

53  
03/02/26

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IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT - 1, AHMEDABAD

ITEM No.303  
C.P.(IB)/453(AHM)2025

Under Section 9 of IB Code, 2016

IN THE MATTER OF:

Bhaveshkumar Kishorbhai Patel , Proprietor of M/s Nitya  
Enterprise  
V/s  
Sahar Industries LLP

.....Applicant

.....Respondent

Order delivered on: 03/02/2026

CORAM:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)  
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

ORDER  
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

Sd/-

SANJEEV SHARMA  
MEMBER (TECHNICAL)

Sd/-

SHAMMI KHAN  
MEMBER (JUDICIAL)



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

**C.P.(IB)/453(AHM)2025**

*(Petition 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:**

**Mr. Bhaveshkumar Kishorbhai Patel**

**Proprietor of**

**M/s. Nitya Enterprise**

Registered office at

118, Jay Jalaram Society,

Opp Shishvikunj School,

Jahagirpura, Surat-395005

**...Applicant/Operational Creditor**

**VERSUS**

**Sahar Industries LLP**

Registered office at

Block No. 91/ 1/B and Block No. 100,

Hissa 1/2, Moti Naroli,

Op. Bharat Petroleum,

Tal-Mangrol, Surat,

Gujarat, 394110



...Respondent/Corporate Debtor

Order Pronounced On: 03.02.2026

**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. Ravi Pahwa, Advocate.

For the Respondent/CD : Mr. Rajiv Chawla, Advocate.

**O R D E R**

**Per Bench**

1. The present Petition has been filed on 01.12.2025 through the DMS Portal by the Applicant, Mr. Bhaveshkumar Kishorbhai Patel, Proprietor of M/s. Nitya Enterprise, hereinafter referred to as the "Operational Creditor", 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, seeking initiation of Corporate Insolvency Resolution Process against the Respondent, Sahar Industries LLP, hereinafter referred to as the "Corporate Debtor", for default in payment of operational debt amounting to Rs.1,33,64,347/-, as claimed



including interest. The date of default is stated to be 29.08.2025.

2. On perusal of Part-I of Form-5, it is evident that the Operational Creditor is a proprietorship concern, namely M/s. Nitya Enterprise, and the present Petition has been filed through its Proprietor, Mr. Bhaveshkumar Kishorbhai Patel.
3. On perusal of Part-II of Form-5, it is evident that the Corporate Debtor is Sahar Industries LLP, bearing LLP Identification Number ACA-9088. The Corporate Debtor was originally constituted as a partnership firm and was converted into a Limited Liability Partnership on 02.05.2023 under the provisions of the Limited Liability Partnership Act, 2008, having its registered office at Block No. 91/1/B and Block No. 100, Hissa 1/2, Moti Naroli, Opp. Bharat Petroleum, Taluka Mangrol, Surat, Gujarat - 394110. A copy of the First Modification Agreement of the LLP dated 16.09.2024 is annexed as Annexure-A.
4. On perusal of Part-III of Form-5, the Operational Creditor has proposed the name of Mr. Rathin Majmudar, bearing Registration No. IBBI/IPA-001/IPPO2576/2021-2022/13928, to act as the Interim Resolution Professional under Section 13(1)(c) of the Code. His AFA is valid till 31.12.2026 as per IBBI Website. The Consent-cum-Written Communication in Form-2 dated 17.11.2025 has been annexed as Annexure-C.



5. On perusal of Part-IV and Part-V of Form-5, the Operational Creditor has placed the facts in sequence, inter alia, stating that the Corporate Debtor placed a Purchase Order dated 01.08.2020 for supply of dyes and chemicals on a running account basis with payment terms of 60 days from invoice date. Pursuant thereto, supplies were made continuously from 06.04.2022 till 30.06.2025 against valid tax invoices and e-way bills, which were accepted and consumed by the Corporate Debtor without any objection.
6. It is further stated that while payments were made regularly up to FY 2021-22, defaults commenced from April 2022 onwards. The last payment of Rs.1,00,000/- was made on 29.07.2024. Despite repeated demands, including letters dated 31.03.2024, 30.06.2024 and 31.03.2025, the outstanding amounts remained unpaid.
7. In response to the letter dated 31.03.2025, the Corporate Debtor, vide its letter dated 15.04.2025, expressly acknowledged its liability, admitted financial difficulty, and sought continued supply with assurance of payment. Relying on such acknowledgment, the Operational Creditor continued supplies till 30.06.2025, resulting in a principal outstanding of Rs.1,01,65,197/-.
8. As on 30.06.2025, the total outstanding amount stood at Rs.1,33,64,347/-, comprising Rs.1,01,65,197/- towards principal and Rs.31,99,150/- towards interest calculated at 18% per annum as per invoice terms. The interest

component, though contractually stipulated, has not been capitalised in the regular books of account.

9. The Operational Creditor issued a Demand Notice dated 20.09.2025 in Form-3 under Section 8 of the Code, which was duly served upon the Corporate Debtor. No payment was made, nor was any notice of dispute raised within the statutory period.
10. The Operational Creditor has filed the record of debt and default in **Form-C** with National E-Governance Services Limited (NeSL) which corroborates the default, wherein the date of default is recorded as 29.08.2025.
11. That on issuance of the notice, the Corporate Debtor appeared through its Counsel and in compliance with order dated 03.12.2025, the Corporate Debtor filed its Reply Affidavit on 24.01.2026, wherein it has unequivocally admitted the principal outstanding amount and default. The only defence raised pertains to denial of liability towards interest and a plea for time on account of financial difficulty.
12. We have heard the arguments of Ld. Counsel for the Applicant/Operational Creditor as well as Ld. Counsel for the Respondent/Corporate Debtor. This Tribunal has considered the pleadings, documentary record, affidavits and the submissions advanced by learned counsel appearing for both sides.



13. This Tribunal finds that the defence raised by the Corporate Debtor does not constitute a pre-existing dispute within the meaning of Section 8(2) of the Code. The alleged denial of interest does not amount to a dispute regarding the existence of operational debt. Admission of liability coupled with inability to pay due to financial distress is not a valid defence under Section 9 proceedings.
14. The principal operational debt in default amounts to Rs.1,01,65,197/-, which exceeds the minimum threshold prescribed under Section 4 of the Code. The default has occurred beyond the period covered under Section 10A and the Petition is within limitation.
15. The Petition is complete in all respects and fulfils the requirements under Sections 8 and 9 of the Code. Accordingly, this Tribunal is satisfied that a case is made out for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor.
16. Accordingly, in light of the above facts and circumstances, it is, **hereby ordered** as under:-

- (i) The Petition bearing C.P.(IB)/453(AHM)2025 is **admitted** under Section 9(5) of the Insolvency and Bankruptcy Code, 2016 and the Corporate Insolvency Resolution Process (**CIRP**) is initiated against the Corporate Debtor, **Sahar Industries LLP**.
- (ii) As a consequence, thereof, moratorium under Section 14 of 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.*



- (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. Rathin Majmudar** having Registration No. IBBI/IPA-001/IPP02576/2021-2022/13928, having address: 604, Scarlet Gateway, Opp. Rivera Antilia, Corporate Road, Near Prahladnagar Garden, Ahmedabad-380015 (**e-mail: [info@carathin.com](mailto:info@carathin.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 of the initiation of Corporate Insolvency Resolution Process and call for submissions of claims



under section 15, 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. 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' and manage the operations of the Corporate Debtor as a going concern as a part of 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 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.2,00,000/- (Rupees Two Lakh Only)** in advance within a period of 7 days from the date of this order to meet the cost of CIRP arising out of issuing public notice and inviting claims etc. till the CoC decides about his fees/expenses.
- (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 its website by updating the Master Data of the Corporate Debtor in MCA portal specific mention regarding admission of this Petition and shall forward the compliance report to the Registrar, NCLT.
- (xiii) The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.



17. Accordingly, this Petition being **C.P.(IB)/453(AHM)2025** is admitted. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sdt

**SANJEEV SHARMA**  
**MEMBER (TECHNICAL)**

Jeel/LRA

Sdt

**SHAMMI KHAN**  
**MEMBER (JUDICIAL)**

Prepared by Bhanik

Signature [Signature]

Date 05/02/26

Certified to be True Copy of the Original

Raj Valbha

Assistant Registrar  
NCLT, Ahmedabad Bench  
Ahmedabad

05/02/26

