NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT VI

Item No. P1.

C.P. (IB)/568(MB)2025

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **31.10.2025**

NAME OF THE PARTIES: **Unaprime Investment Advisors Private Limited**

Vs

Tork Motors Private Limited

Under Section 9 of the IBC.

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, *vide* separate order. Detailed order is being uploaded on the NCLT portal today.

Sd/-
SAMEER KAKAR
MEMBER (TECHNICAL)

Sd/-
NILESH SHARMA
MEMBER (JUDICIAL)

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IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH-VI

C.P. (IB)/568/MB/2025

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

UNAPRIME INVESTMENT ADVISORS PRIVATE LIMITED

[CIN No.: U74999MH2020PTC340230]

Unit No 906, The Capital, C-70, G Block

Bandra Kurla Complex, Bandra East,

Mumbai – 400051.

…Operational Creditor

V/s

TORK MOTORS PRIVATE LIMITED

[CIN No.: U34104PN2010PTC135855]

Plot No. 4/25, Sector 10,

PCNTDA, Pune – 411026.

...Corporate Debtor

Pronounced: 31.10.2025

CORAM:

HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)

HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)

Appearances: Hybrid

For Applicant: Adv. Rohit Gupta i/b Adv. Ms. Shruti

For Respondent: Adv. Pranav Shah

ORDER

[PER: CORAM]

1. BACKGROUND

1.1 This C.P. (IB) No. 568 of 2025 (Application) was filed on 29.01.2025 by Unaprime Investment Advisors Private Limited, the Operational Creditor (OC) having CIN No.: U74999MH2020PTC340230, under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC), read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Tork Motors Private Limited, the Corporate Debtor (CD), having CIN No.: U34104PN2010PTC135855.

1.2 As per Part IV of the Application, the amount claimed to be in default is Rs.1,29,34,797/- (One Crore Twenty-Nine Lakhs Thirty-Four Thousand Seven Rupees) out of which Rs.1,15,05,000/- is towards principal dues, Rs.12,11,692/- towards interest @ 20.25%, and GST @ 18%, i.e., Rs.2,18,105/- on interest. The date of default in Part IV is stated to be 05.02.2024.

1.3 The Applicant has proposed one Ms. Anagha Anasingaraju, having Registration No. as IBBI/IPA-002/IP-N00247/2017-18/10732, to act as the Interim Resolution Professional (IRP) in case the Application is admitted.

2. CONTENTIONS OF APPLICANT (OC)

2.1 The Applicant claims Rs.1,29,34,797/- comprising: Rs.1,15,05,000/- as Success Fee (as per invoices); Rs.12,11,692/- as interest on delayed

payment from 04.02.2024 at 20.25% p.a. under Section 16 of the MSME Act; and Rs.2,18,105/- GST @18% on the interest.

2.2 Under an Engagement Letter dated 09.09.2022, the Applicant was appointed as professional advisor to the CD for facilitating a capital infusion of USD 50 million from either financial or strategic investors. The Applicant provided services including preparation of information memorandum, teaser, financial model; structuring and coordinating the capital infusion process; identifying and shortlisting investors; coordinating calls and due diligence; assisting in negotiations; and other agreed services.

2.3 In return, the Applicant was entitled to an upfront fee of Rs.5 lakhs (adjustable against the Success Fee), a Success Fee of 3% on funds raised, and a drop-dead fee of 1.5% if CD withdrew post-binding term sheet, payable within 30 days of invoice (Clauses 5.2 & 5.10).

2.4 Following these services, CD entered into two agreements with Bennett Coleman and Company Limited (BCCL): a Share Subscription Warrant Agreement for Rs.3.25 Crores and an Advertisement Agreement dated 16.11.2023 extending a Rs.32.5 Crore credit line. These transactions with BCGL triggered CD's liability to pay the Success Fee of Rs.1,15,05,000/-.

2.5 The Applicant, on 05.01.2024, invoiced the CD the Success Fee (in terms of Clause 5.2(b) of the Engagement Letter) with payment due on 05.02.2024. Despite repeated follow-ups, CD failed to pay. The Applicant issued a Demand Notice *vide* email dated 25.08.2024 and a revised notice on 04.09.2024 by registered post. No response has been received for either of the notices, and payment remains outstanding beyond the 10-day statutory period.

2.6 The Applicant has attached the following supporting documents along with the Application and Additional Affidavit dated 28.07.2025 and 09.09.2025, respectively:

a) Master data of the Applicant and the CD.

b) Copy of Engagement Letter.

c) Copy of Subscription Letter.

d) Copy of Advertisement Letter.

e) Copy of invoice.

f) Copy of Email dated 05.01.2024 alongwith Invoice.

g) Copy of Demand Notice sent through e-mail dated 25.08.2024.

h) Copy of Demand Notice dated 04.09.2024 issued by registered post a/d alongwith the postal receipt.

i) Ledger Account.

j) Information Utility Status.

k) Board Resolution.

l) Copy of MSME Certificate of the Applicant.

m) Affidavit under section 9 (3)(b).

n) Copy of Form C alongwith annexures.

o) Copies of Form GSTR-1, Form GSTR 3B and extract of details filed on GST Portal.

3. CONTENTIONS OF CD

3.1 This Affidavit-in-Reply dated 07.06.2025 was filed and affirmed by one Mr. Kapil Shelke, who is stated to be an authorized representative of the CD, a company engaged in the manufacturing and sale of Electric Vehicles (EVs) and related dealership activities.

3.2 The CD does not dispute the operational debt of Rs.1,15,05,000/- as claimed by the Applicant *vide* invoice dated 05.01.2024. It acknowledges the professional services rendered and the Applicant's entitlement to the Success Fee under the engagement agreement dated 09.09.2022.

3.3 Due to severe financial stress and inability to secure investors independently, the CD engaged the Applicant to assist in raising capital. Pursuant to the engagement, the OC facilitated the introduction of BCCL, which led to the execution of an Advertising Agreement under which BCCL extended a credit line of Rs.32.5 Crores to the CD.

3.4 However, mid-2024 onwards, the CD's EV manufacturing operations faced stagnation due to a lack of capital infusion, delays in expected investment closures, and adverse market conditions in the EV sector. These challenges severely impacted the CD's ability to discharge its obligations under the engagement agreement and meet other liabilities, including statutory dues and vendor payments. On 31.07.2024, due to the ongoing financial crisis, the CD informed its employees that their services would no longer be required.

3.5 In an attempt to revive its operations, the CD entered into an agreement with Maxis Advisors LLP on 07.02.2024 for a proposed capital infusion of Rs.180 Crores. However, this deal collapsed following an increase in the Repo Rate announced by the RBI, further aggravating the CD's liquidity crisis.

3.6 The Directors' Report for the financial year ending 31.03.2024 reflects both achievements and challenges. The CD recorded 70% growth in sales, driven by demand for its flagship product, and expanded its dealership

network from 3 to 45 outlets. The Board also undertook corporate actions, including equity issuance, an increase in share capital, and Board restructuring. Despite temporary production halts and financial stress, all statutory dues were cleared by year-end. No dividends were declared.

3.7 Despite multiple efforts to restructure operations and raise funds, no new investment has been secured to date. The CD submits that there is no *malafide* intent and it is making bona fide efforts to repay its creditors, including the OC, primarily through prospective investor funding.

3.8 In view of the above, the CD prays for the indulgence of this Hon'ble Tribunal to grant a reasonable opportunity to amicably settle the dues and avoid initiation of CIRP, which would be commercially unviable and economically counterproductive. The CD requests that the present matter be disposed of on terms allowing a one-time settlement with the OC within a reasonable period, as deemed appropriate by this Hon'ble Tribunal.

3.9 The CD has attached the following supporting documents along with the Reply:

a) Copy of the Audit Report of the CD for the F.Y. ended 2024.
b) Copy of the Bank account statement from 01.01.2025 to 20.06.2025.
c) Copy of the Agreement dated 07.02.2024.
d) Copy of the email dated 31.07.2024 sent by the CD.
e) Copy of the Director's Report dated 02.08.2024.
f) Copy of the list of creditors as of date.

4. <u>ADDITIONAL AFFIDAVIT dated 28.07.2025</u>

4.1 An Additional Affidavit dated 28.07.2025 was signed and authorised by Mr. Sudhir Kumar Dash, who is stated to be the Managing Director of the Applicant.

4.2 Pursuant to our directions on 15.07.2025, the Applicant has attached a copy of Form C along with its annexures.

4.3 Form C therein shows the following details:

Default Details			
Date Of Default	04/02/2024	Default Amount	12934797.00
Total Outstanding Amount	12934797.00		

5. ADDITIONAL AFFIDAVIT dated 09.09.2025

5.1 An Additional Affidavit dated 09.09.2025 was signed and authorised by Mr. Sudhir Kumar Dash, who is stated to be the Managing Director of the Applicant.

5.2 Pursuant to the direction of this Hon'ble Tribunal on 08.09.2025, the Applicant was required to submit proof of payment of GST as reflected in the subject invoice. In compliance, the Applicant confirms that it paid the applicable GST amount of Rs.17,55,000/- on 20.02.2024.

5.3 Following the filing of GST details in Form GSTR-1 and payment of the said amount, Form GSTR-3B was auto-generated on the GST portal, confirming successful submission.

5.4 Accordingly, the Applicant submits that it has fully complied with the Tribunal's directions.

5.5 Copies of Form GSTR-1, Form GSTR-3B, and relevant extracts from the GST portal have been submitted in support.

6. SYNOPSIS (OC) dated 04.08.2025

6.1 While filing Form C with NESL, the date of default was inadvertently mentioned as 04.02.2024 instead of the correct date, 05.02.2024. However,

the Applicant, in good faith, voluntarily informed NESL of the correct date, which is accurately reflected in the present Application. Notably, the CD has not raised any objection regarding this correction and has not disputed the operational debt.

6.2 The Applicant has summarised the CD's Reply dated 27.06.2025, stating that the CD:

a) Has not disputed the operational debt of Rs.1,15,05,000/- as claimed in the invoice dated 05.01.2024.

b) Cited severe financial constraints and operational disruptions, including the stagnation of its EV manufacturing and related activities since mid-2024, which have prevented it from discharging its payment obligations under the Engagement Letter dated 09.09.2022.

c) Is facing difficulty in meeting statutory dues, vendor payments, and other ongoing liabilities.

d) Issued termination notices to its employees on 31.07.2024, and is currently not carrying out any business operations.

6.3 The Applicant submits that there exist the following Grounds for Admission of the Application:

a) The CD has committed a default in payment of an admitted operational debt.

b) The CD has admitted the claim but attributes non-payment to financial distress and the collapse of an investment deal following a REPO rate increase by the RBI, resulting in acute liquidity constraints.

c) A valid Demand Notice under Section 8 of the IBC was duly served, and the CD failed to make the payment, necessitating initiation of the CIRP.

6.4 The Applicant reiterates that the Application is maintainable, a valid and legally enforceable operational debt exists, and the CD's failure to repay constitutes a default under Section 9 of the IBC. All procedural requirements have been complied with by the Applicant, and supporting evidence has been furnished.

7. <u>SYNOPSIS (CD) dated 13.08.2025</u>

7.1 The CD submits that it is undergoing acute financial distress due to the following reasons:

a) Suspension of EV manufacturing operations since mid-2024;

b) Collapse of a significant Rs.180 Crore investment proposal with Maxis Advisors LLP due to fluctuations in the RBI's repo rate;

c) A broader industry slowdown and lack of working capital.

7.2 The CD submits that despite these setbacks, it remains a viable and operationally sound entity. As reflected in its Director's Report dated 02.08.2024, the CD achieved 70% growth in sales before the downturn, primarily driven by demand for its flagship models and successfully expanded its dealership network from 3 to 45 outlets. These factors demonstrate strong market acceptance and the potential for revival.

7.3 The CD further submits that it is making sincere and *bona fide* efforts to secure fresh capital, with the intention to settle outstanding dues, including those owed to the Applicant. A list of current creditors has also been annexed, reflecting its intent to repay obligations equitably.

7.4 Accordingly, the CD prays for a reasonable time from this Tribunal to:

a) Settle the outstanding dues with the Operational Creditor upon securing funds;

b) Prevent the initiation of CIRP, which would be commercially unviable and likely to result in significant erosion of enterprise value

7.5 In support of its plea, the CD has placed reliance on the decision of the Hon'ble NCLAT in ***Morex Corporation Ltd. vs. Jindal Poly Films Ltd.***, Company Appeal (AT) (Insolvency) No. 768 of 2024, wherein it was held:

> *"30. IBC is a remedy of last resort intended for resolution of genuine insolvency and not for recovery proceedings. The present is not a case where there is any insolvency resolution of the Corporate Debtor. We are thus of the view that the Adjudicating Authority has rightly rejected the Section 9 application filed by the Appellant which warrants no interference in this Appeal. The Appeal being devoid of merit is dismissed. We also observe that in the event the Appellant seeks remedy before the appropriate forum, it shall be open for the Appellant to raise all pleas as permissible in law."*

8. ANALYSIS AND FINDINGS

8.1 We have perused the documents as placed before us and heard both the Ld. Counsels for the Applicant and the CD.

8.2 The CD has expressly admitted the existence and quantum of the operational debt claimed, particularly the invoice amount of Rs.1,15,05,000/-. This admission has been recorded in its Reply dated 07.06.2025, where it acknowledged the services rendered by the Applicant herein and the liability to pay the invoiced amount. The CD, however, pleads

financial distress, citing disruptions in its EV manufacturing operations since mid-2024, failure of a significant proposed investment from Maxis Advisors LLP (amounting to Rs.180 Crores), and adverse market conditions. It has been submitted that these factors have collectively impaired its ability to meet its financial obligations, including the dues owed to the Applicant.

8.3 Despite the admitted liability, the CD has failed to make any payment towards the operational debt. The Applicant issued a Demand Notice under Section 8 of the IBC on 25.08.2024, followed by a revised notice on 04.09.2024, both of which were duly served upon the CD. No reply or response disputing the debt or raising any contention was submitted by the CD in response to the said demand notices. The fact that the CD has not raised any pre-existing dispute prior to the issuance of the demand notice is vital. In light of the judgment of the Hon'ble Supreme Court in ***Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd.***, [(2018) 1 SCC 353], the existence of a pre-existing dispute must be *bona fide* and must have been raised prior to the demand notice. No such dispute exists in the present case.

8.4 Further, the Applicant has complied with the directions of the Tribunal, including filing GST payment proof of Rs.17,55,000/- related to the subject invoice, along with relevant GSTR-1 and GSTR-3B returns. This compliance was confirmed *via* an Additional Affidavit dated 09.09.2025. The CD has not disputed the procedural compliance or the enforceability of the claim, but has merely requested indulgence for additional time to settle dues through potential future investments. However, the IBC does not make financial

distress or intent to pay a valid defence against an otherwise admitted and defaulted debt.

8.5 It is noteworthy that the CD has relied on the judgment in *Morex Corporation Ltd. (supra)*, to contend that IBC should not be used as a recovery mechanism. However, that decision was premised on the facts of that case, where insolvency was not established, and the debt was disputed. In the present case, the debt is admitted, the default is undisputed, and the financial incapacity of the debtor does not negate the occurrence of default. IBC is not a recovery tool; however, it is very much applicable in cases where there is a clear operational debt, default, and no pre-existing dispute, all of which are present in the matter at hand.

8.6 In conclusion, the Applicant has successfully established that:

(i) a valid and enforceable operational debt exists in the sum of ₹1,15,05,000/-, with interest and GST aggregating to ₹1,29,34,797/-,

(ii) the debt has become due and payable since 05.02.2024, and

(iii) the CD has committed default in discharging its liability. The debt has not been disputed on any legally tenable ground, and the CD's plea for time to secure future funding does not affect the maintainability of the Application under Section 9.

8.7 The CD has committed default in payment of an admitted operational debt. The Application filed under Section 9 of the IBC is complete and all procedural conditions have been met by the Operational Creditor, including service of demand notice, non-receipt of payment, and compliance with tax obligations. There exists no pre-existing dispute regarding the claim. In view of the above, we are forced to admit the CD to CIRP.

8.8 We make it clear that at this stage we have not crystallised the amount as claimed in this Application; the same is left to be collated by the IRP.

ORDER

In view of the aforesaid findings, this Application, being C.P. (IB) 568/MB/2025, filed under Section 9 of IBC, 2016, by Unaprime Investment Advisors Private Limited, the OC, for initiating CIRP in respect of Tork Motors Private Limited, the CD, is **admitted.**

We further declare a moratorium under Section 14 of IBC, 2016, with consequential directions as mentioned below:

I. We prohibit:

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

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

II. That the supply of essential goods or services to the CD, 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 IBC or passes an order for the liquidation of the CD 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 IBC read with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

V. That this Bench hereby appoints **Ms. Anagha Anasingaraju**, having Registration No. as **IBBI/IPA-002/IP-N00247/2017-18/10732** and **e-mail ID rp.anagha@kanjcs.com,** having valid Authorisation for Assignment up to 31.12.2025.

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 CD 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 IBC. The officers and managers of the CD are directed to provide effective assistance to the IRP as and when he takes charge of the assets and management of the CD. Coercive steps will follow against them under the provisions of the IBC read with Rule 11 of the NCLT Rules, 2016 for any violation of the 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 CD.

IX. In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the OC is directed to deposit a sum of Rs.3,00,000/- (Three Lakh Rupees) 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 OC on priority upon the funds becoming 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 OC, the CD 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)

Sd/-
NILESH SHARMA
MEMBER (JUDICIAL)

//AS//