

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, COURT-I, AHMEDABAD**

ITEM No.101
CP (IB) No.181/9/AHM/2025

(An application 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: Laxmi Metal Syndicate LLP

K B Udhog LLP

Through its partner
Mr. Mayak Girdharlal Shah
Having LLPIN: AAL-6393.
Having Address: Amli Falia,
Nagarwada, Block No. 3, Vadodara,
Gujarat, India, 390001.

...Applicant/Operational Creditor

VERSUS

Laxmi Metal Syndicate LLP

Having LLPIN: AAY-7560
Old Registered office at: 01
Opp. Dalasadwadi Khanderao Market,
Lakkadpitha Road, Vadodara,
Gujarat, India, 390001.

Current New Registered office

At: Plot No. A 10/11 Gurukrupa Soc,
Tulsidham Char Rasta Majalpur,
Vadodara , Gujarat, Gujarat, India, 390011.

...Respondent/Corporate Debtor

Order Delivered On: 03.09.2025

C O R A M:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

A P P E A R A N C E:

For the Applicant/OC :Mr. Nipun Singhvi Advocate.
For the Respondent/CD :Mr. Nilesh P. Udernani, Advocate

O R D E R
(Per Bench)

1. This Petition is filed on 10.04.2025 by the Applicant- K B Udhog LLP (hereinafter referred to as 'Operational Creditor') against the Respondent- Laxmi Metal Syndicate LLP (hereinafter referred to as 'Corporate Debtor') under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC, 2016") read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "IB (AAA) Rules, 2016") for initiation of Corporate Insolvency Resolution Process (CIRP), to appoint Interim Resolution Professional (hereinafter referred to as "IRP") and declare the moratorium for having defaulted in payment of the outstanding operational debt of Rs.1,48,50,469/-. The date of default is stated to be 18.12.2022.
2. On Perusal of Part-I of the Form-5 reveals that the Operational Creditor - K B Udhog LLP having LLPIN No. AAL-6393 is a Limited Liability Partnership Firm incorporated on 08.01.2018 under the provisions of LLP Act, 2008. Copy of the Limited Liability Partnership Deed is annexed with the Petition as Annexure-11/7. It has registered office at Amlia Falia, Nagarwada, Block No. 3, Vadodara, Gujarat, India, 390001. This Petition is filed through its Partner Mr. Shah Mayank Girdharilal, who has been

authorised by an Authority letter dated 11.03.2025 which is annexed with the Petition as Annexure-II/8.

3. On perusal of Part-II of the Form-5 reveals that the Corporate Debtor is one Laxmi Metal Syndicate LLP having LLPIN No. AAY-7560, a Limited Liability Partnership Firm incorporated on 27.09.2021 under the provisions of LLP Act, 2008. The Corporate Debtor was having a registered office at 01 Opposite Dalasadwadi Khanderao Market, Lakkadpitha Road, Vadodara, Gujarat–Pin 390001, India, with total obligation of contribution of Rs.1,00,000/-, as per the Master Data available on the website of the Ministry of Corporate Affairs, which is annexed with the Petition as Annexure-II/3. Now, Current New Registered office is shifted to Plot No. A 10/11 Gurukrupa Soc, Tulsidham Char Rasta Majalpur, Vadodara , Gujarat, India, 390011 as per the Latest Master Data available on the website of the Ministry of Corporate Affairs, which is annexed with the Additional Affidavit dated 12.07.2025 filed by the Corporate Debtor as Annexure-C.
4. On perusal of Part-III of the Form-5 reveals that the Operational Creditor has named Mr. Kashyap Ashwinbhai Shah, having Registration No. IBBI/IPA-002/IP-N00367/2017-2018/11035, having address: B-203, Manubhai Tower, Opp. Faculty of Arts, Sayajigunj, Vadodara, Gujarat, 390005 (e-mail: kashyap.cs@gmail.com) under section 13 (1)(c) of the Code to act as Interim Resolution Professional (IRP). He has filed its written communication Form-2 dated 27.03.2025 along-with Form-B being AFA dated 19.12.2024, which are annexed with the Petition as Annexure-IV as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (AAA) Rules, 2016. The AFA of the proposed IRP is valid up to 31.12.2025.

5. On perusal of Part-IV of the Form-5 reveals that total operational debt as claimed by the Operational Creditor is Rs.1,48,50,469/-, arising from the supply of goods, specifically Copper and Aluminium Scrap, to the Corporate Debtor. The date of default is stated to be 18.12.2022.
6. On Perusal of Part-IV & Part-V of Form-5 reveals that the Operational Creditor has placed the facts through this Petition in the following manner:-
- (i) The Operational Creditor supplied Copper and Aluminium Scrap to the Corporate Debtor from 17.11.2022 to 17.01.2024 as per invoices and purchase orders, which are annexed with the Petition as Annexure-II/4.
 - (ii) The supplies were made in the course of business relationship, and the Corporate Debtor failed to make payments for more than one year despite sufficient time given. Copies of Working computation of default and Form GSTR-1 and GSTR-3B are annexed with the Petition as Annexure-II/2 & Annexure-II/5.
 - (iii) The Operational Creditor sent reminder letters dated 05.03.2023, 30.06.2024, 31.12.2024, and 06.01.2025 requesting payment, but received no response from the Corporate Debtor, which are annexed with the Petition as Annexure-I/2.
 - (iv) The total debt obligation is Rs.1,48,50,469/- as per ledger statement, payable by the Corporate Debtor, which is annexed with the Petition as Annexure-II/1.
 - (v) The transactions are governed by the Indian Contract Act, 1872, and the Sale of Goods Act, 1930, and the Corporate Debtor delayed payments. The first unpaid invoice leading to default is dated 17.11.2022, with due date culminating in default on 18.12.2022.
 - (vi) The Operational Creditor issued a demand notice dated 11.03.2025 under Section 8 of the IBC, and the Corporate Debtor did not pay or respond. The copies of Demand Notice in Form 3 & Form 4, along with Proof of Service, are annexed with the Petition as Annexure-I/1.

- (vii) The Operational Creditor has filed **Form-C** being record of debt and default issued by National E-Governance Services Limited (“**NeSL**”) in which date of default is recorded as 18.12.2022. A copy of the same is annexed with the Petition as Annexure-II/6.
7. The Operational Creditor has relied upon the following documents, which are as under: -
- (a) Copy of the demand notice dated 11.03.2025 which is annexed with the Petition as Annexure-I/1.
 - (b) Copy of the letter dated 05.03.2023, 30.06.2024, 31.12.2024 and 06.01.2025 sent by Applicant to Respondent, which is annexed with the Petition as Annexure-I/2.
 - (c) Copy of the statement of ledger showing a debit balance of Laxmi Metal Syndicate LLP which is annexed with the Petition as Annexure-II/1.
 - (d) Working computation of default which is annexed with the Petition as Annexure-II/2.
 - (e) Master Data of Laxmi Metal Syndicate LLP from MCA website which is annexed with the Petition as Annexure-II/3.
 - (f) Copy of pending invoices along with Purchase Order which is annexed with the Petition as Annexure-II/4.
 - (g) Copy of Form GSTR-1 and GSTR-3B which is annexed with the Petition as Annexure-II/5.
 - (h) Record of Default with the Information Utility/NESL which is annexed with the Petition as Annexure-II/6.
 - (i) Copy of Limited Liability Partnership Deed which is annexed with the Petition as Annexure-II/7.
 - (j) Copy of Letter of Authority authorizing Mr. Shah Mayank Girdharilal which is annexed with the Petition as Annexure-II/8.

- (k) Copy of Bank Statement under Section 9(3)(e) of the insolvency and Bankruptcy Code, 2016 which is annexed with the Petition as Annexure-III.
 - (l) Consent cum Written Communication of IRP In Form-2 which is annexed with the Petition as Annexure-IV.
 - (m) General Affidavit of the Operational Creditor verifying application which is annexed with the Petition as Annexure-V.
 - (n) Affidavit of Operational Creditor in terms of Sub Section 3 (b) of Section 9 of the IBC Code, 2016 which is annexed with the Petition as Annexure-VI.
 - (o) Affidavit under Section 65B of Indian Evidence Act 1872 which is annexed with the Petition as Annexure-VII.
 - (p) Partners' Resolution / Authority Letter Authorising the Mr. Shah Mayank Girdharilal to file the present Company Petition which is annexed with the Petition as Annexure-C.
 - (a) Extract of GSTR-1 Transaction exhibiting the supply made to the Corporate Debtor which is annexed with the Petition as Annexure-D.
8. That on issuance of the notice in the Petition, the Corporate Debtor appeared and filed its reply dated 28.05.2025 admitting debt and default but cites financial distress due to operational losses, economic downturns, and NPA status (26.12.2024). It requested a six-month deferment, citing an audited balance sheet for FY 2023-2024 showing a profit of Rs.2,52,003/- and employment of six daily wagger employees. Additional affidavits (12.07.2025, 02.09.2025) confirm operations and compliance.
9. The Operational Creditor's rejoinder dated 04.06.2025 reiterates the undisputed debt, GST credit availed by the Corporate Debtor, and NESL authentication, citing *Vipul Himatlal Shah vs. Teco Industries (NCLAT, 2022)* to argue no further scrutiny is needed.

- 10.** In compliance of order dated 04.08.2025, another additional affidavit of compliance has been filed on 03.09.2025 vide Inward No. D 5970, the same is taken on record.
- 11.** Today we have heard the arguments of Ld. Counsel for the Applicant/Operational Creditor as well as Ld. Counsel for the Respondent/Corporate Debtor and perused the material available on record. In lieu of the same we are of the following opinion:-
- a.** On perusal of the records, it is found that the Operational Creditor had supplied Copper and Aluminium Scrap to the Corporate Debtor from 17.11.2022 to 17.01.2024 to the Corporate Debtor.
 - b.** The Operational Creditor had raised various invoices from 17.11.2022 to 17.01.2024 aggregating to an amount of Rs.1,48,50,469/-. The goods sold or supplied by the Operational Creditor to the Corporate Debtor were duly received. The copies of the Form GSTR-1 and GSTR-3B which is annexed with the Petition as Annexure-II/5.
 - c.** As per the invoices, the Corporate Debtor was required to clear the invoice within a period of 30 from the date of invoice. The terms of the Invoices were never disputed by the Corporate Debtor. Copy of the Working Computation Chart is annexed with the Petition as Annexure-II/2.
 - d.** However, the Corporate Debtor failed to clear the invoices as per terms stated therein and defaulted its repayment which is considered as a date of default against each invoice. Copy of Ledger Account of Corporate Debtor as maintained by Operational

Creditor for the period is annexed with the Petition as Annexure-II/1.

- e. Demand Notice dated 11.03.2025 U/s 8 (1) of the IB Code, 2016 in terms of Rule-5 of I&B (AAA) Rules, 2016 which was delivered to the Corporate Debtor and was never replied by the Corporate Debtor. Copy of Demand Notice dated 11.03.2025 in Form-3 and Form-4 along-with delivery receipt evidencing service of demand notice on the Corporate Debtor are annexed with the Petition as Annexure-I/1.
- f. Further, there is no communication from the side of the Corporate Debtor which speaks about any pre-existing dispute like non-supply or defect in material. Hence, there is no pre-existing dispute exists in the matter in terms of Section 8 (2) (a) of the IB Code. Further, the Operational Creditor has filed affidavit u/s 9 (3)(b) of the IB Code.
- g. The Operational Creditor has also filed Bank Account Statement of relevant period to establish that no payment qua the raised invoices received from the Corporate Debtor which is annexed with the Petition as Annexure-III.
- h. The Operational Creditor has also filed Form-C, which is the Record of Default with National E-Governance Services Limited (NeSL) in terms of Regulation 20(1A) of IBBI (IU) Regulation, 2017. The date of Default is recorded as 18.12.2022. A copy of the same is annexed with the Petition as Annexure-II/6.
- i. In its reply the Corporate Debtor has admitted debt and default but cites financial distress due to operational losses, economic

downturns, and NPA status (26.12.2024). It requested a six-month deferment.

12. In view of above, the debt, default, and absence of pre-existing dispute are established. The request for deferment is not a valid ground under Section 9. As per *Mobilox Innovations Private Limited v. Kirusa Software Private Limited (2018) 1 SCC 353* and *Vipul Himatlal Shah v. Teco Industries (NCLAT, Company Appeal (AT) (Insolvency) No. 445 of 2022)*.
13. Therefore, the present Petition is complete in terms of Section 9 of the Code. The Operational Creditor is entitled to claim its dues, establishing the operational debt and default in payment of the Operational Debt beyond doubt. The outstanding Operational Debt is of more than rupees one crore which meets the threshold limit as per section 4 of the Code and is well within the limitation for filing the present Petition as the three-year limitation period under Article 137 of the Limitation Act, 1963, commences from the date of default (18.12.2022), and the petition was filed on 10.04.2025. Accordingly, the Petition filed under section 9 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the Corporate Debtor deserves to be admitted.
14. Accordingly, in light of the above facts and circumstances, it is, **hereby ordered** as under:-
 - (i) The Respondent/Corporate Debtor - **Laxmi Metal Syndicate LLP** is **admitted** in Corporate Insolvency Resolution Process under section 9(5) of the Code.
 - (ii) As a consequence thereof, a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code.

- 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 the possession of the Corporate Debtor.*
 - e. *The provisions of sub-Section (1) shall however, not apply to such transactions, agreements as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a Corporate Debtor. The moratorium does not apply to transactions notified by the Central Government, as per Section 14(3)(a) of the IB Code, 2016.*
- (iii) The order of moratorium under section 14 of the Code shall come to effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of the Corporate Debtor under Section 33 of the IBC 2016, as the case may be.
- (iv) However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the Corporate Debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period.
- (v) As proposed by the Operational Creditor, we appoint **Mr. Kashyap Ashwinbhai Shah**, having Registration No. IBBI/IPA-002/IP-N00367/2017-2018/11035, having address: B-203, Manubhai Tower, Opp. Faculty of Arts, Sayajigunj, Vadodara, Gujarat, 390005 (e-mail: kashyap.cs@gmail.com) under section 13 (1)(c) of the Code to act as Interim Resolution Professional (**IRP**). He shall

conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.

- (vi) The IRP so appointed shall make a public announcement (e.g., newspapers, websites) under Regulation 6(2) of IBBI Regulations, 2016, of the initiation of the Corporate Insolvency Resolution Process and call for submissions of claims under section 15 within three days of appointment as per Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, as required by Section 13(1)(b) of the Code.
- (vii) The IRP shall perform all his functions as contemplated, *inter-alia*, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel connected with the Corporate Debtor, its promoters, or any other person associated with the management of the Corporate Debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the Corporate Debtor, its promoters, or any other person required to assist or co-operate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
- (viii) The IRP is expected to take full charge of the Corporate Debtor's assets and documents without any delay whatsoever within seven days of this order. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
- (ix) The IRP shall be under a duty to protect and preserve the value of the property of the 'Corporate Debtor company' and manage the operations of the Corporate Debtor company as a going concern as a part of the obligation imposed by section 20 of the Code.
- (x) The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority a periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
- (xi) We direct the Operational Creditor to pay IRP a sum of **Rs.5,00,000/- (Rupees Five Lakh Only)** in advance exclusive of applicable taxes, within 7 days from the date of this order to meet the initial costs of the CIRP, including issuing public notice and inviting claims, as per Regulation 33(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. This

amount shall be adjustable against the IRP's fees and expenses as approved by the Committee of Creditors (CoC) under Regulation 33(3), with any excess refundable to the Operational Creditor or shortfall recoverable from the Corporate Debtor's estate as CIRP costs.

(xii) The Registry is directed to communicate this order to the Operational Creditor, Corporate Debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days, and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update the Corporate Debtor's Master Data on the MCA portal to reflect its status as 'under Corporate Insolvency Resolution Process' within 7 working days of receiving this order and submit a compliance report to the Registrar, NCLT, within 14 working days.

(xiii) The public announcement under Regulation 6(2) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, shall be published in at least one English (national edition) and one vernacular newspaper with wide circulation in the state of the Corporate Debtor's registered office (Gujarat) and on the Corporate Debtor's website, if any, as per Form A of the said Regulations.

(xiv) The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

15. Accordingly, his Petition being **CP (IB)/181/9/AHM/2025** is hereby **admitted**. The order is dictated and pronounced in the open court. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

-SD-

SANJEEV SHARMA
MEMBER (TECHNICAL)

SK Steno

-SD-

SHAMMI KHAN
MEMBER (JUDICIAL)