NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.201

TP(IBC)/1(MP)2024 [CP 11 of 2015]

Proceedings under Section 9 IBC

IN THE MATTER OF:

Universal Polychem (India) Pvt Ltd **........Applicant**
V/s
Krishna Electrical Industries 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/- Sd/-

MAN MOHAN GUPTA
MEMBER (TECHNICAL)

BRAJENDRA MANI TRIPATHI
MEMBER (JUDICIAL)

Tomar

THE NATIONAL COMPANY LAW TRIBUNAL
BENCH AT INDORE

Transfer Petition No. 01 of 2024

[Company Petition No. 11 of 2015]

[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]

Universal Polychem (India) Private Limited
Registered Office:
H-1234, DSIDC Industrial Area,
Narela, Delhi – 110040 **... Applicant**

Versus

Krishna Electrical Industries Limited
Registered Office:
MPI House, Maharajpura Airport Road,
Gola ka Mandir, Gwalior
Madhya Pradesh - 474005 **... 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

1. This Transfer Petition has been filed by Universal Polychem (India) Private Limited ("Operational Creditor"), seeking to initiate Corporate Insolvency Resolution Process (CIRP) against Krishna Electrical Industries Limited ("Corporate Debtor") under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("IBC"/"the Code") read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for having committed default in payment of outstanding dues amounting to Rs. 1,87,90,993/-. The date of default is stated to be 14.08.2014.

2. The present proceedings originate from Company Petition No. 11 of 2015, a winding-up petition filed by the Operational Creditor before the Hon'ble High Court of Madhya Pradesh, Gwalior Bench, on the ground of the Corporate Debtor's inability to pay its debts. The said petition was transferred to this Tribunal vide order dated 28.05.2024, passed by the Hon'ble High Court in terms of the Companies (Transfer of Pending Proceedings) Rules, 2016, keeping all questions of law open, and was accordingly registered as the present Transfer Petition.

3. On perusal of the record, the Operational Creditor is Universal Polychem (India) Private Limited, a private limited company having its registered office at H-1234, DSIC Industrial Area, Narela, Delhi - 110040, and is an unpaid seller of PVC compounds to the Corporate Debtor.

4. On perusal of the record, the Corporate Debtor is Krishna Electrical Industries Limited, having its registered office at MPI House, Maharajpura Airport Road, Gola ka Mandir, Gwalior (M.P) – 474005 to which the Operational Creditor supplied PVC compounds since the year 2010.

5. The Operational Creditor has proposed the name of Bishwa Ranjan Chatterjee, Reg. No. IBBI/IPA/002/IP-N00877/2019-2020/12806, email Id: brcind@gmail.com, to act as Interim Resolution Professional (IRP), in terms of Section 9(3)(g) of the Code, along with the requisite written communication in Form-2. The AFA of the proposed IRP is valid till 31 December 2026.

6. The total operational debt claimed by the Operational Creditor, exclusive of interest, is Rs. 1,87,90,993/-. The date of default is stated to be 14.08.2014.

7. It is stated that the Operational Creditor commenced supply of various PVC compounds to the Corporate Debtor in the year 2010. There was no written agreement between the parties; the transactions were evidenced by (i) invoices raised by the Operational Creditor, (ii) a running ledger maintained on a first-in-first-out (FIFO) basis, (iii) transport receipts duly stamped and signed by the Corporate Debtor acknowledging receipt of the goods, and (iv) Form "C" declarations issued by the Corporate Debtor under the Central Sales Tax Act confirming receipt of the particularised supplies. The factum of supply has not been disputed by the Corporate Debtor at any stage of these proceedings.

8. The invoice-wise break-up of the principal amount claimed, each invoice being duly supported by a transport receipt bearing the stamp and signature of the Corporate Debtor acknowledging receipt of goods, is tabulated below:

Sr. No.	Invoice No.	Invoice Date	Due Date	Amount Outstanding (Rs.)
1	399/2012-13	10.02.2013	11.05.2013	2,29,533/-
2	582/2012-13	01.03.2013	30.05.2013	10,19,487/-
3	435/2012-13	05.03.2013	03.06.2013	4,58,429/-
4	1/2013-14	01.04.2013	30.06.2013	7,25,464/-
5	11/2013-14	08.04.2013	07.07.2013	8,26,317/-
6	25/2013-14	21.04.2013	20.07.2013	7,15,150/-
7	34/2013-14	23.04.2013	21.07.2013	6,73,432/-
8	58/2013-14	07.05.2013	05.08.2013	8,76,745/-
9	65/2013-14	12.05.2013	10.08.2013	6,99,104/-
10	127/2013-14	18.06.2013	16.09.2013	5,40,946/-
11	157/2013-14	30.06.2013	28.09.2013	4,58,017/-
12	5/2013-14	31.07.2013	29.10.2013	6,87,643/-
13	214/2013-14	02.08.2013	31.10.2013	8,26,317/-
14	220/2013-14	08.08.2013	06.11.2013	8,25,172/-
15	235/2013-14	22.08.2013	20.11.2013	4,67,598/-
16	259/2013-14	04.09.2013	03.12.2013	8,91,920/-
17	39/U-III	16.09.2013	15.12.2013	8,12,336/-
18	292/2013-14	27.09.2013	26.12.2013	8,00,416/-
19	304/2013-14	05.10.2013	03.01.2014	7,36,695/-
20	UPIPL/2013-14/03	22.11.2013	20.02.2014	1,67,200/-
21	107/2013-14	05.12.2013	05.03.2014	7,92,990/-
22	118/2013-14	22.12.2013	22.03.2014	8,39,200/-
23	135/2013-14	07.01.2014	07.04.2014	5,60,658/-
24	313/2013-14	30.01.2014	30.04.2014	9,24,650/-
25	166/2013-14	13.02.2014	14.05.2014	5,10,507/-
26	337/2013-14	19.02.2014	20.05.2014	1,32,027/-
27	107/2014-15	09.06.2014	07.09.2014	5,24,901/-
28	82/2014-15	13.07.2014	11.10.2014	7,24,317/-
29	189/2014-15	31.07.2014	29.10.2014	3,43,822/-
			TOTAL	**1,87,90,993/-**

The aggregate of the aforesaid invoices, every one of which is duly acknowledged by the Corporate Debtor through stamp and signature on the corresponding transport receipt confirming actual receipt of the goods, tallies precisely with the principal outstanding debt of Rs. 1,87,90,993/- claimed by the Operational Creditor. The invoice-wise ledger, thus read with the acknowledged transport receipts, conclusively establishes both the factum of supply and the quantum of debt.

The last supply of goods was made by the Operational Creditor on 31.07.2014, and the last payment was received from the Corporate Debtor on 14.08.2014. As on the said date, applying the FIFO method to appropriate payments against invoices raised between 10.02.2013 and 31.07.2014, a sum of Rs. 1,87,90,993/- remained outstanding. The date of default is accordingly 14.08.2014.

9. Consequently, since the Corporate Debtor did not make payment of the outstanding debt, the Operational Creditor issued a statutory Demand Notice dated 14.07.2015 under Section 434 of the Companies Act, 1956, calling upon the Corporate Debtor to discharge the outstanding amount together with interest at 18% per annum as stipulated in the invoices. The said notice was duly served upon the Corporate Debtor at its registered office on 17.07.2015.

10. It is stated that the Corporate Debtor did not reply to the said Demand Notice, nor raised any dispute in response thereto.

On 15.12.2015, the Operational Creditor filed the Winding Up Petition, being Company Petition No. 11 of 2015, before the Hon'ble High Court of Madhya Pradesh, Gwalior Bench.

12. The Operational Creditor has relied upon the following documents:

   i. Invoice-wise ledger account maintained between the parties on FIFO basis, as tabulated in paragraph 7A above.

   ii. Copies of unpaid invoices and duly stamped and signed transport receipts evidencing receipt of goods by the Corporate Debtor.

   iii. Form "C" declarations filed by the Corporate Debtor under the Central Sales Tax Act.

   iv. Copy of the statutory Demand Notice dated 14.07.2015 under Section 434 of the Companies Act, 1956, along with proof of service.

   v. Record of Default dated 01.08.2025 issued by the National E-Governance Services Limited (NeSL).

   vi. Documents placed on record pursuant to I.A. No. 360 of 2025, referred to in paragraph 12A below.

13. It is further noted that the Operational Creditor filed I.A. No. 360 of 2025 under Rule 11 of the NCLT Rules, 2016, seeking permission to place on record certain additional documents, namely (i) the Record of Financial Information (Form-C) filed before NeSL dated 18.03.2025 and updated on 09.06.2025, (ii) the Record of Default (Form-D) dated 01.08.2025 issued by NeSL, and (iii) orders dated 25.07.2023 and 10.01.2024 passed by the Hon'ble

High Court of Madhya Pradesh at Gwalior in CP No. 11/2015, wherein the Directors of the Corporate Debtor had acknowledged the dues of the Operational Creditor and sought time to settle the same upon resolution of inter se disputes among themselves. The said application was allowed and disposed of with the observation that the evidentiary value and relevance of the documents will be examined and appreciated at the time of disposal of the main petition.

<u>Submissions/Defence of the Respondent/Corporate Debtor:</u>

1. The Corporate Debtor has not filed any formal reply to the present Petition. By order dated 30.06.2025, this Tribunal closed the Corporate Debtor's right to file a reply, and the Corporate Debtor's subsequent application seeking restoration of the said right was also closed vide order dated 08.07.2025. The submissions of the Corporate Debtor are therefore confined to what has emerged from IA No. 3941/2019 and its oral arguments/written submissions on record.

2. The Corporate Debtor filed IA No. 3941/2019 in CP No. 11/2015 seeking dismissal of the Company Petition, raising a purported dispute as to the quality of the goods supplied by the Operational Creditor. No particulars, correspondence, testing reports, or other supporting material were placed on record by the Corporate Debtor in respect of the said plea, either at that stage or subsequently.

3. The Corporate Debtor has further contended that the present Petition is liable to be dismissed on the ground that: (i) the Operational Creditor filed Miscellaneous Civil Case No. 318/2017 before the Hon'ble High Court of Madhya Pradesh, Gwalior Bench;

and (ii) the Operational Creditor lodged an FIR dated 06.06.2018 against the Corporate Debtor's director, both of which, according to the Corporate Debtor, evidence a pre-existing dispute between the parties.

4. It is also on record that, during the course of arguments before the Hon'ble High Court in 2023-2024, the Corporate Debtor represented that its promoters were engaged in inter se settlement talks, upon resolution of which the dues of the Operational Creditor would also be settled, and sought that the Company Petition be kept in abeyance.

<u>Observation and Analysis:</u>

1. We have heard the Counsel for the Operational Creditor and perused the documents on record, including the pleadings and annexures forming part of the transferred proceedings.

2. The following issues emerge for consideration:

   <u>First Issue:</u> Whether the debt claimed by the Operational Creditor is duly established through the invoices and acknowledged receipts on record, and whether the same, together with the applicable rate of interest, satisfies the minimum threshold of Rs. 1,00,00,000/- prescribed under Section 4 of the Code.

   <u>Second Issue:</u> Whether a valid demand notice was issued and served upon the Corporate Debtor prior to institution of the present proceedings.

   <u>Third Issue:</u> Whether there exists any genuine pre-existing dispute between the parties.

First Issue: Rate of Interest and Threshold Limit

i. The debt of Rs. 1,87,90,993/- claimed by the Operational Creditor stands clearly established on the strength of the invoice-wise ledger tabulated in paragraph 7A above. Each of the said invoices is supported by a transport receipt duly stamped and signed by the Corporate Debtor acknowledging actual receipt of the goods, and is further corroborated by the Form "C" declarations issued by the Corporate Debtor and the Record of Default dated 01.08.2025 issued by NeSL. The Corporate Debtor has, at no stage, disputed the genuineness of these invoices, the receipt of goods thereunder, or the correctness of the running ledger, and has failed to place any material on record to rebut the same. The existence of the debt, in our view, is thus not a matter of inference but stands demonstrated directly from the documents on record.

ii. The rate of interest at 18% per annum stands stipulated in the invoices raised by the Operational Creditor, and the said rate finds specific mention in the statutory Demand Notice dated 14.07.2015 calling upon the Corporate Debtor to pay the outstanding amount together with interest at the said rate. The Corporate Debtor did not, at any point prior to institution of these proceedings, raise any objection or dispute to the said rate of interest stipulated in the invoices.

iii. We find it unnecessary to enter into a detailed determination of the precise quantum of interest or the total claim, since the principal outstanding debt itself, exclusive of interest and duly substantiated by the invoices referred to above, stands at Rs. 1,87,90,993/-, which is well above the statutory threshold of Rs. 1,00,00,000/- prescribed under Section 4 of the Code.

iv. The requirement of minimum default under the Code stands satisfied on the principal amount alone, which stands independently proved by the invoices duly acknowledged by the Corporate Debtor. The First Issue is accordingly answered in favour of the Operational Creditor, without this Tribunal going into the quantum of interest claimed.

Second Issue: Demand Notice

i. It is an admitted and uncontroverted position on record that the Operational Creditor issued a statutory Demand Notice dated 14.07.2015 under Section 434 of the Companies Act, 1956, calling upon the Corporate Debtor to discharge the outstanding dues together with interest. The said notice was duly served upon the Corporate Debtor at its registered office on 17.07.2015, and the Corporate Debtor has, at no stage, disputed either the issuance or the receipt of the said notice.

ii. The present proceedings, being a Transfer Petition arising out of a winding-up petition instituted prior to the enforcement of the Code, did not require the issuance of a fresh demand notice under Section 8 of the Code. The Full Bench of the Hon'ble NCLAT, in Rajeev Srivastava v. Ahluwalia Contracts (India) Ltd., 2023 SCC OnLine NCLAT 765 (Para 12), has held that a statutory notice under Section 434(1)(a) of the Companies Act, 1956, is pari materia to a demand notice under Section 8 of the Code, and that upon transfer of a winding-up petition to the Adjudicating Authority, no fresh notice under Section 8 is necessary or mandatory. We are in respectful agreement with the said view.

iii. Accordingly, we hold that the Demand Notice dated 14.07.2015, duly served on 17.07.2015, satisfies the requirement of a demand notice preceding the present proceedings. The Second Issue is answered in favour of the Operational Creditor.

Third Issue: Pre-Existing Dispute

i. It is a settled position of law that a genuine pre-existing dispute bars initiation of Corporate Insolvency Resolution Process. The Operational Creditor has placed on record the ledger, invoices, transport receipts and Form "C" declarations referred to hereinabove, establishing the debt and default. The date of default stands established as 14.08.2014, being the date of the last payment, computed with reference to the last invoice dated 31.07.2014.

ii. It is significant that the Operational Creditor instituted the Winding Up Petition before the Hon'ble High Court of Madhya Pradesh as far back as 15.12.2015, which came to be transferred to this Tribunal only vide order dated 28.05.2024, and has since been prosecuted continuously, without any intervening abandonment.

iii. On the question of pre-existing dispute, we have examined the pleadings relied upon by the Corporate Debtor, namely, Miscellaneous Civil Case No. 318/2017 and the FIR dated 06.06.2018. Miscellaneous Civil Case No. 318/2017, instituted after the Demand Notice dated 14.07.2015, was in the nature of a recovery proceeding consequent to the pendency of the winding-up petition; the filing of a recovery proceeding subsequent to the statutory demand notice does not, by itself, bar admission of the Corporate Debtor into CIRP. Further, the said proceeding had no existence independent of Company Petition No. 11/2015 (transferred as the present Transfer Petition) and stood disposed of in terms of the order dated 28.05.2024 passed in CP No. 11/2015. No ground pertaining to the quality, quantity, or manner of supply of goods was in any event raised therein so as to substantiate a valid pre-existing dispute.

iv. Similarly, the FIR dated 06.06.2018, apart from being an independent criminal proceeding with a distinct cause of action, was lodged nearly three years after the Demand Notice dated 14.07.2015, and cannot be treated as evidence of a dispute pre-existing the said notice.

v. It is well settled that for a dispute to qualify as a pre-existing dispute within the meaning of the Code, it must be a real and substantial dispute on facts or law, and not spurious, hypothetical, illusory, or a moonshine defence raised only to defeat the claim of the Operational Creditor. The Hon'ble Supreme Court, in Mobilox Innovations Pvt. Ltd. v. Kirusa

Software Pvt. Ltd., (2018) 1 SCC 353, has held that while the Adjudicating Authority is not required to examine the merits of the dispute, it must be satisfied that a real dispute exists between the parties, and not one that is a patched-up or feeble defence without any evidence to back it.

vi. Tested on this touchstone, we find that the sole plea of quality defects raised by the Corporate Debtor for the first time in IA No. 3941/2019, filed as late as 20.09.2019 — four years after the Demand Notice — is wholly unsubstantiated, bereft of particulars, and unsupported by any correspondence, testing report, rejection memo, or other contemporaneous material. Such a bald and unparticularised plea does not meet the threshold of a genuine pre-existing dispute.

vii. We accordingly hold that no dispute, much less a pre-existing dispute, existed between the parties prior to the Demand Notice dated 14.07.2015. The Third Issue is answered against the Corporate Debtor and in favour of the Operational Creditor.

3. In view of the foregoing discussion, we are satisfied that: (i) a valid Demand Notice dated 14.07.2015 was duly served upon the Corporate Debtor on 17.07.2015; (ii) the debt, exclusive of interest, is Rs. 1,87,90,993/-, being an operational debt exceeding the statutory threshold of Rs. 1,00,00,000/-; and (iii) no genuine pre-existing dispute existed between the parties prior to the Demand Notice. All the ingredients of Section 9 of the Code stand satisfied, and the Corporate Debtor has committed default in payment of the operational debt.

ORDER

In view of the above observation and analysis, we are satisfied that the present Transfer Petition, treated as an application under Section 9 of the Code, fulfils the requirements laid down under the Code. It is accordingly ordered as follows:

i. The Transfer Petition bearing TP (IBC)/1 (MP) 2024 (CP No. 11/2015), filed by the Operational Creditor under Section 9 of the Code r/w Rule 6 of the Adjudicating Authority Rules for initiating CIRP against the Corporate Debtor, is admitted.

ii. Corporate Insolvency Resolution Process is hereby initiated against the Corporate Debtor, Krishna Electrical Industries Limited.

iii. Moratorium is declared under Section 14 of the Code, prohibiting: (a) 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 any assets or any legal right or beneficial interest therein by the Corporate Debtor; (c) any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property; 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, save as provided under the Code.

v. The moratorium shall have effect from the date of this order till completion of the Corporate Insolvency Resolution Process, subject to the provisions of the Code.

vi. Bishwa Ranjan Chatterjee, Reg. No. IBBI/IPA-002/IP-N00877/2019-2020/12806, is appointed as the Interim Resolution Professional, subject to filing of the requisite consent in Form-2 and disclosure under the applicable Regulations, to carry out the functions under Sections 15, 17, 18, 20 and 21 of the Code. The IRP shall make a public announcement in terms of Section 13 read with Section 15 of the Code within three days of receipt of this order.

vii. The Operational Creditor is directed to deposit a sum of Rs. 1,00,000/- (Rupees One Lakh only) with the Interim Resolution Professional to meet immediate expenses, subject to adjustment and recovery from the Committee of Creditors, in terms of the Code and the Regulations framed thereunder.

viii. The Registry is directed to communicate this order to the Operational Creditor, the Corporate Debtor, and the Interim Resolution Professional, forthwith, and to send a copy of this order to the Insolvency and Bankruptcy Board of India for its record.

Sd/-

MAN MOHAN GUPTA
(MEMBER TECHNICAL)

Sd/-

BRAJENDRA MANI TRIPATHI
(MEMBER JUDICIAL)

Vanshika-LRA