



**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT-VI, NEW DELHI**

COMPANY PETITION IB (IBC)/723 (ND)/2023

An Application 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 Cosmo World

Partnership Firm having its principle-place of

Registered Address - Sahara India Sadan,
2A, Shakespeare Sarani, Kolkata 700071.

...Operational Creditor

Versus

M/s Victory Electric Vehicles International Limited

Regd. Add: A-18, Basement New Multan Nagar,
New Delhi – 110056.

...Corporate Debtor

Order Delivered on: 09.05.2025

CORAM:

SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)
ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

Appearances (through Video Conferencing/physical hearing)

For the Applicant : Mr. Mustafa Alam and Ms. Yashima Sharma,
Advs.

For the Respondent : Mr. K. K. Sharma, Mr. Akshit Saxena and
Mr. Aman Karan, Advs.



O R D E R

PER – BENCH

1. This is a Company Petition filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (***‘the Code’***) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by **M/s. Cosmo World (*‘Operational Creditor’*)** duly authorized for initiation of Corporate Insolvency Resolution Process (***‘CIRP’***) against **M/s. Victory Electric Vehicles International Limited (*‘Corporate Debtor’*)**.

2. **M/s. Cosmo World (Operational Creditor)** is having office at Sahara India Sadan, 2A, Shakespeare Sarani, Kolkata 700071. **M/s. Victory Electric Vehicles International Limited (Corporate Debtor)** is a Company registered under the Companies Act, 2013 having its office at A-18, Basement New Multan Nagar, New Delhi- 110056. The Corporate Debtor has Authorized Share Capital of Rs. 3,50,00,000 /- (Rupees Three Crore Fifty Lakhs Only) and Paid-Up Share Capital of Rs 2,61,00,000 /- (Rupees Two Crore Sixty-One Lakh Only).

3. The present Petition was filed on 21.08.2023 before this Adjudicating Authority for the initiation of CIRP Proceedings by **M/s. Cosmo World (Operational Creditor)** against the **M/s Victory Electric Vehicles International Limited (Corporate Debtor)** under Section 9 of the IB Code. The total amount claimed in default is **Rs. 1,85,35,340/-** (Rupees One Crore Eighty-Five Lakh Thirty-Five Thousand Three Hundred Forty Only) on account of non-supply and replacement of the spare parts of the electric vehicles and by adding unnecessary additional monetary burden on Operational Creditor for purchasing the batteries and other spare parts. The ***date of default*** is stated to be on 04.01.2022.



4. Facts of the case as submitted by the Ld. Counsel appearing on behalf of the Operational Creditor.

- i. The Operational Creditor is a leading multi-brand aggregator and trader of Electric Vehicle (EV) and boasts of a vast network of dealers and distributors of its multi-brand range of electric vehicles. Additionally, the Operational Creditor also deals in Co-branded electric vehicles under the name of 'Sahara Evols'.
- ii. The Corporate Debtor is engaged and has expertise in the area of product development, business plan formulation relating to product design and development, manufacturing, engineering, Research and Development (R&D), consultancy of electric automobiles, allied business and product development domains, especially for, but not limited to, the Indian market.
- iii. The Corporate Debtor entered into an E-Vehicle Manufacturing Agreement with the Operational Creditor dated 04.12.2019, whereby, the Operational Creditor agreed to manufacture electrically and mechanically driven cobranded two-wheeler vehicles comprising of variants Vcutura, and Subsequently added mutually agreed variants thereto Victory vero, Victory sport, Victory auto and Victory garbage for and on behalf of the Operational Creditor. The Copy of the Agreement dated 04.12.2019 has been annexed with the petition.
- iv. The Corporate Debtor as per the agreement dated 04.12.2019 commenced its operation. and started manufacturing electrically and mechanically driven two-wheeler vehicles on behalf of the Operational Creditor. The copy of the purchase order issued by the Operational Creditor to Corporate Debtor along with the ledger and invoices of Corporate Debtor have been annexed with the Petition.



- v. As per **clause 20** of the Agreement dated 04.12.2019 Corporate Debtor was under an obligation to ensure appropriate. "**After - sales services**" including requirements and replacement of defective parts as well as vehicles including the refund of the electric vehicles to the Operational Creditor. Copy of part-wise warranty endorsement provided by the Operational Creditor is annexed with the petition.
- vi. Further, it is to be submitted that as per the same Agreement under product liability **clause (ii)**, Corporate Debtor was under an obligation to carryout minimum three (3) preventive services within the warranty period at its own cost.
- vii. The Operational Creditor always paid advances to the Corporate Debtor towards the supplies of the electric vehicles, which were further sold and traded by the Operational Creditor through. its dealers.
- viii. The Operational Creditor, has received many complaints in which vehicles were having inherent defects in the batteries, controlling motors, etc. due to which customers frequently faced problems on the road, and as a result thereof the dealers of the Operational Creditor got flooded with After-sales repair, replacement, and refund requests from the customers. Further, the Corporate Debtor has been inefficient and non-cooperative in attending to or providing necessary support to the Operational Creditor in terms of replacing defective parts to the Operational Creditor for meeting the customer complaints.
- ix. The Operational Creditor sent repeated emails to Mr. Sanjay Popli, director of Corporate Debtor/Victory electric on various dates



thereby requesting them for arranging the replacement of defective spare parts and vehicles as they were bound to do so for a period upto 24 months from the date of sale to customer.

- x. No response was provided by the Corporate Debtor. The Operational Creditor was constrained to take out parts from the fresh stock of the electric vehicles purchased by the Operational Creditor from the Corporate Debtor in order to replace the defective parts of the customers' vehicles from time to time, which rendered the fresh and marketable stock of the Operational Creditor unfit for retail sale, thus resulting in business loss.
- xi. The Corporate Debtor/Victory Electric is in default of providing the necessary after-sales services as per the terms of the agreement date 04.12.2019 as well as failed to reimburse the cost of spare parts incurred by the Operational Creditor owing to the acts of omission of Corporate Debtor till date. The total amount of debt owed is Rs. 1,85,35,340/- (Rupees One Crore Eighty-Five Lakhs Thirty-Five Thousand Three Hundred Forty only) on account of non-supply and replacement of the defective spare parts of the electric vehicles and by adding unnecessary monetary additional burden on Operational Creditor for purchasing the batteries and other spare parts.
- xii. It is to be submitted that on 31.03.2023 the Operational Creditor raised debit invoice for the batteries purchased by it for replacing defective batteries and debit notes towards the other spare parts taken from the unsold new stock lying with the operational creditor as per the bill of material (BOM) of the Corporate Debtor / Victory Electric. The Copy of all debit notes and debit invoices have been annexed with the petition.



- xiii. On 24.05.2023, Operational Creditor issued the statutory Demand Notice (Form 3) to the Corporate Debtor demanding payment of Rs. 1,85,35,340/- (One Crore Eighty-Five Lakhs Thirty-Five Thousand Three Hundred and Forty Only). Despite receipt of the said Demand Notice, the Corporate Debtor has failed and neglected to pay the operational debt.

2. The Counsel for the Corporate Debtor filed its reply on behalf of the Corporate Debtor as below: -

- i. The Applicant is not an operational creditor ('OC') in as much as it has neither supplied any goods or services to nor was it under the employment of the Respondent, which is the primary requirement for an Applicant to fall within the category of OC.
- ii. The invoices/debit notes falsely claimed to form part of the alleged debt, listed in the petition, have never been communicated to or served on the Respondent.
- iii. The first time even the figure of alleged debt of Rs.1,85,35,340/- (Rupees one crore Eighty-five Lacs Thirty-five Thousand Three Hundred and Forty only) was communicated to the Respondent was on service of Form 3 on 26.05.2023. This falsely worked out alleged claim has promptly been denied vide letter dated 05.06.2023.
- iv. While denying any claim on the basis of self-serving debit notes/invoices, the Respondent had no obligation to provide service after expiry of the warranty periods of most of the components.
- v. While denying any claim on the basis of self-serving debit notes/invoices, the Respondent had no obligation to provide service after expiry of the warranty periods of most of the components.



- vi. Even if we disregard the total non-eligibility of the Applicant, by its own admission, the parts sought to be repaired/ replaced were not delivered to the Respondent and were lying at the facilities of the Applicant only;
- vii. The entire alleged financial claim made in the Application, is contained in Annexure -2 of the petition and its extracted below for a ready reference:

S. No	Particulars	Material	Type	Unit	Rate Without Gst	Gst Amount	Net Amount	Taxable Value	Gst Amount	Total
1	SYTIQHUB Educational Services	BATTERY	BILLED	206	18,432/-	3,317.76/-	21,750/-	37,96,992/-	6,83,458.56/-	44,80,451/-
2	Defective @Victory	BATTERY	DEBIT	243	19,423/-	3,497/-	22,920/-	47,19,789/-	-	47,19,789/-
3	Ledger Balance Till 04/02/2023	LEDGER	DEBIT	0	-	-	-	-	-	-
4	Defective at our locations	BATTERY	DEBIT	453	19,423/-	3,497/-	22,920/-	87,98,619/-	-	87,98,619/-
5	Chassis Issue	Chassis Issue	DEBIT	3	9,600/-	2,688/-	12,288/-	28,800/-	-	28,800/-
6	Controller Issue	Controller Issue	DEBIT	85	2,304/-	645.12/-	2,950/-	1,95,840/-	-	1,95,840/-
7	Convertor Issue	Convertor Issue	DEBIT	37	333/-	93.24/-	427/-	12,321/-	-	12,321/-
8	Motor Issue	Motor Issue	DEBIT	36	8,320/-	2,329.60/-	10,650/-	2,99,520/-	-	2,99,520/-

- viii. The above alleged financial claim and details of the “so called” operational debt, it is seen that item No. 1 is described in particulars, as "SYTIQHUB Educational Services, shown related to some battery and claimed to be connected with a bill of some 206 batteries totaling to Rs.44,80,451/- (Rupees Forty-four Lacs Eighty Thousand Four Hundred and Fifty-one only). Nothing about this bill or connected services is known to the Respondent. There is no obligation on the Respondent to give any such services, and the same is unknown to the Respondent and not arising from the Agreement, including even the bill never having been served on the Respondent.



- ix. As regards the claim of a total of 902 defective batteries, in the entire Annexure -2 of the petition is concerned, the misrepresentation by the Applicant becomes quite obvious when it is noticed that except for 243 defective batteries which are alleged to be lying with the Respondent, in terms of debit note/Journal voucher No. 4351 dated 25.03.2023. appended at page 536 of the petition, all others are stated to be at the facilities of the Applicant.
- x. As regards the other claim of the Applicant, given below is the chart of different components for which warranty was provided along with the expiry date for the warranty period in terms of the Manufacturing Agreement referred to herein above:-

WARRANTY TERMS BY MANUFACTURER

S. No.	COMPONENT	WARRANTY	LAST DELIVERY MADE ON	WARRANTY PERIOD EXPIRED ON	DATE OF FILING THE PRESENT APPLICATION
1.	BLDC MOTOR	12 MONTH	30.11.2021	30.11.2022	21.09.2023
2.	DC CONTROLLER	6 MONTH	30.11.2021	30.05.2022	21.09.2023
3.	DC CHARGER	12 MONTH	30.11.2021	30.11.2022	21.09.2023
4.	CEAT TYRE	12 MONTH	30.11.2021	30.11.2022	21.09.2023
5.	LI-ION BATTERY	24 MONTH	30.11.2021	30.11.2023	21.09.2023

- xi. From the above table, it is seen that leaving aside Li-ion battery, the expiry of all other items viz. BLDC Motor, DC controller, DC charger, Tyre was over as early as 30.11.2022. So, therefore, the Respondent had no obligation to attend to these items, at all, under the Manufacturing Agreement.
- xii. Further, the self-made false debit notes and invoices themselves speak volumes about the intent in the conduct of the Applicant. It is being tabulated here in below for a ready reference:-



S. No.	Invoice/Debit Note		Item	Quantity	Location of the item		Amount
	Invoice	Debit Note			At the Cosmo Locations	At the Victory Warehouse	
	1.	Yes				Battery	
2.		Yes	Battery	243		Yes	Rs.47,19,489/-
3.		Yes	Battery	453	Yes		Rs.87,98,619/-

- xiii. The FORM 3 was the only time when the demand of payment served on the Respondent. The Respondent found out about some false claims being made. On noticing this, the Respondent immediately replied by denying and disputing the claims made by the Applicant in FORM 3. The reference to the invoice in the reply is based only on the purported claim made in FORM 3 and comparing with the portal of GST. No physical copy or any copy by email was served even at this late stage when FORM 3 was sent to the Respondent.
- xiv. The false tax invoice and debit notes are the alleged basis for claiming a debt by the Applicant on the Respondent. Tax invoice and debit notes, as defined under Section 31 and Section 34(3) of the Central Goods and Services Tax Act, 2017 ('CGST Act'), respectively, can only be issued for the purpose of "supplying taxable goods". In the present case, there is no supply. Even if no supply, there should have been a movement of defective spare parts from the Applicant to the Respondent. Even this has not taken place in the present case. Further, as per Section 34(4) of the CGST Act, the person issuing a debit note is liable to avail tax benefits by filing the same in the return for the month during which such debit note was issued. This implies that the Applicant is trying to illegally avail these tax benefits when, in reality, no such movement of goods has taken place in the present case.
- xv. The relationship between the Applicant and the Respondent does not make the Applicant eligible to be called as OC. Without prejudice, even the claim of sending batteries for replacement to



the Respondent by submitting a self-made invoice does not meet the test of scrutiny, as it does not evidence real delivery of goods not being accompanied by the requirements of GGST Act.

Analysis & Findings

3. We have heard the Learned Counsel for the Operational Creditor and perused the averments made in the petition and also in additional affidavits filed by the Operational Creditor. Since the registered office of the respondent Corporate Debtor is in Delhi, this Tribunal is having territorial jurisdiction as the Adjudicating Authority in relation to prayer for initiation of Corporate Insolvency Resolution Process (CIRP) under Section 9 of The Insolvency and Bankruptcy Code, 2016, against the Corporate Debtor.
4. The Operational Creditor engaged the Corporate Debtor for the exclusive manufacturing and servicing of electric vehicles. The Corporate Debtor explicitly guaranteed servicing of all vehicles and resolution of customer complaints free of cost. **[Refer to Clause 20 of the Agreement dated 04.12.2019 at Page-33 (Vol-I)]**. Additionally, the Corporate Debtor guaranteed payment for after-sales services fulfilled by the Operational Creditor. **[Refer to Annexure G, Clauses (ii) and (iii) of the Product Liability section of the Agreement dated 04.12.2019 at Page- 44 (Vol-I)]**.
5. The Operational Creditor consistently paid advances to the Corporate Debtor for manufacturing the electric vehicles, as the Corporate Debtor was the exclusive manufacturer. **[Refer to the payment clause 6 of the Agreement dated 04.12.2019 at Page-31 (Vol-I)]**.
6. The Operational Creditor qualifies as an "**Operational Creditor**" under Section 5(20) of the Insolvency and Bankruptcy Code (IBC), 2016, which defines an operational creditor as "a person to whom an operational debt is owed, including any person to whom such debt has been legally



assigned or transferred." Section 5(21) of the IBC defines "operational debt" as "a claim in respect of the provision of goods or services, including employment, or a debt arising under any law and payable to the Central or State Government or any local authority."

7. The Hon'ble Supreme Court, in the case of ***M/s Consolidated Construction Consortium Limited vs. M/s Hitro Energy Solutions Private Limited (2022(1) J.L.J.R. 372)***, discussed the scope of agreements within the ambit of Section 9 of the IBC. The Court held that operational debt must have a nexus with the provision of goods or services and that even service receivers can qualify as operational creditors. Relevant portions from **Para 43** of the judgment state:

*43. "First, Section 5(21) of IBC,2016 defines 'operational debt' as a 'claim in respect of the provision of goods or services". The operative requirement is that the claim must bear some nexus with a provision of goods or services without specifying who is to be the supplier or receiver. Such an interpretation is also supported by the observations in the BLRC (Bankruptcy Law Reforms Committee) Report, which specifies that operational debt is in relation to operational requirements of an entity Second, Section 8(1) of the IBC read with Rule 5(1) and Form 3 of the 2016 Application Rules makes it abundantly clear that an operational creditor can issue a notice in relation to an operational debt either through a demand notice or an invoice. As such, the presence of an invoice (for having supplied goods or services) is not a sine qua non, since a demand notice can also be issued on the basis of other documents which prove the existence of the debt. This is made even more clear by Regulation 7(2)(b)(i) and (il) of the CIRP Regulations 2016 which provides an operational creditor, seeking to claim an operational debt in a CIRP, **an option between relying on a contract for the supply of goods and services with the corporate debtor or an invoice demanding payment for the goods and services supplied to the corporate debtor. While the latter indicates that the operational creditor should have supplied goods or services to the corporate debtor, the former is broad enough to include all forms of contracts for the supply of goods and services***



between the operational creditor and corporate debtor, including ones where the operational creditor may have been the receiver of goods or services from the corporate debtor.”

The operative requirement is that the claim must bear some nexus with the provision of goods or services without specifying who is to be the supplier or receiver. In the present case, the Corporate Debtor guaranteed to manufacture and supply electric vehicles and provide after-sales service exclusively to the Operational Creditor. The Operational Creditor paid a total of Rs. 14,86,35,369.92 towards the purchase of electric vehicles. **[Refer to Ledger at Page-48-73 Annexure-A-4 (Colly) (Vol- I)].**

8. It is evident that the Corporate Debtor’s failure to provide after-sales services or reimburse the Operational Creditor for the service costs incurred assumes the character of a payable debt. Despite the service of a Demand Notice for a sum of Rs. 1,85,35,340/- (One Crore Eighty-Five Lakhs Thirty-Five Thousand Three Hundred and Forty Only) dated 24.05.2023, the Corporate Debtor has failed to pay & settle the debt till date. **[Refer to Annexure-A-8, Pages 542-556 (Vol-IV)].**
9. The Operational Creditor sent various emails dated 04.01.2022; 06.01.2022; 13.01.2022; 14.01.2022; 15.01.2022; 20.01.2022; 22.01.2022; 22.02.2022; 26.02.2022; 12.04.2022; 19.04.2022; 10.02.2023; 31.03.2023; and April 2023, to the Corporate Debtor but no positive response was received from them. The Corporate Debtor failed to make any payments against the Debit Notes. **[Kindly Ref Page-506-534 Annexure- A-6(Colly)of (Vol-III)].**



- 10.** The Operational Creditor issued repeated emails to the Corporate Debtor's directors, requesting replacements for defective parts as per the Agreement. On 31.03.2023, a debit invoice was raised for batteries purchased to replace defective units and for other spare parts taken from unsold inventory. **[Refer to Annexure-A-7 (Colly), Pages 535-541 (Vol- III)].**
- 11.** On 24.05.2023, the Operational Creditor issued a statutory Demand Notice (Form 3) to the Corporate Debtor for Rs. 1,85,35,340/- (One Crore Eighty-Five Lakhs Thirty-Five Thousand Three Hundred and Forty Only). The Corporate Debtor denied the existence of the Agreement dated 04.12.2019, despite validly executed agreements being on record. **[Refer to Annexure-A-3, Page 29 (Vol-I)].**
- 12.** The Operational Creditor registered the debt on the NESL portal. The Corporate Debtor did not dispute the registered debt, which is now deemed authenticated. **[Refer to NESL Certificate - Annexure-1 (Page 21 of the Rejoinder)].**
- 13.** It is pertinent to note that the Corporate Debtor did not dispute the debit notes or the debt amount prior to the issuance of the Demand Notice dated 24.05.2023.
- 14.** In order to determine the admissibility of petition for initiating CIRP under Section 9 of the Code, the judgment of the Hon'ble Supreme Court in **Mobilox Innovations (P) Ltd. v. Kirusa Software (P) Ltd. (2018) 1 SCC 353** is to be taken into consideration. The said judgment makes it clear that in order to initiate CIRP proceedings under Section 9 of the Code, the Adjudicating Authority has to determine:



- a) Whether there is an 'Operational Debt' exceeding Rs. 1 Lakh (1 Crore, in case the petition is filed after 24.03.2020) as defined under Section 4 of the IBC?
- b) Whether the documentary evidence furnished with the application shows that the aforesaid debt is due and payable and has not yet been paid?
- c) Whether there is existence of a dispute between the parties or the record of the pendency of a suit or arbitration proceeding filed before the receipt of the demand notice if the unpaid operational debt in relation to such dispute?

15. It is submitted that the Operation Creditor's Application satisfies all the tests of above-mentioned Judgement "**Mobilox Innovations Pvt. Ltd. Vs. Kirusa Software Private Limited**", which is explained as below;

- *Whether there is an "operational debt" as defined exceeding Rs.1 lakh?*

The debt in the present matter is a sum of Rs. 1,85,35,340/- (One Crore Eighty-Five Lakhs Thirty-Five Thousand Three Hundred and Forty Only), which is exceeding Rs.1 Lakh.

- *Whether the documentary evidence furnished with the application shows that the aforesaid debt is due and payable and has not yet been paid?*

Annexure G Clause (ii) and (iii) of Product Liability of the Agreement dated 04.12.2019 guarantees the payment of service cost to the Operational Creditor by Corporate Debtor but the same remains unpaid despite service of Demand Notice dated 24.05.2023.

- *Whether there is existence of a dispute between the parties or the record of the pendency of a suit or arbitration proceeding filed before the receipt of the demand notice of the unpaid operational debt in relation to such dispute?*



No, prior dispute. It is pertinent to mention that the Corporate Debtor never disputed the debit notes and the total debt amount before the demand notice, which the Applicant has sent on 24.05.2023 to the Corporate Debtor.

16. In view of the above facts and circumstances, we are satisfied that the present petition filed by the Operational Creditor fulfils the criteria laid down under the provisions of the Code. The Petition establishes that the Corporate Debtor is in default of a debt due and payable and that the default is more than the minimum amount stipulated under section 4 (1) of the Code (stipulated at the relevant point of time). In the light of the above facts and circumstances, it is, hereby ordered as follows: -

- a) The application bearing *CP (IB) No. 723/ND/2023* filed by of **M/s. Cosmo World**, the Operational Creditor, under Section 9 of the Code read with rule 6 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP against **M/s. Victory Electric Vehicles International Limited**, the Corporate Debtor, is **admitted**.
- b) The Operational Creditor has not proposed any name for the Interim Resolution Professional (“IRP”). Therefore, we appoint name **Mrs. Neha Bhasin** as Interim Resolution Professional (“IRP”) having address: Primus Insolvency Resolution And Valuation Private Limited, C-4-E/135, Janak Puri, New Delhi, West, National Capital Territory of Delhi- 110058. His Email id is neha@primusresolutions.in and his Contact No. is 9540007506. His registration number is IBBI/IPA-002/IP-N01234/2022-2023/14213. Therefore, the IRP shall file a



valid Authorization for Assignment along with Written Consent in Form-2 and Registration Certificate within 3 days of the pronouncement of this order.

- c) Therefore, **Mrs. Neha Bhasin**, Registration Number - IBBI/IPA-002/IP-N01234/2022-2023/14213, Email ID: neha@primusresolutions.in is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the Code, subject to submission of Form AA, Disclosure and a valid Authorization for Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016.
- d) We direct the applicant to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional, namely **Mrs. Neha Bhasin**, to meet out the expense to perform the functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Operational Creditor. The amount, however, be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Operational Creditor.
- e) We also declare moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section 14 (1) (a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:
- i. 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;

ii. Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

iii. Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

iv. The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the corporate debtor.”

v. The IB Code 2016 also prohibits Suspension or termination of any license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.”

- f) It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government or the supply of the essential goods or services to the Corporate Debtor as may be specified, are not to be terminated or suspended or interrupted during the moratorium period. In addition, as per the Insolvency and Bankruptcy Code (Amendment) Act, 2018 which has come into force w.e.f. 06.06.2018, the provisions of moratorium shall not apply to the surety in a contract of guarantee to the corporate debtor in terms of Section 14 (3) (b) of the Code.



- g) Therefore, the IRP shall file a valid Authorization for Assignment along with Written Consent in Form-2 and Registration Certificate within 3 days of the pronouncement of this order.
- h) In pursuance of Section 13(2) of the Code, we direct the IRP, as the case may be to make a public announcement immediately with regard to the admission of this application under Section 9 of the Code. The expression immediately means within three days as clarified by Explanation to Regulation 6(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- i) During the CIRP period, the management of the Corporate Debtor shall vest in the IRP/RP, in terms of Section 17 of the IBC. 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, in default of which coercive steps will follow. There shall be no future opportunity given in this regard.
- j) The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections 15, 17, 18, 19, 20 & 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to



extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the day-to-day affairs of the 'Corporate Debtor'.

- k) The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
- l) In case there is any violation committed by the ex-management or any tainted/illegal transaction by ex-directors or anyone else, the Interim Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing an appropriate order. The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of its obligation imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.
- m) In terms of the Code, the Registry is hereby directed to communicate a copy of the order to the Operational Creditor, the Corporate Debtor, the IRP and the Registrar of Companies, NCT of Delhi and Haryana, by Speed Post and by email, at the earliest but not later than seven days from today. The Registrar of Companies shall update his website by updating the status of the Corporate Debtor and specific mention regarding admission of this Application must be notified.



- n) The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India (“IBBI”) for their record.
- o) A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

No order as to costs.

-SD/-
(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

-SD/-
(MAHENDRA KHANDELWAL)
MEMBER (JUDICIAL)