

**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
CP(IB) -168(PB)/2026**

Order 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:

M/s Mototech Co. Limited

..... Applicant/Operational Creditor

VERSUS

M/s Jay Switches India Private Limited

..... Respondent/Corporate Debtor

Order Pronounced On: 12.06.2026

CORAM:

**JUSTICE ANUPINDER SINGH GREWAL
HON'BLE PRESIDENT**

**SHRI RAVINDRA CHATURVEDI
HON'BLE MEMBER (TECHNICAL)**

APPEARANCES:

For the Applicant : Sr. Adv. P.V. Dinesh, Adv. Mohnish Nirwan,
Adv. Ashok Kumar, Adv. Rajat Singh, Adv.
Abhishek Pratap Singh, Adv. Anna Oommen
For the Respondent : Mr. Hrishikesh Baruah, Mr. Yashaswy
Ghosh, Ms. Pragya Agarwal, Adv.

ORDER

1. This Application has been filed by M/s. Mototech Co. Ltd., the Applicant/Operational Creditor on 06.04.2026, before this Adjudicating Authority (**AA**) under Section 9 of the Insolvency and Bankruptcy Code, 2016 (**IBC / Code**) r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, (AA Rules), for initiating the Corporate Insolvency Resolution Process (**CIRP**), declaring moratorium and for appointment of Interim Resolution Professional (**IRP**), against M/s Jay Switches India Private Limited, the Respondent/Corporate Debtor (**CD**) on the ground that the Corporate Debtor has defaulted/failed to clear the outstanding amount of Rs. 1,10,81,779/- (Rupees One Crore Ten Lakhs Eighty One Thousand Seven Hundred And Seventy Nine) as on date of filing the instant application.

Submissions of the Applicant:

2. The Applicant, M/s Mototech Co. Ltd., is an established entity registered in the Republic of Korea, operating a wholesale business of electricity and related materials.
3. The Applicant commenced business operations with the CD, specifically undertaking the design and supply of customised "Remote Keyless Entry" systems, including technically programmed components like Microcontroller Units ("MCU"), "XTAL", and "TACT switches". These parts were curated exclusively for the Debtor's final consumer, M/s Stellantis Group, and could not be utilised elsewhere. The supply chain is as follows:

<p>Stage: Stage I: The Applicant’s supplier, namely M/s Alwox, supplies raw material for MCU to the Applicant</p>
<p>Stage II: The Applicant procures the raw materials from their supplier and produces curated, technically programmed parts such as “MCU” amongst others as per the specifications of the Debtor</p>
<p>Stage III: The Corporate Debtor assembles the goods manufactured by the Applicant.</p>
<p>Stage IV: The finished goods reach to the final consumer i.e. M/s Stellantis Group</p>

4. The Corporate Debtor on **17.02.2022** issued the first Purchase Order bearing No. 122001920 for the supply of 96,000 units of customised MCUs.

5. The Corporate Debtor on **12.11.2022** issued a subsequent Purchase Order (No. 123001795) for bulk parts, comprising 1,800,000 MCUs, 200,000 XTALs, and 400,000 TACT Switches.

6. Requirement of the products keeps fluctuating due to prevalent market conditions. As a prevailing business practice, all the business negotiations between the Applicant and the Debtor were done through e-mail for the sake of convenience.

7. The Applicant shipped components on a monthly basis. Total shipments up to December 2023 stood as follows:

Details of product	Total Quantity shipped by the Applicant on December, 2023
MCU	60,000
XTAL	1,26,000
TACT switch	1,64,000

8. The CD sought to cancel pending orders via email dated 27.11.2023 and requested the Applicant to provide the details of specific inventory which the CD is under an obligation to purchase.
9. The Applicant replied with a comprehensive inventory breakdown detailing quantities shipped, items that could be cancelled, and uncanceled balance inventory produced specifically for the Debtor. The breakdown chart is as follows:

Details of Products	Total Quantity as per PO dated 17.02.2022 and 12.11.2022	Quantity Shipped till December 1, 2023	Quantity which could not be cancelled (Balance quantity left)	Quantity which could be cancelled
MCU	2,76,000	60,000	42,000	1,74,000
XTAL	2,00,000	1,26,000	74,000	-
TACT Switch	4,00,000	1,64,000	1,16,000	The remaining quantity mentioned in the email dated 08.12,2023, was 2,36,000. However, as Mototech's supplier sold 1,20,000 to their other customer in 2024, the final remaining quantity has been reduced to 1,16,000.

10. The Applicant on **07.03.2024** proposed a delivery schedule for the remaining uncanceled inventory alongside the applicable royalty payments.

11. The CD, through its authorised representative Mr. Pankaj Gupta, on **22.03.2024** acknowledged the Applicant's inventory and confirmed a delivery schedule to absorb the remaining 42,000 MCU units.

12. Pursuant to the agreed-upon schedule, the Applicant on **29.04.2024** shipped 18,000 units of MCUs to the Debtor. Following this supply, the Applicant was left with a blocked, uncanceled inventory exclusively manufactured for the CD. The chart reflecting the liability of the CD is as follows:

Details of Products	Total Quantity ordered as per Purchase orders	Total Quantity cancelled by the Creditor	Total Quantity Shipped by the Applicant	Total quantity liable to be purchased by the Creditor	<i>Value of the inventory liable to be purchased by the Creditor</i>
MCU	2,76,000	1,74,000	78,000	24,000	<i>\$63,708</i>
XTAL	2,00,000	-	1,26,000	74,000	<i>\$10,212</i>
TACT Switch	4,00,000	-	1,64,000	1,16,000	<i>\$11,600</i>

13. The Applicant requested the CD via email dated **12.09.2024** to fulfil its commitment and purchase the remaining inventory.

14. To reach an amicable settlement, the Applicant's representative visited India. CD explicitly agreed to clear a delayed payment in a meeting dated 01.12.2024.

15. The Corporate Debtor sent an email dated 23.12.2024 reassuring the Applicant that the outstanding amounts would be paid as soon as its ongoing case with its end-consumer, Stellantis, concluded.
16. Despite consecutive reminder emails from the Applicant, the CD failed to honour the payment terms as agreed in the meeting.
17. Aggrieved by the continued default, the Applicant served a formal Demand Notice dated **27.10.2025** under Section 8 of the IBC demanding the immediate payment of the defaulted debt.
18. In a tactical and bad-faith manoeuvre to bypass the CIRP, the CD on **06.11.2025** made a partial payment intentionally to artificially force the remaining disputed sum below the statutory threshold of Rs. 1 Crore.
19. Two days after making the partial payment, the Debtor issued a formal reply dated **08.11.2025** to the Demand Notice, abruptly disputing the validity of the underlying purchase orders and rejecting all payment liabilities.
20. Having accepted a substantial fraction of the goods, negotiated volumes via email, and repeatedly acknowledged its financial liability through the email dated 22.03.2024, the signed MoM dated 01.12.2024, and the reassurance email dated 23.12.2024, the Corporate Debtor is entirely estopped from challenging the validity of the Purchase Orders or denying its operational debt under the equitable principles of Estoppel.

21. Further particulars of transactions as submitted under Form 5 are as follows:

PART-IV

PARTICULARS OF OPERATIONAL DEBT		
1	TOTAL AMOUNT OF DEBT	A sum of is Rs 1,10,81,779 Rupees One Crore Ten Lakhs Eighty one thousand seven hundred and seventy nine) is the operational debt which has become payable to the operational creditor by the Corporate Debtor, being the amount outstanding along with interest against the MCU, XTAL and TCAT switches to be purchased by Operational Creditor to the Corporate Debtor.
	DETAILS OF TRANSACTION ON ACCOUNT OF WHICH DEBT FELL DUE, AND THE DATE FROM WHICH SUCH	<p>DETAILS OF TRANSACTION</p> <p>The Details of the outstanding payment from Corporate Debtor to the operational creditor are detailed hereinbelow:</p> <p>1. The Operational Creditors is South Korea based company engaged in design and manufacture software, hardware, and mechanical components for automotive electronic products (such as Remote Keyless Entry, Body Control System etc.).</p> <p>2. The Operational Creditor and Corporate Debtors have</p>

DEBT DUE	FELL	<p>had a long-standing commercial relationship involving the supply of MCU and 8 other electronic components by the Operational Creditor to the Corporate Debtor.</p> <p>3. That for the purpose of securing parts in advance the Corporate debtor issues a Bulk PO stating the price and quantity.</p> <p>4. That the unit price of electronic components in the PO are a tentative price, which fluctuates due to market considerations. The actual shipping quantity, price and dates are decided on mutual agreement between the parties <i>via</i> email.</p> <p>5. That the aforesaid procedure is the normal business practice between the parties.</p> <p>6. That on 17.02.2022 Creditor made a Purchase Order dated 17.02.2022 for 96,000 Units of MCU.</p> <p>7. The Corporate debtor issued another purchase order dated 12.11.2022 for the purchase of the following products:</p> <table border="1" data-bbox="699 1554 1262 1951"> <thead> <tr> <th>Products</th> <th>Quantity</th> </tr> </thead> <tbody> <tr> <td>MCU</td> <td>1,80,000</td> </tr> <tr> <td>XTAL</td> <td>2,00,000</td> </tr> <tr> <td>TACT Switch</td> <td>4,00,000</td> </tr> </tbody> </table>	Products	Quantity	MCU	1,80,000	XTAL	2,00,000	TACT Switch	4,00,000
Products	Quantity									
MCU	1,80,000									
XTAL	2,00,000									
TACT Switch	4,00,000									

	<p>8. That pursuant to the order the Applicant shipped the parts on a monthly basis as per the requirements of the Creditor. The quantity required was discussed between the Applicant and the creditor. The details of the goods shipped uptill December 2023 is hereunder:</p> <table border="1" data-bbox="655 495 1386 790"> <thead> <tr> <th data-bbox="655 495 1059 584">Details of product</th> <th data-bbox="1059 495 1386 584">Total Quantity shipped by Applicant on December, 2023</th> </tr> </thead> <tbody> <tr> <td data-bbox="655 584 1059 651">MCU</td> <td data-bbox="1059 584 1386 651">60,000</td> </tr> <tr> <td data-bbox="655 651 1059 719">XTAL</td> <td data-bbox="1059 651 1386 719">1,26,000</td> </tr> <tr> <td data-bbox="655 719 1059 790">TACT switch</td> <td data-bbox="1059 719 1386 790">1,64,000</td> </tr> </tbody> </table> <p>(Copy of the Chart specifying the details of the goods shipped along with invoice (Colly.) is attached and marked as Annexure- P4</p> <p>9. That on 27.11.2023 the Creditor, considering the ongoing fluctuating market demands sought to cancel the pending orders with the Applicant. <i>It needs to be mentioned that the Creditor also sought details of the goods which he had to necessarily buy i.e. the goods which were already produced for consumption by the Applicant.</i></p> <p>(Copy of the email dated 27.11.2023 sent by the representative of the Creditor is attached and marked as Annexure -P5</p> <p>10. That on 08.12.2023 the Applicant sent its reply to the Creditor through email, specifying the status of the products, The details of the inventory of the Applicant (as it then was) is elaborated as herein under</p>	Details of product	Total Quantity shipped by Applicant on December, 2023	MCU	60,000	XTAL	1,26,000	TACT switch	1,64,000
Details of product	Total Quantity shipped by Applicant on December, 2023								
MCU	60,000								
XTAL	1,26,000								
TACT switch	1,64,000								

Details of Products	Total Quantity as per PO dated	Quantity Shipped till December 1, 2023	Quantity which could not be cancelled	Quantity which could be cancelled		
17.02.2022 and 12.11.2022			(Balance quantity left)			
MCU	2,76,000	60,000	42,000	1,74,000		
XTA L	2,00,000	1,26,000	74,000	-		
TACT Switch	4,00,000	1,64,000	2,36,000		The remaining quantity mentioned in the email dated 08.12, 2023, was	

Applicant and confirmed the supply Balance quantity of 42,000 “MCU” in the following schedule.

Month	MCU Units
March	6000
April	6000
May	6000
June	6000
July	6000
August	6000
September	6000

12.The as per the schedule prescribed above, the Applicant shipped 18000 units of MCU to the Debtor

13.That Even after supply of products uptill April 2024 and subsequent adjustments, the Applicant has in its inventory the following quantities of products:

Details of Products	Balance units Inventory Left with Creditor	Amount
MCU	24,000	\$63,708
XTAL	74,000	\$10,212
TACT Switch	1,16,000	\$11,600

(Copies of the invoices raised by Mototech’s supplier namely “ALWOX” is attached for MCU and marked as **Annexure- P10**

22. Relevant particulars of debt as stated under form 5 is as follows:

		TOTAL AMOUNT DUE (OPERATIONAL DEBT)								
		19. The balance outstanding payment (operational debt) is Rs 1,10,81,779 Rupees One Crore Ten Lakhs Eighty one thousand seven hundred and seventy-nine).								
2	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF AMOUNT AND DAYS OF DEFAULT IN TABULAR FORM)	<p>Total amount which Corporate Debtor is in default is Rs 1,10,81,779 Rupees One Crore Ten Lakhs Eighty-one thousand seven hundred and seventy nine) which is inclusive of interest.</p> <table border="1"> <tr> <td>Principal Amount</td> <td align="right">76,96,800</td> </tr> <tr> <td>Interest @ 24%: (6 Dec, 2024 to 5 Dec, 2025)</td> <td align="right">18,47,232</td> </tr> <tr> <td>Interest on Delayed Payment of USD 48,540 (Rs 42,71,520): (29 April, 2024 to 6 Nov, 2025)</td> <td align="right">15,37,747</td> </tr> <tr> <td>Total</td> <td align="right">1,10,81,779</td> </tr> </table> <p>Default Date: 29 April, 2024.</p>	Principal Amount	76,96,800	Interest @ 24%: (6 Dec, 2024 to 5 Dec, 2025)	18,47,232	Interest on Delayed Payment of USD 48,540 (Rs 42,71,520): (29 April, 2024 to 6 Nov, 2025)	15,37,747	Total	1,10,81,779
Principal Amount	76,96,800									
Interest @ 24%: (6 Dec, 2024 to 5 Dec, 2025)	18,47,232									
Interest on Delayed Payment of USD 48,540 (Rs 42,71,520): (29 April, 2024 to 6 Nov, 2025)	15,37,747									
Total	1,10,81,779									

23. Further, a short written note has been filed by the Applicant on 05.06.2026, wherein the Applicant has reiterated its factual submission and has the following legal submission:

- i.** A conjoint reading of Section 8 and Section 9 would show that a trick payment after sending of notice under Section 8 would not take away the rights of Operational Creditor.
- ii.** The Code does not provide the date on which the threshold limit should be maintained in case of Application under Section 9, however, a series of judgements have stated that the threshold limit should be at the time of filing the CIRP application.
- iii.** Reliance has been placed upon *Devika Resources Pvt Ltd versus MAA Manasha Devi Alloys Pvt Ltd.*, 2025 OnLine NCLAT 901

Submissions of the Respondent:

24. In a demand notice dated 27.10.2025 under Section 8 of the Insolvency and Bankruptcy Code, 2016, the Applicant claimed a total amount of USD 1,34,060.60 (approximately ₹ 1,18,76,780/-) and no amount on account of interest was charged therein. On the other hand, in the instant Application under Section 9, the Applicant has claimed a total sum of ₹ 1,10,81,779/- (Rupees One Crore Ten Lakhs Eighty-One Thousand Seven Hundred and Seventy-Nine only), which is broken down as:

Sl. No.	PARTICULARS	INTEREST	AMOUNT
a.	Principal Amount/ Operational Debt		₹ 76,96,800/-
b.	Interest from 06.12.2024 to 05.12.2025	@ 24%	₹ 18,47,232/-
c.	Interest on Delayed Payment of USD 48,540 (₹ 42,71,520/-) from		₹ 15,37,747/-

25. The Applicant in Form 5 has added a claim on account of 24% interest unsupported by any written agreement on this. Nowhere in any agreement, purchase order, or invoice, any interest rate has been specified. The addition of interest is without any contractual or legal basis, and unilateral at the end of the Applicant. Therefore, the same has been added to artificially inflate the total claim amount to meet the threshold requirement of INR 1 crore. Reliance is placed on the following judicial precedents:

- i. *Ahio Overseas LLP v. Gokal Iron and Hardware Traders (LDH)*, [reported in 2025 SCC OnLine NCLAT 1581, Para(s) 9, 19-22]
- ii. *Pavan Enterprises v. Gammon India Ltd.*, [reported in 2018 SCC OnLine NCLAT 360, Para(s) 4-6]

- iii.** *Mr. Ajay Kumar Gupta v. M/s L C Packers Private Limited*, [reported in 2025 SCC OnLine NCLT 60, Para 9]
- iv.** *M/s Bhotika Trade and Services Pvt. Ltd. v. M/s Avinash EM Projects Pvt. Ltd.*, [reported in 2022 SCC OnLine NCLT 317, Para(s) 18-21]

26. Further, the amount claimed by the Applicant is disputed. Term No. 9 of both the Purchase Orders expressly states that the Schedule pertains to this PO or will *expire after that particular month*. Therefore, the schedules contained in the purchase orders were valid only until the end of the respective month specified therein, i.e., clear validity periods (PO122001920 valid up to 31.03.2023; PO-123001795 valid up to 31.12.2023). Upon expiry of the validity period, there is no continuing obligation upon the CD to accept or pay for any goods that the Applicant may have procured or retained in its inventory. Respondent vide emails dated 03.03.2023 and 21.04.2023 had also communicated to the Applicant that there was no further requirement of procurement. Reliance is placed on the following judicial precedents:

- i.** *K. Kishan v. Vijay Nirman Company Private Limited* [reported in (2018) 17 SCC 662, Para(s) 20 & 22]
- ii.** *Pravin Electricals Private Ltd. v. Akshaya Engineering Works Private Ltd.*, [reported in 2025 SCC OnLine NCLAT 1210, Para 29]

27. Applicant has failed to produce any invoice in support of the primary debt claimed in the said Application. Invoices are foundational and mandatory documents for maintaining an Application under Section 9 of the IBC, particularly where the alleged operational debt arises out of supply transactions pursuant to purchase orders. The alleged operational debt therefore is unsubstantiated, uncrystallised and incapable of adjudication under the summary jurisdiction contemplated under the IBC. Reliance is placed on the following judicial precedents:

- i.** SFO Technologies Pvt. Ltd. v. Vanu India Private Limited [reported in 2023 SCC OnLine NCLAT 301, Para 40]
- ii.** Neeraj Jain v. Cloudwalker Streaming Pvt. Ltd. & Anr. [reported in 2020 OnLine NCLAT 445, Para(s) 42- 48]
- iii.** Devika Resources Pvt. Ltd. v. MAA Manasha Devi Alloys Pvt. Ltd. [reported in 2025 SCC OnLine NCLAT 901, Para 17 & 18]

28. Further, the date of issuance and service of the demand notice under Section 8 of the Code is not the relevant date for determining the applicable threshold under Section 4 of the Code. Reliance is placed on the following judicial precedents:

- i.** *Hyline Mediconz Pvt. Ltd. v. Anandaloke Medical Centre Pvt. Ltd.* [reported in 2022 SCC OnLine NCLAT 4286, Para 25 & 30]

Analysis and Findings

29. We have heard the Ld. Counsels appearing for both parties and also perused the documents on record.

30. No agreement governing the trade relationship between the Applicant and Respondent has been provided. It is only the purchase orders dated 17.02.2022 and 12.11.2022, and the same are extracted hereinafter:



JAY SWITCHES INDIA PRIVATE LIMITED

Plot no.407 Udyog Vihar Phase-III Gurugram 122016 HR India
e-mail: info@jayautomotives.com

Buyer : JAY SWITCHES INDIA PRIVATE LIMITED GSTIN : 06AAACJ2140H1Z2 PAN : AAACJ2140H	PURCHASE ORDER NO. PO-123001795 Date 12/11/2022 Vendor Ref No. : Payment Terms : Net-30 Delivery Terms : Price with Effect From : 12/11/2022 This PO is Valid Upto : 31/12/2023	Seller : MOTOTECH CO. LTD. GSTIN: PAN : Contact No. :
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GST Terms : Regular/TDS/ISD

Freight Terms :

Important : In case of any credit, refund or other benefit being denied or delayed to Company due to any non-compliance by you (including but not limited to failure to upload the details of the sale on the Goods & Service Tax Network portal, failure to pay GST to the Government, etc.) or due to non-furnishing or furnishing of incorrect or incomplete documents by you, you would reimburse Company the loss including, but not limited to, the tax loss, interest and penalty and Company shall be entitled to recover/deduct/set off an equivalent amount from the total payment under the agreement/purchase order.

Please supply the following items as per instructions here under :-

SI No	Part or (Drgn No.)	Item description/ HSN Code	Specification	Quantity	Unit	Net Rate (in USD)	Total Value (in USD)	Delivery Schedule
1	BPEL0219	CHIP INDICATOR 68nH/85423100		200,000.00	Nos	0.0072	1,440.00	
2	BPEL0215	CHIP INDICATOR 6.8nH/85423100		200,000.00	Nos	0.0033	660.00	
3	BPEL0217	CHIP INDICATOR 12nH/85423100		200,000.00	Nos	0.0072	1,440.00	
4	BPEL0218	CHIP INDUCTOR 100nH/85423100		200,000.00	Nos	0.0100	2,000.00	
5	BPEL0216	CHIP INDICATOR 47nH/85423100		200,000.00	Nos	0.0072	1,440.00	
6	BPEL0036	X-TAL27.6MHz/85423100		200,000.00	Nos	0.1150	23,000.00	
7	BPEL0037	ROHM MCR01MZPJ101-100Q/85423100		400,000.00	Nos	0.0010	400.00	
8	BPEL0035	MCUMHN2/85423100		180,000.00	Nos	2.5932	466,776.00	
9	BPEL0044	TACT SWITCH 010/85423100		400,000.00	Nos	0.1000	40,000.00	

SI No	Part or (Drgn No.)	Item description/ HSN Code	Specification	Quantity	Unit	Net Rate (in USD)	Total Value (in USD)	Delivery Schedule
PO Total Amount (In USD)							537,156.00	

Remarks

E & O.E.

Buyer Contact Detail : Prepare by : **KK PANDEY** Checked by : Pankaj Gupta

Important Terms :



- 1 Bill should be sent only in the name of our company in duplicate..
- 2 Our Purchase Order Number and Date together with your Delivery Note Number and Date should be mentioned in teh invoice to facilitate easy checking and payment.
- 3 In all cases material should be accompanied by the requisite delivery challan.
- 4 Invoice nad monthly statement to be rendered at our office.
- 5 Invoice will be passed for payment only after the material has been inspected at our works and found to be in conformity with ourt required specifications. Replacement covering teh rejects will duly and promptly be made by the supplier.
- 6 With this all our earlier P.O's stands cancelled for the smae item.
- 7 Inspection Report/ Test Certificate is must with each consignment.
- 8 In case of rejection, Supplier is responsible oto collect the rejected material at his own cost.
- 9 The Schedule pertains to this PO or Will expire after that particular month.

For JAY SWITCHES INDIA PRIVATE LIMITED

Authorised Signatory

Case Citation: (2026) ibclaw.in 1994 NCLT

31. The above purchase order explicitly records that at point 9 *the schedule pertains to this PO or will expire after that particular month.* Further, pertinently, this purchase order makes no reference to any interest rate or amount.
32. As against the purchase orders, only the invoice, as extracted below, has been produced for MCU:

① Shipper / Exporter MOTOTECH.CO.LTD. # 68-26, Mannyeon-ro, Jeongnam-Myun, Hwasung-City, Kyunggi-Do, 18523 Korea ZIP : 18523 TEL: 82-31-350-0500 (2222) FAX: 82-31-350-0699 ATTN: Ms. Sujin Park					⑧ No. & Date of invoice MJ0041 29-Apr-24		
					⑨ No. & Date of L/C		
② Consignee JAY SWITCHES INDIA PVT.LTD. Plot no 407 Udyog Vihar Phase 3 Gurugram-122016, Haryana INDIA TEL: 91-8130266366 ATTN: Mr. Jitender					⑩ L/C Issuing bank		
③ Notify Party SAME AS ABOVE					⑪ Remarks * INCO-TERMS : EX WORK Mototech * Terms of payment: 30 days after invoice issues * PO : PO-122001920		
④ Port of loading INCHEON, KOREA			⑤ Final Destination NEW DELHI				
⑥ Carrier DHL			⑦ Sailing on or about 30-Apr-24				
⑫ Marks and numbers of pkg	⑬ Description of Goods				⑭ Quantity	⑮ Reel Price	⑯ Amount
MOTOTECH.CO.LTD	COMPONENTS FOR REMOCON						
	Mototech Part No	Description	Specification	Quantity/1 Reel (Packet)			
	M06-006925	MCUMHN2/85423100	MCU NCF2961MH	6000 PCS	3 Reel	USD 16,180.20	USD 48,540.60
TOTAL					3 Reel(Packet)		USD 48,540.60
				Signed by 			

This invoice also makes no mention of interest payment. Therefore, prima facie it is clear in the present case that there is no written agreement as to payment of interest.

33. Further, in the demand notice dated 27.10.2025 served under section 8, claim has been made for Rs. 1,18,76,780/- (One Crore Eighteen Lakhs Seventy Six Thousand Seven Hundred and Eighty) without any interest. Thereafter, admittedly USD 48,495.60 were paid by the CD to OC on 06.11.2025, because of which alleged dues fell significantly below INR 1 crore. Thereafter, a reply dated 08.11.2025 to the demand notice was made on behalf of the CD to the Applicant. Relevant portion of the reply is extracted hereinafter:

- (i) At the outset, we would like to point out that there are 2 components to your demand notice (a) Delayed Payment for 18,000 pieces of MCU; and (b) Inventory amount for Crystal (AXTAL), Tact Switch and MCU. In relation to the demand notice relating to the delayed payment of 18,000 pieces of MCU, our clients instruct us that the aforesaid amount has been duly paid on 06.11.2025 by way of SWIFT Transfer to your client vide Reference No. 0177NMDC0014726. Therefore, the aforesaid amount has been duly paid by our client.
- (ii) In relation to the inventory amount as provided in Item (b) is concerned, our client's deny the said dues and that it is at any point of time payable by our client. First, it is important to point out that the purchase order dated 12.11.2022 (all the purchase orders annexed by you are the same). The said purchase order specifically provide a term, which is found in 'Important Terms No. 9', which states as under:-

“9. The Schedule pertains to this PO of Will expire after that particular month.”
- (iii) There is no stipulation that your client will maintain any inventory or for that matter any such stock. In view thereof, our client fails to understand the basis on which a demand for any amount can be made. The purchase order specifically provides that the period is valid till the end of the month. In any event of the matter, the PO has long since expired.

34. The reply makes it clear that the CD paid the admitted dues while refusing to pay the remaining amount on the ground that supply for the remaining amount has not been made as not warranted for the reasons that purchase orders lapsed after a specified validity period. Thus, it is clear that there is a contractual dispute between the parties qua a part of payment demanded in the notice under section 8, which remained unpaid.

35. Only because the dues highlighted in the notice under Section 8 fell significantly below INR 1 crore at the time of filing of the application, the Applicant has added an interest component to inflate the claim to meet the threshold of INR 1 crore. Interestingly, there is neither an agreement to support the claim on interest component nor are there purchase orders and invoices that mention any interest.
36. The CD disputes the payment of remaining dues on the premise that the term was that purchase orders were valid only for a limited period, which the CD is under no obligation to purchase from and pay therefor to the Applicant. Thereafter, in the Application, out of total INR 1,10,81,779/-, the principal amount is only INR 76,96,232/- and the rest is interest amount. The interest amount has been added unilaterally, as there is no written agreement for the same.
37. Section 5(21) defines **operational debt** as:

(21) “operational debt” means a claim in respect of the provision of goods or services including employment or a debt in respect of the payment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority;

Further, **section 8** of the code reads as follows:

8. Insolvency resolution by operational creditor. –

(1) An operational creditor may, on the occurrence of a default, deliver a demand notice of unpaid operational debtor copy of an invoice demanding payment of the amount involved in the default to the corporate debtor in such form and manner as may be prescribed.

(2) The corporate debtor shall, within a period of ten days of the receipt of the demand notice or copy of the invoice mentioned in sub-section (1) bring to the notice of the operational creditor –

(a) existence of a dispute, 1[if any, or] record of the pendency of the suit or arbitration proceedings filed before the receipt of such notice or invoice in relation to such dispute;

(b) the payment of unpaid operational debt- (i) by sending an attested copy of the record of electronic transfer of the unpaid amount from the bank account of the corporate debtor; or (ii) by sending an attested copy of record that the operational creditor has encashed a cheque issued by the corporate debtor.

Explanation. – For the purposes of this section, a “demand notice” means a notice served by an operational creditor to the corporate debtor demanding 3[payment] of the operational debt in respect of which the default has occurred.

Initiation date is defined as follows:

5 (11) “initiation date” means the date on which a financial creditor, corporate applicant or operational creditor, as the case may be, makes an application to the Adjudicating Authority for initiating corporate insolvency resolution process or pre-packaged insolvency resolution process, as the case may be;

Further, **section 9** reads as follows:

9. Application for initiation of corporate insolvency resolution process by operational creditor. – (1) After the expiry of the period of ten days from the date of delivery of the notice or invoice demanding payment under sub-section (1) of section 8, if the operational creditor does not receive payment from the corporate debtor or notice of the dispute under subsection (2) of section 8, the operational creditor may file an application before the Adjudicating Authority for initiating a corporate insolvency resolution process.

(2) The application under sub-section (1) shall be filed in such form and manner and accompanied with such fee as may be prescribed.

(3) The operational creditor shall, along with the application furnish- (a) a copy of the invoice demanding payment or demand notice delivered by the operational creditor to the corporate debtor; (b) an affidavit to the effect that there is no notice given by the corporate debtor relating to a dispute of the unpaid operational debt; (c) a copy of the certificate from the financial institutions maintaining accounts of the operational creditor confirming that there is no payment of an unpaid operational debt 1[by the corporate debtor, if available;] 2 [(d) a copy of any record with information utility confirming that there is no payment of an unpaid operational debt by the corporate debtor, if available; and (e) any other proof confirming that there is no payment of an unpaid operational debt by the corporate debtor or such other information, as may be prescribed.]

(4) An operational creditor initiating a corporate insolvency resolution process under this section, may propose a resolution professional to act as an interim resolution professional.

(5) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), by an order- (i) admit the application and communicate such decision to the operational creditor and the corporate debtor if, - (a) the application made under sub-section (2) is complete; (b) there is no 3[payment] of the unpaid operational debt; (c) the invoice or notice for payment to the corporate debtor has been delivered by the operational creditor; (d) no notice of dispute has been received by the operational creditor or there is no record of dispute in the information utility; and (e) there is no disciplinary proceeding pending against any resolution professional proposed under sub-section (4), if any. (ii) reject the application and communicate such

decision to the operational creditor and the corporate debtor, if - (a) the application made under sub-section (2) is incomplete; (b) there has been 1[payment] of the unpaid operational debt; (c) the creditor has not delivered the invoice or notice for payment to the corporate debtor; (d) notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility; or (e) any disciplinary proceeding is pending against any proposed resolution professional: Provided that Adjudicating Authority, shall before rejecting an application under subclause (a) of clause (ii) give a notice to the applicant to rectify the defect in his application within seven days of the date of receipt of such notice from the adjudicating Authority.

(6) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (5) of this section.

38. Furthermore, a reference may be drawn to the judgment of Hon'ble NCLAT in the case of **Mosco International Commodities Pvt. Ltd. v. SBEC Sugar Ltd.**, Company Appeal (AT) (Insolvency) No. 860 of 2024, decided on 25-Feb-26

32. *The NCLT vide Impugned Order dated 02.02.2024 rightly dismissed the claim of the Appellant since the Appellant herein was not justified in claiming interest at the rate of 24% per annum since there is no agreement between the Appellant and the Respondent for payment of interest on delay of refunding of advance money, if any.*

33. *The Interest amount claimed by the Appellant in the Section 9 petition filed before the NCLT, Allahabad does not fall under the term "operational debt" as defined under IBC and the same has also been clarified time and again by various Courts / Tribunals. In this regard, reliance be placed on the following case laws:*

...

51. *Rebutting the contentions of the Appellant, the Respondent brings to our notice that admittedly the statutory notice under Section 8 of the Code was issued by the Appellant herein on 31.05.2022. However, the petition under Section 9 IBC was filed on 20.08.2022 which is the 'initiation date' of the proposed insolvency proceedings. The claim of the Appellant on the 'initiation date' is Rs. 94,88,845/- (Rupees Ninety Four Lakhs Eighty Eight Thousand Eight Hundred Forty Five Only) which is less than the threshold limit of Rs. 1 Crore as defined under Section 4 (1) IBC which is necessary for maintaining a petition under Section 9 of the Code. This fact has been admitted by the Appellant in its petition and has been duly recorded in the Impugned Judgement. We note that under Section 9 of the Code, the Operational Creditor is entitled to file an application for initiation of Corporate Insolvency Resolution Process (CIRP) provided the quantum of default / debt is Rs. 1 Crore or above as is mandated under Section 4 (1) of IBC as also, there is no pre-existing dispute between the Operational Creditor and the Corporate Debtor.*

52. *We also note that the Section 5 (11) of IBC clarifies that the 'initiation date' for initiating Corporate Insolvency Resolution Process is the date when a petition is filed by a Financial Creditor or Operational Creditor or Corporate Applicant under Section 7, 9 and 10.*

53. *Furthermore, we note that the mandatory threshold limit of Rs. 1 Crore as defined under Section 4(1) of IBC necessary for maintaining a petition before the NCLT under Section 7, 9 and 11 of IBC is to be ascertained on the date of filing of the said petition i.e. the 'initiation date' as is defined under Section 5 (11) of IBC and not on the date of sending of the Demand Notice under Section 8 of IBC. We note that the date of sending the Demand Notice under Section 8 IBC is of no relevance as far as ascertaining the threshold limit is concerned, since the scheme of Code clearly establishes that the threshold limit for instituting a petition under Section 9 of IBC on the date of filing of such petition shall be Rs. 1 Crore or above and not the date of sending the Demand Notice under Section 8 of IBC. Furthermore, it is a fact that it is Part II of the IBC (which deals with Insolvency Resolution and Liquidation for Corporate Person) which will only come into operation if the Operational Creditor (Appellant herein) meets the minimum threshold of Rs. 1 Crore after 24.03.2020, meaning thereby, there is no right to initiate Corporate Insolvency Resolution Process after 24.03.2020 when minimum default is*

*admittedly less than Rs. 1 Crore and therefore the petition filed by the Appellant herein was rightly rejected vide Impugned Order. **54. Thus, it is clear from the combined reading of Section 4 (1), Section 5 (11) and Section 9 of IBC that in the event, the Operational Creditor does not meet the minimum threshold of Rs. 1 Crore, as is mandated under Section 4 of the Code on the initiation date as defined under Section 5 (11) of the Code – a petition under Section 9 of IBC cannot be maintained before the NCLT.** That doesn't mean that the Operational Creditor is left remedy less and it is open for Operational Creditor to approach appropriate fora and can agitate its alleged right of recovery under appropriate law.*

39. It is clear from the above judgment that the law is clear that the threshold of INR 1 crore shall be met on the date of initiation, i.e., the date on which an application under Section 9 is filed and not the date of the demand notice. Further, interest component does not amount to operational debt and therefore cannot be added to principal to meet requisite threshold of INR 1 crore in absence of any prior agreement thereon.
40. It is a well-settled law that the proceedings under the Insolvency and Bankruptcy Code, 2016 are meant to initiate a resolution process for defaulting companies and not for the creditors to use the Adjudicating Authority as a recovery forum.
41. Further, *prima facie* there is a contractual dispute between the parties, regarding payment of remaining principal dues, which needs to be decided by the appropriate court of jurisdiction.
42. We do not find any cogent reason to entertain this application, which is liable to be dismissed on the following grounds discussed in the preceding paragraphs:
 - i. *Prima facie* the outstanding principal amount is below INR 1 crore, and therefore, the requisite threshold as per section 4 has not been met in the instant case;

- ii.** There is a cogent pre-existing dispute between the parties, which this adjudicating authority does not have jurisdiction to decide at the stage of admission; and
- iii.** The invoice on record does not support the claim made in the application, and there is a contractual dispute regarding supply of material to be decided by the Court of Law having jurisdiction.

43. **Order**

In view of the above facts and circumstances and the foregoing discussion, we are satisfied that the present petition fails to fulfil the criteria laid down under Section 9 of the Code. It is accordingly, hereby ordered as follows: -

- i.** The Application bearing **CP(IB)-168/2026** filed by the Applicant under Section 9 of the Code r/w Rule 6 of the Adjudicating Authority Rules for initiating CIRP against the Respondent is hereby **dismissed**.
- ii.** The Registry is directed to send a copy of this order to the Insolvency and Bankruptcy Board of India for their record.
No order as to costs.

Sd/-
(ANUPINDER SINGH GREWAL)
PRESIDENT

Sd/-
(RAVINDRA CHATURVEDI)
MEMBER (TECHNICAL)