein the Hon’ble NCLAT held that: -



“14.If the date of default required any change or modification, the onus was on the Appellant to have sought leave of the Adjudicating Authority to file an amendment application. To expect the Adjudicating Authority to have amended the date of default without any amendment application or specific pleading made for such a modification would tantamount to the Adjudicating Authority exceeding its jurisdiction which cannot be countenanced.”

In this regard we take note of the Daily Order dated 31.01.2025, wherein this Bench considering the facts of the case passed order as under: -

“The learned counsel for the Petitioner in terms of the order dated 06.01.2025 submits that invoices dated 12.11.2020 and 23.12.2020 stand paid. Therefore, he be permitted to exclude the invoices dated 01.01.2021, 09.02.2021, and 01.03.2021 which are hit by Section 10A. The contention of the counsel is that his date of default be treated as 19.04.2021, which is the next stated invoice. Let the necessary corrections be carried out in Part-IV. In the meantime, let the Applicant & Registry serve notice along with notice copy sent to Respondent, postal receipt, track report/acknowledgment at least seven days before the next date of hearing.

*Upon service, the Respondent is directed to file the reply before the next date of hearing by serving an advance copy with the Counsel opposite. **Adjourned to 03.03.2025**”*

As per the abovementioned Daily Order, the Bench had allowed the Counsel for the Petitioner to carry out the necessary corrections in Part-IV of the petition. Also. the Invoices which form part of the Demand Notice stretch from 12.11.2020 up until 01.12.2023. Even if invoices which have been paid and the ones which come under



Section 10A are excluded then to the rest of the invoices sum up more than the threshold limit of 1 Crore and the present company petition is also filed well within limitation. Accordingly, and in view of the fact that this bench allowed correction in Part-IV of the petition and such order is not under challenge by the Corporate Debtor, it not open for the corporate debtor to object on the issue now before us.

17. The Corporate Debtor, with regards to the Demand Notice issued under Section 8 not being served, has relied upon the judgement of **Mr. Shailendra Sharma, Director of R&M International Pvt. Ltd. Vs. Ercon Composites and Ors.** [Company Appeal (AT) (Insolvency) No. 159 of 2020] **Spik Enviro Management Private Limited Vs. Vision Earthcare Private Limited** [Company Appeal (AT) (Insolvency) No. 1507 of 2023] and **Quess Corp Limited Vs. Wardwiz (India) Solutions** [C.P. (IB) No. 523/MB/2022]. In this regard we have already dealt with the issue and have held that the Operational Creditor was served the Demand Notice to the Corporate Address as also through Email Id on the Key Managerial persons of the Corporate Debtor, hence the judgements cited above do not help case of the Corporate Debtor.
18. The Application made by the Operational Creditor is complete in all respects as required by the law. The Debt and default in this case is established. Further the debt in this case of Rs. 1,00,00,000/- which meets the threshold of section 4(1) of the IBC. Also, the petition is filed within limitation and no pre-existing dispute has been reported. Considering the above facts and circumstances, the Tribunal admits this Petition and orders the initiation of CIRP against the Corporate Debtor.



ORDER

- i. The above Company Petition (IB)1054(MB)/2024 is **admitted** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **M/s Silveroak Home Appliances Private Limited**.
- ii. On perusal of the Company Petition we observe that no Insolvency Professional has been proposed to be appointed as the Interim Resolution Professional in the present matter. However, on being asked, Ld. Counsel for the petitioner submitted to appoint any Insolvency Professional from the panel of IBBI. Therefore, we hereby appoint **Mr. Siddhant Agrawal** bearing Registration No: IBBI/IPA-001/IP-P-02832/2023-2024/14370, having valid Authorization for Assignment up to 31.12.2025, email: ip.siddhantagrwal@gmail.com; Address: 164, Shree, Tikekar Road, Dhantoli, Nagpur, Maharashtra – 440012 as an IRP, with a direction to the Operational Creditor to pay remuneration to the IRP and his expenses until the constitution of CoC.
- iii. The Financial Creditor shall deposit an amount of **Rs. 4,00,000/-** towards the initial CIRP cost by way of a Demand Draft drawn in favor of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- iv. This Bench hereby directs operation of moratorium under section 14 of Insolvency and Bankruptcy Code, 2016 and prohibits the following:
 - 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 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 Corporate Debtor.
- v. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- vi. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- vii. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33.
- viii. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- ix. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the Corporate Debtor shall provide all documents in their



C.P.(IB)-1054(MB)/C-V/2024

possession and furnish every information in their knowledge to the IRP/RP.

- x. Registry shall send a copy of this order to the concerned Registrar of Companies for updating the Master Data of the Corporate Debtor.
- xi. The Registry is hereby directed to communicate this order to both the parties and to the IRP immediately.
- xii. The Registry is further directed to send a copy of this order to the Insolvency and bankruptcy Board of India for their record. The Petitioner is also directed to forthwith communicate this order to the IRP.
- xiii. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

19. The Company Petition **No. 1054 of 2024** is **admitted**.

Sd/-
CHARANJEET SINGH GULATI
(MEMBER TECHNICAL)
Anmol

Sd/-
MOHAN PRASAD TIWARI
(MEMBER JUDICIAL)