THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-I), CHANDIGARH

CP(IBC) No. 43/Chd/Hry/2025

(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. Ervika Global Private Limited.

MEMO OF PARTIES:

KNITSCRAFT TEXTILE LLP
544-H Pace City - 2,
Sector-37, Gurgaon, Haryana - 122001
Email: girish@knitscraft.com.

… Petitioner/Operational Creditor

Versus

ERVIKA GLOBAL PRIVATE LIMITED
(Through the Director, Mr. Sarvesh Kumar)
C 039 Bamnikhera Road,
Levidia Aangan Green Society, Faridabad,
Village Deeghot Palwal, Haryana, India, 121107
Email: sarvesh38@gmail.com.

... Respondent/Corporate Debtor

Order delivered on: 19.08.2026

Coram: SH.VINAY GOEL, HON'BLE MEMBER (JUDICIAL)

SH. SHISHIR AGARWAL, HON'BLE MEMBER (TECHNICAL)

Appearances:

For the Applicant/RP : Mr. Prateek Kumar, Advocate

For the Respondent : Mr. Rachit Ranjan, Advocate

O R D E R

Per Coram

1. This Petition has been filed under Section 9 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as 'Code') by M/s. Knitscraft Textile LLP. (hereinafter referred to as the 'Operational Creditor'/'Petitioner') for initiation of Corporate Insolvency Resolution Process against M/s. Ervika Global Private Limited. (hereinafter referred to as the 'Corporate Debtor'/'Respondent') on account of the alleged default in repayment of an Operational Debt comprising a principal amount of Rs. 1,65,47,709/- (Rupees One Crore Sixty-Five Lakh Forty-Seven Thousand Seven Hundred and Nine only) together with interest accrued up to 07.11.2024 in terms of the contract towards the supply of various types of garments pursuant to the purchase orders placed by the Corporate Debtor.

2. **The Brief Facts of the case are as follows:**

   a) The Operational Creditor, M/s. Knitscraft Textile LLP., is engaged in the business of manufacturing and trading of Garments. The case of the Operational Creditor is that the Corporate Debtor approached it during the year 2023 for the supply of garments/clothes to Myntra Jabong Private Limited/Flipkart pursuant to purchase orders issued by the Corporate Debtor. It is submitted that the Operational Creditor supplied the goods in terms of the purchase orders to the satisfaction of the Corporate Debtor and raised tax invoices for the supplies made.

b) According to the Operational Creditor, the parties maintained a running account, and the Corporate Debtor made part payments from time to time. However, no payment was received after 13.06.2024, leaving an outstanding principal amount of Rs. 1,65,47,709/- (Rupees One Crore Sixty-Five Lakh Forty-Seven Thousand Seven Hundred and Nine only), together with contractual interest. It is further submitted that the Corporate Debtor had issued cheques from time to time towards the outstanding dues and subsequently executed a Memorandum of Understanding dated 24.09.2024 acknowledging an outstanding amount of Rs. 1,07,15,312/-, subject to reconciliation of accounts. According to the Operational Creditor, the Corporate Debtor failed to comply with the terms of the said Memorandum of Understanding and did not make any further payment.

c) The Operational Creditor has further submitted that despite repeated requests and follow-ups through emails, telephone calls, messages, WhatsApp communications and personal visits, the Corporate Debtor failed to liquidate the outstanding dues. It is also contended that no dispute regarding the quality of the goods supplied or their delivery was ever raised by the Corporate Debtor. The Operational Creditor has relied upon the ledger account, invoices, purchase orders, copies of the cheques issued by the Corporate Debtor, and other communications in support of its claim.

d) It is further submitted that, upon the Corporate Debtor's failure to clear the outstanding operational debt, the Operational Creditor issued a demand notice dated 07.11.2024 in Form 3 under Section 8 of the Code. The Corporate Debtor replied to the said demand notice by email dated 06.12.2024 disputing the claim. Alleging that the operational debt remained unpaid despite service of the statutory demand notice, the Operational Creditor has filed the present petition under Section 9 of the Code seeking initiation of the Corporate Insolvency Resolution Process against the Corporate Debtor.

3. **The Respondent/Corporate Debtor filed its reply affidavit stating the following: -**

a) The Corporate Debtor has filed its reply opposing the admission of the present petition and has denied the averments made by the Operational Creditor. It is submitted that the present petition is a recovery proceeding disguised as an insolvency proceeding and is contrary to the object and scheme of the Code. The Corporate Debtor contended that no operational debt is due and payable and, therefore, the Operational Creditor is not entitled to invoke the provisions of Section 9 of the Code.

b) It is further submitted that the parties had business transactions during the years 2023 and 2024 and had also entered into a settlement arrangement, including an Agreement to Sell and a Memorandum of Understanding, which, according to the Corporate Debtor, were not honoured by the Operational Creditor. The Corporate Debtor has disputed the amount claimed by the Operational Creditor and contended that the ledger account relied upon by the Operational Creditor does not reflect the complete understanding between the parties.

c) According to the Corporate Debtor, the Operational Creditor had agreed to pay 2.5% of the purchase order value and Rs.10 per piece in respect of goods supplied to Myntra, which amounts have not been adjusted while computing the alleged outstanding dues. It is further submitted that if the said adjustments and the effect of the settlement arrangements are taken into account, the amount in default would be less than the minimum threshold prescribed under Section 4 of the Code, rendering the present petition not maintainable. The Corporate Debtor has also contended that the Operational Creditor failed to establish the alleged default with cogent evidence and that the claim has been artificially inflated to satisfy the statutory threshold.

d) The Corporate Debtor has further submitted that there existed disputes between the parties prior to the filing of the present petition, including disputes arising out of the settlement arrangements and alleged reciprocal obligations of the Operational Creditor. It is also stated that a criminal complaint has been lodged by the Corporate Debtor against the Operational Creditor in relation to the disputes between the parties. On the aforesaid grounds, the Corporate Debtor has prayed for dismissal of the present petition as being not maintainable and devoid of merit.

4. **The Petitioner/Operational Creditor filed its rejoinder stating the following: -**

a) The Operational Creditor has filed a rejoinder denying the averments made by the Corporate Debtor and reiterating the contents of the petition. It is submitted that the defence raised by the Corporate Debtor is unsupported by any documentary evidence and has been raised solely to evade its liability. According to the Operational Creditor, the Corporate Debtor has failed to establish any pre-existing dispute with respect to the operational debt and has merely made bald allegations without substantiating the same. The Operational Creditor has further contended that the documents placed on record, including the purchase orders, invoices, ledger account, Memorandum of Understanding, emails and

WhatsApp communications, sufficiently establish the existence of the operational debt and the occurrence of default.

b) With regard to the specific defences raised by the Corporate Debtor, the Operational Creditor has denied that any amount was payable by it towards 2.5% of the purchase order value or Rs.10 per piece, contending that such assertions are contrary to the commercial understanding between the parties and are unsupported by any credible material. It is further submitted that the Agreement to Sell relied upon by the Corporate Debtor was a conditional arrangement independent of the transactions forming the subject matter of the present petition and was never completed due to the Corporate Debtor's own failure to fulfil its obligations. The Operational Creditor has also disputed the authenticity and completeness of the emails and communications relied upon by the Corporate Debtor and has asserted that the Memorandum of Understanding executed between the parties constitutes an acknowledgment of the outstanding liability exceeding the statutory threshold prescribed under the Code.

c) The Operational Creditor has further submitted that the criminal complaint relied upon by the Corporate Debtor was instituted only after the initiation of the present proceedings and, therefore, cannot constitute a pre-existing dispute within the meaning of the Code. It is accordingly contended that there existed no genuine dispute prior to the issuance of the demand notice under Section 8 of the Code and that the Corporate Debtor has failed to produce any material to dislodge the Operational Creditor's claim. On the aforesaid grounds, the Operational Creditor has prayed for admission of the present petition and initiation of the Corporate Insolvency Resolution Process against the Corporate Debtor.

Analysis & Findings: -

5. We have heard the learned counsel appearing for both sides and have carefully perused the pleadings, documents placed on record and the written submissions filed by the respective parties.
6. The present Petition has been filed under Section 9 of the Code seeking initiation of Corporate Insolvency Resolution Process against the Corporate Debtor. The case of the Operational Creditor is that during the period 2023-2024, the Corporate Debtor placed purchase orders upon the Operational Creditor for supply of garments/clothing, which were duly supplied by the Operational Creditor and invoices were raised accordingly. It is the case of the Operational Creditor that the Corporate Debtor made part payments from time to time but failed to clear the outstanding operational debt, despite repeated demands and issuance of statutory demand notice dated 07.11.2024 under Section 8 of the Code.
7. The Operational Creditor has relied upon the invoices, ledger account, purchase orders, communications exchanged between the parties, cheques issued by the Corporate Debtor and the Memorandum of Understanding dated 27.09.2024 to establish the existence of debt and default. It is submitted that the outstanding amount is above the threshold limit prescribed under Section 4 of the Code and that no pre-existing dispute existed prior to issuance of the demand notice.
8. Per contra, the Corporate Debtor has opposed the admission of the Petition contending that the proceedings under the Code have been initiated only as a recovery mechanism. It is submitted that the parties had entered into certain settlement arrangements and that the Operational Creditor had failed to comply with its reciprocal obligations.

The Corporate Debtor has further contended that the Operational Creditor was liable to pay 2.5% of the purchase order value and Rs.10/- per piece in respect of supplies made to Myntra and that upon such adjustment, the alleged outstanding amount would fall below the threshold limit prescribed under Section 4 of the Code. The Corporate Debtor has also contended that disputes existed between the parties prior to issuance of the demand notice and relied upon the settlement arrangements and subsequent criminal complaint to contend that the present Petition is not maintainable.

9. Having considered the rival submissions and the material available on record, we are of the opinion that there is no dispute about the following aspects:

    i. The existence of business transactions between the Operational Creditor and the Corporate Debtor;
    ii. The supply of garments/clothing by the Operational Creditor pursuant to purchase orders issued by the Corporate Debtor;
    iii. The issuance of invoices by the Operational Creditor in respect of the supplies made;
    iv. The fact that the Corporate Debtor made part payments towards the invoices raised;
    v. The issuance of cheques by the Corporate Debtor towards outstanding liability;
    vi. The issuance of demand notice dated 07.11.2024 under Section 8 of the Code.

10. Ld. Counsel for the Respondent, at the time of arguments, heavily relied upon the Memorandum of Understanding dated 27.09.2024, wherein the

Respondent had agreed to transfer one property to the Petitioner. However, the Ld. Counsel for the Respondent, during the course of hearing, fairly admitted that no property was ever transferred to the Petitioner in terms of the said settlement. In the said Memorandum of Understanding, the Respondent acknowledged an outstanding amount of Rs.1,07,15,312/-, whereas in the present petition, the Petitioner has claimed an operational debt of Rs.1,65,47,709/-, together with contractual interest. It is gathered from the settlement that the same does not pertain to any sale and purchase of goods forming the subject matter of the present proceedings. Therefore, the said settlement cannot be directly linked with the transactions giving rise to the operational debt and can at best be looked into for collateral purposes. Even otherwise, the amount acknowledged by the Respondent under the said Memorandum of Understanding is itself more than the threshold limit of Rs. 1 Crore prescribed under Section 4 of the Code.

11. At this stage, this Adjudicating Authority would like to reproduce Section 9 of the Code:

> *Section 9: Application for initiation of corporate insolvency resolution process by operational creditor.*
>
> *9. (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 sub-section (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 [by the corporate debtor, if available;]

[(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 any unpaid operational debt by the corporate debtor or [any other information, as may be specified].]

(4) An operational creditor initiating a corporate insolvency resolution process under this section, may propose a resolution professional to act asan 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 "[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 [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 sub-clause (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.*
>
> *"[Provided further that if the Adjudicating Authority has not passed an order under this sub-section within a period of fourteen days from the date of receipt of application under sub-section (2), it shall record the reasons for such delay in writing.]*
>
> *(6) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (5) of this section.*

12. While exercising jurisdiction under Section 9 of the Code, this Adjudicating Authority is not required to adjudicate upon the exact quantum of the amount due. The following aspects are required to be considered at the stage of admission:

    i. Debt;

    ii. Default;

    iii. Threshold; and

    iv. Limitation.

13. The transactions in the present case pertain to the supply of garments by the Petitioner to the Respondent during the years 2023 and 2024. The last payment was admittedly made on 13.06.2024, and thereafter the Corporate Debtor failed to clear the outstanding dues. The demand notice under Section 8 of the Code was issued on 07.11.2024, and the present Petition, filed on 29.01.2025, is well within the period of limitation.

14. The debt and default have not been seriously disputed and, admittedly, the amount claimed is more than the threshold limit prescribed under Section 4 of the Code. Though the Respondent has contended that there exists a pre-existing dispute, it has failed to point out any specific dispute regarding the quality, quantity or supply of the goods. The Respondent has also failed to establish the existence of any pre-existing dispute which would create a legal impediment for admission of the present Petition under Section 9 of the Code.

15. The Petitioner sent a demand notice under Section 8 of the Code dated 07.11.2024 to the Respondent claiming an amount of Rs. 1,65,47,709/-. In reply thereto, the Respondent denied its liability and alleged that the Petitioner had violated the terms and conditions of the earlier settlement and was guilty of cheating, fraud and conspiracy. It is further alleged that the Petitioner had failed to remit Rs. 10 per garment supplied to Myntra and, on that basis, the Respondent denied its liability. It is also alleged that two officials of the Petitioner came to the office of the Respondent and, by exerting pressure and extending threats, obtained four cheques from the Respondent. The Petitioner has levelled allegations of threatening, embezzlement, cheating, fraud and non-payment of Rs. 10 per garment supplied to Myntra. However, there is no evidence on record to show that such allegations were raised by the Respondent prior to the issuance of the demand notice. Even if assumed to be true, such allegations would not have any bearing on the merits of the present case, particularly when the earlier settlement admittedly remained uncomplied with. None of the allegations made in the reply

constitutes a pre-existing dispute so as to create a legal impediment to the maintainability of the present petition under Section 9 of the Code.

16. In this regard, we can rely upon the judgment of the Hon'ble Supreme Court in ***Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd.***, ***(2017) ibclaw.in 01 SC*** wherein it is observed as under:

> *40. It is clear, therefore, that once the operational creditor has filed an application, which is otherwise complete, the adjudicating authority must reject the application under Section 9(5)(2)(d) if notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility. It is clear that such notice must bring to the notice of the operational creditor the "existence" of a dispute or the fact that a suit or arbitration proceeding relating to a dispute is pending between the parties. Therefore, all that the adjudicating authority is to see at this stage is whether there is a plausible contention which requires further investigation and that the "dispute" is not a patently feeble legal argument or an assertion of fact unsupported by evidence. It is important to separate the grain from the chaff and to reject a spurious defence which is mere bluster. However, in doing so, the Court does not need to be satisfied that the defence is likely to succeed. The Court does not at this stage examine the merits of the dispute except to the extent indicated above. So long as a dispute truly exists in fact and is not spurious, hypothetical or illusory, the adjudicating authority has to reject the application.*

17. Further, the Hon'ble Supreme Court in ***M/s S.S. Engineers v. Hindustan Petroleum Corporation Ltd. & Ors.***, ***(2022) ibclaw.in 92 SC*** held that when examining an application under Section 9 of the Code, the adjudicating authority has to examine (i) whether there was an operational debt exceeding *1 lakh (after 24th March, 2020, ₹1 crore); (ii) whether the evidence furnished with the application showed that the debt was due and payable and had not till then been paid; and (iii) whether there was in existence any dispute between the parties or the

record of pendency of a suit or arbitration proceedings filed before the receipt of demand notice in relation to such dispute and in the event, any of the aforestated conditions was not fulfilled, the application of the operational creditor would have to be rejected.

18. The Hon'ble Supreme Court in its recent judgment in ***GLS Films Industries Pvt. Ltd. v. Chemical Suppliers India Pvt. Ltd.,*** ***(2026) ibclaw.in 183 SC*** has pleased to rule that if there is a plausible pre-existing dispute, which is not spurious, hypothetical, or illusory, the adjudicating authority can take cognizance on the same to arrive at the right conclusion without going into the merits of the dispute. The crux of the thing would be that there should be a plausible pre-existing dispute that existed before the issuance of demand notice under Section 8 of the Code. In the present case, the Respondents have failed to prove or place on record any material to establish the existence of such a pre-existing dispute.

19. Further, the Respondent has failed to place on record any agreement or contractual stipulation to substantiate its contention regarding adjustment of 2.5% of the purchase order value or Rs.10/- per piece supplied to Myntra. The Respondent has also failed to produce any calculation or supporting material showing that, after giving effect to such alleged adjustments, the amount due would fall below the statutory threshold. In our considered opinion, the defence raised by the Respondent is vague, unsupported by documentary evidence, and is not sufficient to constitute a pre-existing dispute within the meaning of the Code. Accordingly, we are satisfied that the present Petition fulfils the

requirements of Section 9 of the Code and we find no legal impediment to proceed further.

20. Accordingly, CP(IBC) No./43/Chd/Hyr/2025 is allowed with the following directions:

    A. The Petition bearing no. CP(IBC) No./43/Chd/Hyr/2025 filed under section 9 of the Insolvency and Bankruptcy Code 2016 for initiation of the Corporate Insolvency Resolution Process is **ADMITTED.**

    B. We declare a moratorium in terms of Section 14 of the Insolvency and Bankruptcy Code 2016. The necessary consequences of imposing the moratorium shall follow.

    C. The Operational Creditor has proposed the name of one **Mr. Mohammad Khalid**, bearing Registration No. IBBI/IPA-002/IPNO1289/2024-2025/14417 having address at G3/2 2nd Floor, Malvlye Nagar New Delhl-110017, email: cskhalid01@gmail.com as the **Interim Resolution Professional (IRP),** and the written communication in the format prescribed under Form 2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 has been filed by the proposed IRP who is appointed as the IRP to take forward the process of Corporate Insolvency Resolution of the Corporate Debtor. The designated IRP shall perform all his functions as contemplated under the Code and must take any additional actions in this regard that are mandated by the law, more specifically Sections 15, 17, and 18 of the Code.

D. In pursuance of Section 13(2) of the Insolvency and Bankruptcy Code 2016, we direct the IRP to make a public announcement immediately about the admission of this application under Section 9 of the Code. The expression immediately means within three days from the date of appointment as clarified by the explanation to Regulation 6(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. During the CIRP period, the management of the Corporate Debtor shall vest in the Interim Resolution Professional (IRP)/Resolution Professional (RP), as the case may be, in terms of Section 17 of the Code. The Powers of the Board of Directors of the Corporate Debtor shall stand suspended and be exercised by the IRP/RP. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this order.

E. 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, and this Adjudicating Authority hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.

F. The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority a periodical report with regard to the progress of the Corporate Insolvency Resolution Process in respect of the Corporate Debtor.

G. The Operational Creditor shall deposit a sum of Rs. 2,00,000/- (Rupees Two Lakh Only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to the approval of the Committee of Creditors (CoC).

H. Additionally, the Operational Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, Haryana, by all available means for updating the Master Data of the Corporate Debtor. The Registrar of Companies shall send a compliance report in this regard to the Registry of this Tribunal within seven days from the date of receipt of a copy of this Order.

17. The present Company Petition bearing No. **CP(IBC) No./43/Chd/Hry/2025** is **admitted** accordingly.

18. The Registry is hereby directed to send e-mail copies of this order forthwith to all the parties and their counsel for information and to take necessary steps.

19. Let the certified copy of this order be issued upon compliance with the requisite formalities.

SD/-	SD/-
SHISHIR AGARWAL **MEMBER (TECHNICAL)**	**VINAY GOEL** **MEMBER (JUDICIAL)**

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