

IN THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI BENCH-VI

CP (IB) No.393/MB/2025

[Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016]

IN THE MATTER OF:

HEMANT KUMAR CHANDUBHAI MANGROLIYA

(Sole Proprietor of FUTURE DIAM)

Having registered office at 2nd Floor
18E, Office No.216, Rajhans Heights
Minibazar, Varachha
Surat - 395008, Gujarat.

...Operational Creditor/Applicant

V/s

DIRGH DIAMOND PRIVATE LIMITED

[CIN: U36910MH2013PTC305270]

HW2092, 2nd Floor, Bharat Diamond Bourse
G Block, BKC Bandra-E
Mumbai - 400051, Maharashtra.

...Corporate Debtor

Pronounced: 02.12.2025

CORAM:

HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)

HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)

Appearances: Hybrid

Financial Creditor: Adv. Amit Sampat a/w Adv. Pradeep Purohit i/b P.D. Jain &
Co.

Corporate Debtor: Adv. Mr. Prafull Mahadik a/w Adv. Mr. Herbert Noronha

ORDER

[PER: BENCH]

1. **BACKGROUND**

- 1.1 This is an Application bearing C.P. (IB) No.393/MB/2025 filed on 21.01.2025 by Mr. Hemant Kumar Chandubhai Mangroliya, the Applicant (Operational Creditor) under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “the Code”) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as “the AAA Rules”). The Application is signed by Mr. Hemant Kumar Chandubhai Mangroliya - Sole Proprietor of Future Diam for initiating Corporate Insolvency Resolution Process (hereinafter referred to as “CIRP”) in respect of Dirgh Diamond Private Limited, the Corporate Debtor (CD).
- 1.2 The CD is a Private Limited Company incorporated under Companies Act, 1956 on 29.05.2013.
- 1.3 The Applicant has relied on the following documents:
- i. Copy of Master Data of the CD
 - ii. Copy of Ledger of the CD maintained by the Applicant in course of business
 - iii. Copy of Demand Notice dated 12.10.2024
 - iv. Copy of NeSL Form C
 - v. Affidavit of no dispute from the Applicant.

2. **AVERMENTS OF THE APPLICANT**

- 2.1 As per Part-IV of the Application the total amount claimed to be in default by the Applicant is Rs. 5,08,63,617/- (Five Crore Eighty Lakh Sixty-Three Thousand Six Hundred Seventeen Rupees) along with applicable interest of 18%.

- 2.2 The date of default is mentioned as 31.08.2024.
- 2.3 The CD had approached the Applicant from time to time in normal course of business and placed orders for Cut & Polished Diamonds based on which the Applicant delivered the product/materials and raised invoices upon CD which they duly accepted without demur. Invoices are attached from page nos. 31 to 37 of the Application.
- 2.4 Since 01.08.2024 CD stopped making payment of the invoices.
- 2.5 The Tribunal *vide* interim order dated 08.04.2025 directed the Applicant to file additional affidavit to prove the delivery of the demand notice upon the CD.
- 2.6 The Applicant in compliance of the aforesaid direction, filed an Additional Affidavit dated 11.04.2025 attaching therewith copy of the demand notice dated 12.10.2024 and dasti delivery proof.
- 2.7 The Applicant, in the Additional Affidavit, submits that the Demand Notice was sent to the CD through RPAD on 15.10.2024 which was returned undelivered on 22.10.2024 with postal remarks stating "Addressee moved/Addressee cannot be located".
- 2.8 Therefore, the Applicant personally effected hand delivery of the said Demand Notice on 25.10.2024 at the business premises of the CD. The said notice was duly received and acknowledged by the CD through its Director Mr. Alpesh Bambhrolia, however, no reply was sent to the Applicant.

3. CONTENTIONS OF CORPORATE DEBTOR

- 3.1 The CD has filed the Affidavit-in-Reply dated 07.04.2025. The same is affirmed by Mr. Alpesh Keshavbhai Bambhrolia – Director of the CD.
- 3.2 The CD in its reply denies the contents made by the Applicant. The CD states that it admits that CD is conducting business under the name of M/s. Dirgh Diamond Private Limited. The CD denies that Nikita Govindprasad Mundra, Mr. Alpesh Keshavbhai

Bambhrolia and Mr. Laxmidas Balubhai Vekariya are the Directors of Mudra Bullions Pvt. Ltd. and puts the Applicant to the strict proof thereof. The CD states that the said Nikita Govindprasad Mundra, Mr. Alpesh Keshavbhai Bambhrolia and Mr. Laxmidas Balubhai Vekariya are Directors of the CD and not of Mudra Bullions Pvt. Ltd.

- 3.3 The CD accepts that the CD was conducting business with the Applicant and the Applicant was supplying cut & Polished Diamonds and raising invoices upon the CD. The CD states that the payment was made as per invoice and it is admitted by the Applicant that the payments were made by the CD from time to time.
- 3.4 The CD states that from August 2024, the Applicant had supplied cut & Polished Diamond of inferior quality, which were not as per the specification of the CD, hence the CD communicated to the Applicant of the inferior quality of cut and polished diamonds supplied from August 2024 and requested the Applicant to take back the cut and polished diamonds and supply the same as per the specification of the CD. The CD states that the Applicant refused to take the inferior cut and polished diamonds back and raised the invoices for the same. Hence, the claim raised by the Applicant is illegal.
- 3.5 Further, the CD states that the inferior cut and polished diamonds have no value in the market as of today but the Applicant has raised the invoices for the same.
- 3.6 The CD states that the Applicant has not adduced any evidence to prove that the invoices raised by the Applicant are genuine with respect to the quality of the materials supplied and just by filing the said Application it cannot be believed that the Applicant has the claim against the CD.

4. **REJOINDER**

- 4.1 The Tribunal *vide* interim order dated 10.07.2025, closed the right of the Applicant to file rejoinder.

5. WRITTEN SUBMISSIONS OF FINANCIAL CREDITOR

- 5.1 The CD's entire defence is built on a transaction in August 2024 that never occurred. This is factually impossible. The final invoice on record proves that the last supply of goods was made on 15.03.2024. No goods were supplied in August 2024.
- 5.2 The dispute was raised for the first time nearly six months after the service of the statutory Demand Notice.
- 5.3 It is submitted that the CD has produced zero documentary evidence to support its claims of either receiving defective goods or communicating a dispute prior to the filing of its Reply.
- 5.4 The Applicant has relied on the judgment of Hon'ble Supreme Court in *Mobilox Innovations (P) Ltd. v, Kirusa Software (P) Ltd., (2018) 1 SCC 353*.

6. ANALYSIS AND FINDINGS

- 6.1 We have heard both the Ld. Counsels and have perused the records as placed before us. Our findings in the matter are as under: -
- 6.2 The Applicant is in the business of supplying cut and polished diamond to the CD and the same is not denied by the CD.
- 6.3 The fact of supply and receipt of goods is not denied by the CD.
- 6.4 The CD agrees to the business dealings and making payments to the Applicant.
- 6.5 The first invoice is dated 03.01.2022 and the last invoice is dated 15.03.2024. Copies of invoices attached from page no. 31 to 37 of the Applicant.
- 6.6 The Applicant submitted that the CD had defaulted in payment of the invoices amounting to Rs. 5.8 crore inclusive of interest at 18% p.a. The principal amounting to Rs. 4.9 crore and interest amounting to Rs. 9,83,928. The Applicant has attached various invoices which were acknowledged by the CD as seen from the sign and seal

of the CD. Further, the Applicant has attached the ledger account of the Applicant in the books of the CD for the period from 01.04.2023 to 31.08.2024 which shows the closing balance of Rs. 4.98 crore attached at page no. 29 of the Application.

6.7 It is seen that the terms of payment of the invoice was 120 days and 90 days from receiving material from the site. The CD became irregular in making the payment of the invoices for the period from 01.01.2022 to 31.07.2024 which is seen from the Ledger statement and same is not denied by the CD.

6.8 As the payments were irregular from the CD, the Applicant sent a Demand Notice dated 12.10.2024 as per Section 8 of the Code demanding the outstanding amount from the CD. The dasti service of the demand notice to the CD is attached to the Additional Affidavit dated 11.04.2025 as a proof of delivery of Demand Notice to the CD. The CD has not replied to this Demand Notice.

6.9 The date of default is stated as 31.08.2024. The last payment was made by the CD on 24.07.2024.

6.10 The Applicant has filed the Application on 21.01.2025 which is within limitation period.

6.11 Therefore, from the above documents we note that the Applicant had supplied goods to the CD and the CD has never denied or disputed the supply of goods and the outstanding amount.

6.12 Further, the NeSL record of default in Form C has been produced by the Applicant.

6.13 The Applicant has attached the Section 9(3)(b) Affidavit stating that there is no dispute raised by the CD with regard to the unpaid operational debt.

6.14 The CD has raised the following contentions which are dealt as follows:

- i. The CD has contested that Nikita Govindprasad Mundra, Mr. Alpesh Keshavbhai Bambhrolia and Mr. Laxmidas Balubhai Vekariya are Directors of the CD and not of Mudra Bullions Pvt. Ltd. On perusal of the Master Data of the CD we see that

there is no mention of Nikita Govindprasad as a Director of the CD, whereas another person named Navnitbhai Vajubhai Suhagiya is a Director. We are of the view that this contention stands no relevance in the instant case as the Applicant has produced the Master Data of the CD.

- ii. The CD contended that the Applicant supplied cut & polished diamond of inferior quality in the month of August 2024, which was not as per the specification of the CD and communicated the same to the Applicant and to take back the inferior quality diamonds. The Applicant refused to take back the inferior quality diamonds and raised invoice for the same. We see the CD has raised this contention with regard to the invoice which was raised in August, 2024 in its reply whereas, the claim in the Application is for the invoice dated 15.03.2024. The CD has not produced any document to prove the existence of pre-existing dispute, if any, prior to the issue of demand notice. Only bald averments were made qua the dispute, which in our considered view are moonshine.
- iii. The CD has raised the contention that there is a pre-existing dispute with regard to total debt amount and transaction between the parties. We see that the CD has not replied to the Demand Notice dated 12.04.2024 sent by the Applicant and has not produced any document in his reply to prove any dispute prior to the issue of demand notice.

6.15 The Applicant has relied on the judgment of Hon'ble Supreme Court in *Mobilox Innovations (P) Ltd. v, Kirusa Software (P) Ltd., (2018) 1 SCC 353* to disregard the illusory and moonshine disputes raised by the CD. In light of the above judgment, we are of the view that the CD's contentions are illusory and moonshine and therefore, hold that the above judgment is rightly placed before us by the Applicant.

- 6.16 In view of the above findings, it is clear that the Applicant has placed on record necessary evidences and materials to demonstrate the existence of the financial debt exceeding the minimum threshold of Rs.1 Crore prescribed under Section 4 of the Code due and payable by the CD as well as the default in repayment thereof by the CD. The Application is complete as all the relevant documents have been attached by the Applicant along with the Application.
- 6.17 The Applicant has not proposed the name of an IRP. The Tribunal has appointed Mr. Sachin Rajendra Singhvi as an IRP to carry out the functions as mentioned under the Code.
- 6.18 We find that all pre-requisites of Section 9 of the Code are fulfilled and, accordingly, we are satisfied that the instant Application is fit for admission under Section 9 of the Code. The Applicant has attached all the documents as required and therefore the Application is complete.
- 6.19 We make it clear that at this stage we have not crystalized the amount as claimed in this Application, the same is left to be collated by the IRP.

ORDER

In view of the aforesaid findings, Application bearing C.P.(IB) No. 393/MB/2025 filed under Section 9 of the Code by Hemant Kumar Chandubhai Mangroliya, Operational Creditor, for initiating CIRP in respect of **Dirgh Diamond Pvt. Ltd**, the Corporate Debtor is hereby **admitted**.

We further declare moratorium under Section 14 of the Code with consequential directions as mentioned below: -

I. We prohibit-

- a) the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - b) transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - c) any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
 - d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- II. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- III. That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under Section 31(1) of the Code or passes an order for the liquidation of the Corporate Debtor under Section 33 thereof, as the case may be.
- IV. That the public announcement of the CIRP shall be made in immediately as specified under Section 13 of the Code read with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other Rules and Regulations made thereunder.
- V. That this Bench hereby appoints **Mr. Sachin Rajendra Singhvi, a registered Insolvency Professional** having Registration Number **IBBI/IPA-001/IP-P01289/2018-2019/12066** and e-mail address sachin@mehtasinghvi.in having

valid Authorisation for Assignment up to 31.12.2026 as the IRP to carry out the functions under the Code.

- VI. That the fee payable to IRP/RP shall be in accordance with such Regulations/Circulars/ Directions as may be issued by the IBBI.
- VII. That during the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of the Code. The officers and managers of the Corporate Debtor are directed to provide effective assistance to the IRP as and when he takes charge of the assets and management of the Corporate Debtor. Coercive steps will follow against them under the provisions of the Code read with Rule 11 of the NCLT Rules for any violation of law.
- VIII. That the IRP/IP shall submit to this Tribunal periodical reports with regard to the progress of the CIRP in respect of the Corporate Debtor.
- IX. In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the Applicant is directed to deposit a sum of Rs.3,00,000/- (Rupees Three Lakh) with the IRP to meet the initial CIRP cost arising out of issuing public notice and inviting claims, etc. The amount so deposited shall be interim finance and paid back to the Applicant on priority upon the funds available with IRP/RP from the Committee of Creditors (CoC). The expenses incurred by IRP out of this fund are subject to approval by the CoC.
- X. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai for updating the Master Data of the Corporate Debtor.
- XI. A copy of the Order shall also be forwarded to the IBBI for record and dissemination on their website.

- XII. The Registry is directed to immediately communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by way of Speed Post, e-mail and WhatsApp.
- XIII. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-

**SAMEER KAKAR
MEMBER (TECHNICAL)**

//VM//

Sd/-

**NILESH SHARMA
MEMBER (JUDICIAL)**