**NATIONAL COMPANY LAW TRIBUNAL**
**INDORE BENCH**
**COURT NO. 1**

ITEM No.202
**CP(IB)/93(MP)2023**

**Order under Section 9 IBC**

**IN THE MATTER OF:**

Saroj Didwania Proprietor of M/s Creations ........**Applicant**
V/s
Standard Motocorp Pvt Ltd ........**Respondent**

**Coram:**

Hon'ble Shri Brajendra Mani Tripathi, Member (J)
Hon'ble Shri Man Mohan Gupta Member (T)

**PRONOUNCEMENT OF ORDER**
**Delivered on 28/07/2026**

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

Sd/-

**MAN MOHAN GUPTA**
**MEMBER (TECHNICAL)**

Sd/-

**BRAJENDRA MANI TRIPATHI**
**MEMBER (JUDICIAL)**

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# THE NATIONAL COMPANY LAW TRIBUNAL
# BENCH AT INDORE

## Company Petition No. 93 of 2023

*[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]*

**Saroj Didwania Proprieter of M/s Creations**
Registered Office:
1st Floor, 10/1, Above HDFC Bank,
Chitrakoot Stadium, Vaishali Nagar,
Jaipur, Rajasthan-302021 **... Applicant**

Versus

**Standard Motocorp Private Limited**
Registered Office:
Plot 8/1b, Ward 33, Standard Maruti
Napier Town, Jabalpur Hospital Road,
Jabalpur-482002 **... Respondent**

**C O R A M:**
**HON'BLE SH. BRAJENDRA MANI TRIPATHI, MEMBER (J)**
**HON'BLE SH. MAN MOHAN GUPTA, MEMBER (T)**

**Order Pronounced on 28.07.2026**

**Appearance:**
For the Applicant : Mr. Karan Mamgain, Adv a.w.
Mr. Mayank Verma, Adv
For the Respondent : Mr. Praveen N. Surange, Adv

**ORDER**

This Company Petition, CP(IB)/93(MP)/2023, has been filed by Saroj Didwania, Proprietor of M/s Creations (hereinafter referred to as the "Applicant" or "Operational Creditor") under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "Code"), read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, in Form 5, seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against M/s Standard Motocorp Private Limited (hereinafter referred to as the "Respondent" or "Corporate Debtor") for an alleged default in payment of operational debt.

The Applicant claims a total amount in default of Rs. 2,03,88,070/- (Rupees Two Crores Three Lakhs Eighty Eight Thousand Seventy Only), comprising principal outstanding of Rs. 1,96,56,836/- (Rupees One Crore Ninety Six Lakhs Fifty Six Thousand Eight Hundred Thirty Six Only) and interest of Rs. 7,31,234/- (Rupees Seven Lakhs Thirty One Thousand Two Hundred Thirty Four Only) calculated @1.24% per month, with the date of default stated as 15.06.2023, the date of the last invoice being 05.06.2023. The Applicant proposes Mr. Sourabh Malpani as the Interim Resolution Professional.

## A. SUBMISSIONS OF THE APPLICANT/OPERATIONAL CREDITOR

1. The Applicant is the Sole Proprietor of M/s Creations, engaged in the business of civil work including construction, interior, mechanical, electrical, plumbing and fitting works.

2. The Respondent, a private limited company engaged in the business of automobile dealership of "Maruti Suzuki", through its authorized representative(s), approached the Applicant in the year 2021 for carrying out civil work at three different sites/locations, namely, Nexa Workshop, True Value and Nexa Showroom.

3. The Applicant duly carried out and completed the said civil work at all three sites in the manner agreed between the parties, and the work stood completed up to February, 2022, which completion was acknowledged by the Respondent through various communications, including in a common WhatsApp group named "NEXA Standard Shahdol", wherein the representatives of the Respondent admitted that the work was duly and timely completed by the Applicant.

4. Bills of Quantity (BOQs), based on the work carried out, were accepted by the Respondent. It is stated that Mr. Krishna Pandey, the authorized representative of the Respondent, vide email dated 02.05.2022, shared the final BOQs after checking the same on his part, and that various communications record the Respondent's approval of the Final BOQs, evincing that the

Applicant completed the entire work in accordance with the BOQs so approved.

5. The Applicant maintained a running account with the Respondent and issued various invoices for the work carried out and completed, and duly paid GST on such invoices. Despite repeated requests made to Mr. Krishna Pandey, representative of the Respondent, for payment of the outstanding amount, payment was withheld by the Respondent.

6. The last tranche of payment of Rs. 19,80,000/- was received by the Applicant on 11.01.2022, and no payment has been received thereafter despite completion of work and issuance of invoices, some of which remain outstanding and are reflected in the ledger account maintained by the Applicant.

7. The Applicant is stated to be a registered entity under the Micro, Small and Medium Enterprises Development Act, 2006, and claims entitlement to interest at the rate of 1.24% per month on the outstanding amount as per the terms mentioned in the invoices.

8. A Demand Notice in Form 3 dated 04.09.2023 was issued by the Applicant under the provisions of the Code, demanding payment of Rs. 2,03,88,070/- within 10 days, which notice was served upon the Respondent on 11.09.2023. The Respondent replied to the said Demand Notice vide letter dated 21.09.2023. Alleging failure of the Respondent to make payment of the

acknowledged debt, the Applicant has filed the present Petition praying for initiation of CIRP against the Respondent.

## B. SUBMISSIONS OF THE RESPONDENT/CORPORATE DEBTOR

The Respondent, through its Affidavit in Reply dated 08.08.2024 filed by Mr. Krishna Mohan Pandey, Vice President and Authorized Signatory, has denied each and every allegation, averment and submission made by the Applicant that is not specifically admitted, and has raised the following principal contentions:

1. That the present Petition is not maintainable on the ground of a pre-existing dispute relating to the quality and quantity of work/services rendered and the invoices raised without any contractual obligation/agreement, and that such dispute was communicated to the Applicant on several occasions prior to receipt of the demand notice; a comparative list of work as per the initial BOQ has been annexed.

2. That in terms of Section 9(1) of the Code, the Petition is not maintainable since a notice of dispute under sub-section (2) of Section 8 was duly communicated to the Applicant.

3. That the dealership of NEXA Showroom, NEXA Workshop and True-Value was allotted to the Respondent by MSIL, and the Applicant was engaged for civil, construction, interior, electrical and plumbing work at the three sites; that the Applicant itself admits completion only in February 2022, which shows delay on the Applicant's part, since the Applicant vide email dated

08.11.2021 had sought an extension of five weeks (to end around 15.12.2021); that despite several reminders, the Applicant left the premises without any formal hand-over or completion certificate, compelling the Respondent to engage a local contractor to complete the work, resulting in delay of the inauguration of the Workshop and True-Value by more than three months and an alleged opportunity loss of about Rs. 1 crore.

4. That the work executed by the Applicant suffered from several quality discrepancies, namely: (a) water leakage in all three units, damaging false-ceiling and electrical connections, estimated to cost around Rs. 20 lakhs to rectify; (b) defective Trimix flooring not as per specification, which deteriorated in the first rainy season, requiring repair estimated at Rs. 20 lakhs for about 9,000 sq. ft.; (c) black wall tiles of the workshop falling on the road, damaging five parked cars (repair cost of about Rs. 3 lakhs) and requiring replacement with ACP sheets (cost of about Rs. 3 lakhs); (d) cameras and electrical work not as per the agreed BOQ, being of a substandard/local category requiring reinstallation at a cost of about Rs. 1 lakh; (e) faulty installation of AC wiring, fittings and fixtures requiring repair at a cost of about Rs. 5 lakhs; and (f) other points identified by the auditor of the Maruti dealer in its audit report. It is stated that these discrepancies were communicated to the Applicant vide letter dated 20.07.2023 in response to the Applicant's first notice dated 07.07.2023, and photographs of the damage have been annexed.

5. That the averment in the Petition that the BOQ was accepted by the Respondent vide email dated 02.05.2022 is false and misleading, since the said email merely contained the Respondent's own assessment and the final measurement of work done, and the Respondent never accepted the BOQ submitted by the Applicant.

6. That the Respondent has no outstanding dues towards the Applicant, since payments were generally made in advance, as reflected in the ledger annexed by the Respondent (Annexure-05); and that on 11.04.2023 the front wall of the workshop collapsed during business hours, damaging a customer's vehicle, reflecting substandard quality of work performed by the Applicant.

7. That during the currency of work from 2020 till the first notice dated 07.07.2023, the Applicant never raised the invoices which are now attached to the Demand Notice dated 04.09.2023 and to the Petition; that these invoices, all dated 05.06.2023, were received for the first time on 11.09.2023 along with the second notice, and appear to have been fabricated after the Respondent's reply dated 20.07.2023, generated approximately 18 months after the alleged abandonment of site work, with an intent to recover money rather than reflecting any genuine claim; and that the Respondent has relied upon Mobilox Innovations Pvt. Ltd. Vs. Kirusa Software Private Limited, (2018) 1 SCC 353, and M/s Invent Assets Securitisation and Reconstruction Pvt. Ltd. Vs. M/s Girnar Fibres Ltd. in support of the contention that the Code is not intended for recovery of money and that the Adjudicating Authority

must reject an application where a plausible pre-existing dispute is shown to exist.

8. That there being no outstanding amount, the question of interest does not arise, and further, since the invoices are alleged to be false and fabricated, the minimum threshold of default of Rs. 1 crore under Section 4 of the Code is not satisfied; and that the Respondent is a going concern with a good credit rating, having never defaulted towards its customers, vendors, financial institutions or statutory dues, and the Petition, being an attempt at forum shopping and coercive recovery, is liable to be dismissed with exemplary costs.

## C. ADDITIONAL SUBMISSIONS OF THE APPLICANT AS SET OUT IN THE REJOINDER

In the Rejoinder dated 19.10.2024 filed to the Affidavit in Reply, the Applicant, without reiterating the case set out in the Petition, has additionally submitted as follows:

1. That the Respondent has misled the Tribunal by making false statements and suppressing material facts, and has filed a frivolous reply without any substantial ground; that the Respondent has failed to substantiate the existence of any dispute between the parties, and has merely annexed a list of work as per the initial BOQ, which does not satisfy the requirement of a pre-existing dispute.

2. That merely raising a dispute after receipt of the notice under Section 8 of the Code does not preclude the Operational Creditor

from filing a petition under Section 9, since the alleged dispute is neither plausible nor supported by any documentary evidence and is based merely on the whims and fancies of the Respondent.

3. That there was no delay on the part of the Applicant; rather, the Respondent kept delaying payment of undisputed dues despite completion of work as per the mutually agreed terms, as is apparent from the WhatsApp communication annexed with the Petition (Annexure-3, pages 20-21), wherein it is recorded, in relation to the showroom activated in July 2021, that "Time bound goods work Kunal ji and Standard Team", and from a WhatsApp chat of the Vice President and Authorized Signatory of the Respondent (who has also signed the Reply) acknowledging that another site had been duly activated on 06.02.2022 (page 22); that all such work was duly inspected by the Respondent, and it was never agreed that the Applicant would be liable for any future damage or loss.

4. That the email dated 08.11.2021, heavily relied upon by the Respondent, itself demonstrates that the Applicant had carried out and completed the work as per its scope; and reliance has been placed on Raghuvir Buildcon Private Limited Vs. Ketan Construction Limited, [2020] ibclaw.in 79 NCLT (NCLT, Ahmedabad Bench), for the proposition that routine correspondence in a commercial relationship cannot automatically or necessarily be treated as a dispute unless the differences are ascertained into a claim on which the parties have opposing views and seek to settle the same through a legal process or otherwise.

5. That the allegation that the Applicant abandoned the work is a misstatement, the Respondent having failed to show how and when such abandonment occurred; and that a WhatsApp communication dated 01.07.2021 from Mr. Deepak Arora, a Director of the Respondent (Annexure-3, page 21 of the Petition), specifically appreciated the work done by the Applicant, establishing that the Applicant never left the work and that the same was duly completed as per the mutually agreed terms.

6. That the discrepancies alleged in paragraphs 7(a) to 7(f) of the Reply were never intimated to the Applicant until receipt of its legal notice, and are unsupported by any conclusive documents or calculations, being based on presumption, assumption, and the whims and fancies of the Respondent; and that, specifically with regard to the falling of the black wall tiles, an email dated 15.04.2023 received from the representative of Kajaria Tiles (Annexure RA/1) records that the tiles fell due to "thermal shock" on account of the wall being south-facing, and that there was no defect in the tiles themselves.

7. That the email dated 02.05.2022 relied upon by the Respondent itself proves that the Respondent shared the final measurement and requested revised payment details as per the approved BOQ and measurements, making it clear that the Respondent had no objection to the BOQ or measurements for all three sites and was in fact inclined to make payment, before it defaulted in making payment of the operational debt in entirety.

8. That the ledger annexed by the Respondent (Annexure-05 to the Reply) is false and fabricated and unsupported by any conclusive evidence for its entries, whereas the ledger annexed with the Petition (Annexure A-10) is supported by invoices, e-way bills, GST returns and bank statements, and establishes that a principal amount of Rs. 1,96,56,836/- remains payable by the Respondent.

9. That as per the settled position in law, the only matters to be examined by the Adjudicating Authority are the existence of default and the absence of a notice of dispute prior to the demand notice, and a corporate debtor being a going concern cannot avoid payment of an undisputed operational debt on that ground alone.

10. That, crucially, on 23.11.2022, Mr. Krishna Pandey, Vice President and Authorized Representative of the Respondent, in a telephonic conversation with Mr. Kunal Didwania, Authorized Representative of the Applicant, expressly confirmed and acknowledged that there was no delay or lacuna in the work on the part of the Applicant and that the delay in payment was attributable to the Respondent, and gave an assurance that payment would be released on priority. A copy of the said recorded conversation, along with a certificate under Section 63(4) of the Bhartiya Sakshya Adhiniyam, 2023 and a transcript thereof, has been filed as Annexure RA/2, and is relied upon as crucial and relevant evidence that the operational debt is undisputed and that the Respondent is liable to make payment thereof.

## D. ANALYSIS AND FINDINGS

1. We have heard the Learned Counsel for the Applicant and perused the Petition, the Affidavit in Reply filed by the Respondent, the Rejoinder filed by the Applicant, and the documents annexed thereto.

2. At the outset, it is not in dispute that the Applicant qualifies as an "Operational Creditor" and the Respondent as a "Corporate Debtor" within the meaning of the Code, that the claimed default exceeds the minimum threshold of Rs. 1 crore prescribed under Section 4 of the Code, and that a Demand Notice in Form 3 dated 04.09.2023 was issued and served upon the Respondent, to which the Respondent replied vide letter dated 21.09.2023. The Petition is otherwise complete in the manner contemplated under Section 9 of the Code.

3. The limited question that falls for consideration is whether, prior to the receipt of the Demand Notice, there existed a genuine, plausible pre-existing dispute between the parties within the meaning of Section 8(2) read with Section 9(5)(ii)(d) of the Code, such as would warrant rejection of the present Petition.

4. The law on this point is well settled. In Mobilox Innovations Pvt. Ltd. Vs. Kirusa Software Pvt. Ltd., (2018) 1 SCC 353, the Hon'ble Supreme Court held that the Adjudicating Authority, at the stage of Section 9, is only required to examine whether a plausible contention exists which requires further investigation, and that a spurious defence which is mere bluster must be rejected; the

Adjudicating Authority does not examine the merits of the dispute except to the extent of ascertaining whether it truly exists in fact and is not spurious, hypothetical or illusory.

5. Tested on this touchstone, the Respondent's plea of a pre-existing dispute does not, in the opinion of this Tribunal, satisfy the requirement of a genuine and plausible dispute, for the following reasons:

a) The alleged discrepancies in quality and quantity of work (water leakage, Trimix flooring, black wall tiles, cameras/electrical work, AC installation, and audit observations) are stated by the Respondent itself to have been communicated to the Applicant for the first time vide letter dated 20.07.2023, i.e., after the Applicant's first notice dated 07.07.2023 issued under the MSMED Act, 2006, and admittedly after completion of work in February 2022 and after the last recorded payment on 11.01.2022. No contemporaneous complaint, correspondence, inspection report, or third-party assessment recording these defects at or near the time of completion of work has been placed on record by the Respondent.

b) As regards the specific instance of the black wall tiles, the material placed on record by the Applicant — the email dated 15.04.2023 from the representative of the tile manufacturer, Kajaria Tiles — indicates that the falling of tiles was attributed to "thermal shock" on account of the orientation of the wall, and not to any defect in workmanship, which considerably weakens the plausibility of this particular limb of the Respondent's defence.

c) The Respondent's own email dated 02.05.2022, on which strong reliance has been placed by both sides, on a plain reading, records the Respondent's final measurement of the work executed and a request for revised payment details as per the approved BOQ; it does not, on its face, record any repudiation of the Applicant's work or any objection to its quality, and is, if anything, more consistent with the Respondent's acceptance of the measurements than with the existence of a dispute.

d) The WhatsApp communications relied upon by the Applicant, including the message dated 01.07.2021 attributed to a Director of the Respondent appreciating the work done, and the record of activation of the sites on 06.02.2022, are contemporaneous business communications that, on the material presently on record, do not disclose any objection to the quality or quantity of work at the relevant time.

e) Of particular significance is the recorded telephonic conversation dated 23.11.2022 between the Vice President and Authorized Representative of the Respondent and the Authorized Representative of the Applicant, a certified transcript whereof (supported by an affidavit under Section 63(4) of the Bhartiya Sakshya Adhiniyam, 2023) has been placed on record as Annexure RA/2 to the Rejoinder. In the said conversation, the Respondent's own representative is recorded as stating, in terms, that there was no shortcoming on the part of the Applicant ("Aapke andar koi kami nahi hai") and that whatever delay had occurred was attributable to the Respondent ("Jo delay ho raha hai vo hamare karan ho raha hai"), coupled with an assurance to release payment on priority. This statement, made by a person who has also affirmed the Respondent's Affidavit in Reply, was made more than seven months prior to the Respondent's first written assertion of any quality-related dispute (20.07.2023), and is, prima facie, an admission running directly counter to the defence of pre-existing dispute now sought to be raised.

f) The chronology relied upon by the Respondent itself — namely, that the invoices reflecting the outstanding amount, all dated 05.06.2023, were not raised or referred to at any point during the currency of the work between 2020 and the Applicant's first notice dated 07.07.2023 — does not, without more, establish that the underlying operational debt is fictitious or fabricated; the existence of a running account, coupled with the ledger, invoices, e-way bills, GST returns and bank statements annexed to the Petition (Annexure A-6, A-7, A-9 and A-10), constitutes documentary material in support of the debt claimed, which the Respondent's bare denial and an uncorroborated ledger (Annexure-05 to the Reply) do not, at this stage, plausibly displace.

6. Having regard to the above, this Tribunal is of the considered view that the dispute now sought to be raised by the Respondent is an afterthought, raised for the first time after receipt of the Applicant's notice(s), unsupported by any contemporaneous documentary material, and stands squarely contradicted by the Respondent's own recorded admission dated 23.11.2022. The defence, therefore, does not meet the threshold of a genuine, plausible pre-existing dispute as explained in Mobilox Innovations (supra), and is not of a nature that would justify rejection of the Petition under Section 9(5)(2)(d) of the Code. The judgment in M/s Invent Assets Securitisation and Reconstruction Pvt. Ltd. Vs. M/s Girnar Fibres Ltd., relied upon by the Respondent, does not assist the Respondent on the facts of the present case, since the record does not indicate that the present proceedings have been resorted to as a substitute for a money recovery suit in the absence of an undisputed operational debt; rather, the material on record, including the Respondent's own admission, supports the existence of an undisputed default.

7. This Tribunal further finds that the Petition, being complete in all respects, discloses the existence of an operational debt exceeding the threshold prescribed under Section 4 of the Code, and a default in payment thereof, and that no notice of dispute in relation to such debt, meeting the standard laid down in Mobilox Innovations (supra), was in existence prior to the issuance of the Demand Notice dated 04.09.2023. The proposed Interim Resolution Professional, Mr. Sourabh Malpani, has furnished his

written consent in Form 2 along with a valid Authorisation for Assignment, and no disciplinary proceeding is stated to be pending against him.

**ORDER**

In view of the foregoing discussion and findings, this Company Petition, CP(IB)/93(MP)/2023, filed under Section 9 of the Insolvency and Bankruptcy Code, 2016, by Saroj Didwania, Proprietor of M/s Creations, Operational Creditor, against M/s Standard Motocorp Private Limited, Corporate Debtor, is admitted, and the following orders are passed:

i. The Corporate Insolvency Resolution Process (CIRP) is hereby initiated against M/s Standard Motocorp Private Limited (CIN: U50300MP2020PTC051117).

ii. Mr. Sourabh Malpani (Registration No. IBBI/IPA-001/IP-P01265/2018-2019/12047) is appointed as the Interim Resolution Professional to carry out the functions as per the Code, subject to his furnishing an updated written consent in Form 2 and a valid Authorisation for Assignment, if not already on record, within three days of this Order.

iii. A moratorium under Section 14 of the Code shall come into effect prohibiting: (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 n to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property, including any action under the SARFAESI 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 Corporate Debtor.

iv. The supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated, suspended or interrupted during the moratorium period, as provided under Section 14(2) of the Code.

v. The order of moratorium shall have effect from the date of this Order until the completion of the Corporate Insolvency Resolution Process, or, as the case may be, the date on which this Tribunal approves the resolution plan under Section 31(1) of the Code or passes an order for liquidation of the Corporate Debtor under Section 33, as applicable.

vi. The Interim Resolution Professional shall cause a public announcement to be made within three days of his appointment, as provided under Section 13 read with Section 15 of the Code and the applicable Regulations, calling for submission of claims, and shall perform all other duties and functions as prescribed under the Code and the Regulations made thereunder.

vii. The management of the affairs of the Corporate Debtor shall stand vested in the Interim Resolution Professional, and the officers and managers of the Corporate Debtor shall report to and provide access to documents and records of the Corporate Debtor to the Interim Resolution Professional, as provided under Section 17 of the Code.

viii. The Registry is directed to communicate a copy of this Order to the Applicant, the Respondent, and the Interim Resolution Professional forthwith, and also to the Registrar of Companies, Gwalior, and the Insolvency and Bankruptcy Board of India, for their records and necessary action.

Sd/-

**MAN MOHAN GUPTA**
**(MEMBER TECHNICAL)**

Sd/-

**BRAJENDRA MANI TRIPATHI**
**(MEMBER JUDICIAL)**

*Vanshika-LRA*