

NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH COURT VI

Item No. P-1
C.P. (IB)/123/MB/2025

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **12.05.2026**

NAME OF THE PARTIES: **Johnson Screens (India) Private Limited**

Vs.

Shapoorji Pallonji and Company Private Limited

Under Section 9 of the IBC, 2016.

ORDER

The case is fixed for the pronouncement of the order. The order is pronounced in the open court, *vide* separate order. A detailed order is being uploaded on the NCLT portal today.

Sd/-

NILESH SHARMA
MEMBER (JUDICIAL)

//AS//

Sd/-

SAMEER KAKAR
MEMBER (TECHNICAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH-VI

C.P. (IB)/123/MB/2025

*[Under Section 9 of the Insolvency and Bankruptcy Code,
2016 r/w Rule 6 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority) Rules, 2016]*

JOHNSON SCREENS (INDIA) PRIVATE LIMITED

[CIN No.: U74999GJ1993PTC020679]

E-540, GIDC

Sanand II Industrial Estate

Sanand, Ahmedabad, Gujarat – 382170.

...Operational Creditor

V/s

SHAPOORJI PALLONJI AND COMPANY PRIVATE LIMITED

[CIN No.: U45200MH1943PTC003812]

70 Nagindas Master Road

Fort, Mumbai – 400023.

...Corporate Debtor

Pronounced: 12.05.2026

CORAM:

HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)

HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)

Appearances: Hybrid

For Applicant: Adv. Harshad Joshi, Adv. Tuhina Das.

For Respondent: Adv. Amir Arsiwala a/w Adv. Radha Naik i/b The Law Point

ORDER

[PER: CORAM]

1. BACKGROUND

1.1 This C.P. (IB) No. 123 of 2025 (Application) was filed on 16.08.2024 by Johnson Screens (India) Private Limited, the Operational Creditor (OC) having CIN No.: U74999GJ1993PTC020679, under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC), read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Shapoorji Pallonji And Company Private Limited, the Corporate Debtor (CD), having CIN No.: U45200MH1943PTC003812.

1.2 This Application is filed by Mr. Kirti Dahyabhai Solanki, Director of the Applicant. As per Part IV of the Application, the amount claimed to be in default is Rs.1,05,46,546/- (One Crore Five Lakhs Forty-Six Thousand Five Hundred and Forty-Six Rupees Only), being the principal amount of Rs.91,48,885/- along with interest thereon at 12% p.a., being a sum of Rs.13,97,660/- accrued as on 31.03.2024. The dates of default under Part IV for the 3 invoices are 23.12.2022, 22.12.2022, and 22.12.2022, respectively.

2. CONTENTIONS OF APPLICANT (OC)

2.1 The Applicant is a leading global provider of screening and auxiliary solutions catering to a wide range of industries, including Water Wells, Environmental, Energy, Chemicals, etc. The Applicant has supplied goods

to the CD pursuant to the Purchase Order dated 17.12.2019 and revised on 08.03.2022, issued by the Corporate Debtor for its project in Lucknow.

2.2 The Applicant has supplied goods to the CD as per the terms and conditions of the Purchase Order.

2.3 The Applicant thereafter issued tax invoices, and details of the outstanding invoices are mentioned below:

Sr. No.	Invoice Date	Invoice No.	Invoice Amount (Rs.)
1.	18.11.2022	2022010801	49,32,206/-
2.	18.11.2022	2022010804	38,49,175/-
3.	18.11.2022	2022010805	28,53,418/-

2.4 Out of the total aforementioned invoice amount, Rs.24,85,914/- was paid by the CD as an advance amount and therefore, a balance of Rs.91,48,885/- is still due and outstanding towards the principal amount.

2.5 Further, as per the interest clause on the tax invoices @ 12% p.a., which is accumulating till date, an interest amount of Rs.13,97,660/- accrued as on 31.03.2024 is also due and pending. The payment terms as per the PO were such that 10% payment is to be paid as advance and the balance, 90% is to be paid within 30 days from the date of delivery of goods.

2.6 The Applicant thereafter has entered various communications with the CD, but to no avail.

2.7 The dates of default for the invoices are from the date 23.12.2022, 22.12.2022, and 22.12.2022, respectively, and thereafter the default has continued, which is evident from the ledger account of the Applicant.

2.8 The Applicant had sent a Legal Notice dated 23.11.2023 to the CD, to which the CD had replied *vide* its letter dated 12.12.2023, wherein the CD had requested the following documents:

- a) Certified Invoices.
- b) Supporting documents along with the invoices.
- c) Material reconciliation statement certified by SPCPL.
- d) Quality related records duly certified by SPCPL.

2.9 Thereafter, the Applicant had duly replied to the CD's reply *vide* its letter dated 10.01.2024 and provided the following documents to the CD:

- a) Copy of Invoices.
- b) Copies of Lorry Receipts with signature and stamp of the CD.
- c) Copy of relevant emails correspondence with the CD.
- d) Copy of the Final Inspection Report.

These documents substantiate that the quality of the supplied goods meets the requisite standards and confirm that there are no issues pertaining to the goods supplied. However, no response was received from the CD to the aforementioned reply of the Applicant.

2.10 Upon receipt of payment reminder emails from the Applicant, the CD acknowledged the validity of the Applicant's claim and, in several emails, committed to disbursing the outstanding balance. However, despite these assurances, the CD has not made the payment to date.

2.11 The Applicant was constrained to issue a Default Notice dated 05.05.2024 to pay the outstanding dues of Rs.1,05,46,546/-.

2.12 The CD, on 04.06.2024, replied to the aforementioned Demand Notice and, without going into the merits of the claim or disputing the claim amount, had

stated that the claim is “defective” as per Section 4 of the IBC, 2016, as the principal amount is below Rs.1 Crore. However, as per numerous judgments, including the NCLAT judgment of *Prashant Agarwal vs Vikash Parasrampuria & Anr.* [Company Appeal (AT) No. 690 of 2022], it was held that the total amount of maintainability of a claim under Section 9, IBC, 2016, will include interest on delayed payment clearly stipulated in the invoice itself. Therefore, the present claim of the Applicant is maintainable.

2.13 The Applicant has attached the following supporting documents along with the Application and Additional Affidavits dated 02.04.2025:

- a) Copy of the Master Data of the Applicant and CD.
- b) Copies of Purchase Order dated 17.12.20219 and revised PO dated 08.03.2022.
- c) Copies of the outstanding Tax Invoices, Lorry Receipts bearing the signature and stamp of the Corporate Debtor, and the E-Way Bills.
- d) Copies of the CD's Accounts maintained in the books of the Applicant - F.Y.s 2022 - 23, & 2023-2024.
- e) Computation of interest sheet duly certified by a Chartered Accountant.
- f) Copy of the Legal Notice dated 23.11.2023.
- g) Copy of the CD's reply dated 12.12.2023.
- h) Copy of the Applicant's reply dated 10.01.2024.
- i) Copies of the Final Inspection Report along with several test certificates.
- j) Copies of the email correspondences of payment reminders.
- k) Copy of the Demand Notice dated 05.05.2024, along with the RPAD slip and proof of delivery.
- l) Copy of the CD's reply dated 04.06.2024 to the Demand Notice.

- m) Form D - Record of Default (ROD)
- n) GST Returns of the outstanding invoices.
- o) Applicant's email dated 29.12.2023.
- p) Email correspondence dated 24.01.2020, 25.02.2020, 03.07.2020, and 14.11.2022.
- q) Letter for approved datasheets, approved drawings, and QAPs.
- r) Applicant's email dated 15.11.2022.

3. ADDITIONAL AFFIDAVIT (OC)

3.1 Additional Affidavit dated 02.04.2025 was filed and affirmed by one Mr. Kirti Dahyabhai Solanki, who is a Director and authorized representative of the Applicant.

3.2 It is submitted that the present additional affidavit is being filed in compliance with the order dated 07.03.2025 by which the Hon'ble Tribunal directed the Applicant to rectify the defects as observed with respect to the following:

- a) GSTR returns not filed.
- b) From Page 129 of the petition, which is the reply of the CD in response to the demand notice, it is seen that certain documents have been demanded by the CD in reply to the demand notice. The Applicant needs to place compliance before this Hon'ble Tribunal, showing that such documents have already been provided to the CD before filing this petition.

3.3 The GST Returns of the outstanding invoices are attached to the Affidavit.

- 3.4 The Applicant had also provided the relevant documents, viz., Invoices, copies of Lorry Receipts, and copies of the final inspection reports *vide* its email dated 29.12.2023.
- 3.5 During the period of supply, all requisite documents were submitted as per procedure, only after which clearances such as manufacturing clearance, dispatch clearance, etc., were granted by the CD. The approved datasheets and drawings, joint inspection reports, and other approvals were provided by the CD *vide* emails dated 24.01.2020, 25.02.2020, 03.07.2020 and 14.11.2020.
- 3.6 The copies of the letter for approved datasheets, approved drawings, and the approved Quality Assurance Plans (QAPs), all bearing the seal and signatures of the CD, are attached to the Affidavit.
- 3.7 After the dispatch, clearance was given by the CD *via* its email dated 14.11.2022, the Applicant sent its reply acknowledging the clearance and sent the final inspection reports *vide* its email dated 15.11.2022. Therefore, it is abundantly clear that several correspondences took place between the parties both during and after the period of supply, wherein the Applicant had time and again provided all the requisite documents to the CD. Despite the same, the CD did not respond satisfactorily and left the Applicant in a state of uncertainty, all the while defaulting on the payment terms.
- 3.8 It is further pertinent to note that the CD made a partial payment without raising any dispute, and continued to provide repeated assurances of settling the remaining balance. This shows a clear *mala fide* intent on the part of the CD, who made the Applicant jump through hoops by repeatedly requesting documentation and additional information that were already

provided and denied the timely settlement of the outstanding amount. The copies of the emails dated 27.03.2023 and 17.08.2023 acknowledging the release of partial payment of 15 lakhs and assuring the release of the balance payment are attached to the Petition at pages 114 and 115.

4. REPLY

- 4.1 Affidavit-in-Reply dated 07.06.2025 was filed and affirmed by one Mr. Jamaluddin Sekh, Senior Manager, Contracts Administration and authorized representative of the CD.
- 4.2 The CD is engaged in the business of providing construction and infrastructure development services. The CD is a leading construction company in India that provides construction services to corporations, governments, and international clients across various sectors. The CD is a well-functioning and reputed company that has successfully executed various contracts pan-India.
- 4.3 The Additional Affidavit by the Applicant dated 02.04.2025 also submitted GSTR Return, along with email communications between the parties. The CD submits that the contents of the said Affidavit are misconceived and not maintainable.
- 4.4 The Demand Notice is issued in violation of the provisions of IBC and the rules made thereunder. The Demand Notice and present Petition and additional Affidavit dated 02.04.2025 are merely an afterthought on the part of the Applicant to extract inflated monies.
- 4.5 The conditions upon which the supply of goods was contracted by the CD, did not include any interest component computed at 12% p.a. on any

amount that is unpaid. It is further submitted that as per the law settled by Hon'ble NCLAT in multiple instances, it is quintessential that the rate of interest in any given case is documented and has been agreed upon between the parties. In the absence of the parties expressly contracting for such interest, there is no right for the creditor to unilaterally impose an interest upon any unpaid amount.

4.6 In the facts of the present case, the Application has imposed an exorbitant amount of interest, i.e. 12% p.a. in each of its invoices, which translates to a cumulative interest component of Rs.13,97,660/- over and above the allegedly outstanding principal amount of Rs.91,48,885/-. Such an act of imposing interest on the alleged outstanding principal is *mala fide* and arbitrary in terms of the POs, which formed the basis of the business between the present parties. The Hon'ble Supreme Court in Swiss Ribbon Pvt. Ltd. v/s Union of India ((2019) 4SCC 17) has held that IBC is not a recovery proceeding and the Application which has been riled by the Appellant in the present case is only the application for recovery of balance amount of the interest and application was not filed for resolution of any insolvency of the CD.

4.7 Invoices which have been submitted by the Applicant demanding interest payment cannot be operated against the CD unless there is an agreement of interest, nor is there any document to show that the Respondent has accepted the obligation of interest. It is further submitted that there is no agreement between the parties for payment of interest, and the purchase order given by the CD does not contain any provision of interest. And therefore, interest cannot be invoked to establish 'debt' and 'default' under

IBC. The Hon'ble NCLAT in *Rishabh Infra v. Sadbhav Engineering Ltd.* in C.A. No. (AT) 1881/2024 has held that invoices which have been sent by the Operational Creditor containing the term of interest cannot be operated against the Corporate Debtor unless there is an agreement for interest or any other document showing that the Corporate Debtor has accepted the obligation for interest.

4.8 It is submitted that an invoice is a unilateral demand by the supplier and interest could only be awarded on its terms only if it is supported by an agreement or promise to pay interest by the receiver which is absent in the present case. Furthermore. Section 5(21) of IBC reads as under:

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

A perusal of the aforesaid section clearly shows that in the definition of the term 'operational debt', the word 'interest' has not been mentioned as opposed to the use of the word in the definition of 'financial debt'.

4.9 A Petition under section 9 of IBC cannot lie for recovery of interest component. Inflating the operational debt amount by adding the interest component to cross the threshold limit of Rs. 1 crore is not legal and tenable in law.

4.10 Therefore, the present Petition and additional Affidavit dated 02.04.2025 do not satisfy the threshold limit of Rs. 1 crore which has been set by the

ministry of Corporate Affairs through its notification No. S.O. I205(E) dated 24.03.2020. In view of the aforesaid, it is humbly prayed that the present Petition is not maintainable for being *mala fide* and premature; therefore. It should be dismissed with cost.

4.11 It is submitted that the captioned Petition has been filed with an intent that is not envisaged under the IBC. It is submitted that, without prejudice to other contentions. the captioned Petition has been filed for the sole purpose of purported recovery rather than resolution. It is submitted that it is a settled principle of law that recourse under IBC cannot be for recovery but has to necessarily be for resolution of an insolvent company.

4.12 The CD is one of the leading Indian Construction Company, established over 154 years ago having substantial size and undertaking. SPCPL has an excellent reputation for construction safety, quality and timely delivery and has won many awards for excellence in construction. Respondent has executed numerous fast-track. large magnitude and multi-disciplinary construction projects for its esteemed clientele, including many Multinationals, corporations, PSUs, Government Organisations and Charitable Trusts. A Company of Respondent's size, stature and capabilities ought not to be held to ransom by small suppliers claiming to be Operational Creditors by putting up disputed claims before the Hon'ble Tribunal in matters of Construction contracts. which are complex and require special and technical knowledge for resolution of disputes.

5. REJOINDER

5.1 Rejoinder dated 11.07.2025 was filed and affirmed by one Mr. Kirti Dahyabhai Solanki, who is a Director and authorized representative of the Applicant.

5.2 It is submitted that the CD has raised the following contentions:

- (i) that the present Petition has been filed solely for the purposes of recovery and not for insolvency resolution;
- (ii) that there exists no binding agreement for interest, and therefore the interest component included in the claim is arbitrary and not enforceable, and;
- (iii) that the Petition fails to satisfy the threshold limit under Section 4 of the IBC.

5.3 It is submitted that each of the above contentions is without merit. The assertion that the Petition is filed for recovery stands negated by the CD's own repeated admissions of liability through various emails and payment acknowledgements. The inclusion of interest is valid, supported by the terms of the invoices, and recognized in multiple authoritative judgments. The threshold limit of Rs.1 crore is fulfilled, considering both the principal and interest, as affirmed in binding precedents. Furthermore, no real or pre-existing dispute has been raised, nor supported by any material on record by the CD.

5.4 The CD has acknowledged its liability through multiple communications, most notably in the emails dated 27.03.2023 and 17.08.2023, marked at pages 113 and 115 of the Petition. In these emails, the CD admitted having made a part-payment of Rs.15,00,000/-, and assured that the remaining payment would be released shortly. Moreover, the Statement of Accounts

maintained by the Applicant, marked at Annexure 5 Colly at page no 52 of the Petition, clearly reflects that the said amount was paid against one of the pending invoices, which contained the interest clause. This unequivocally substantiates the fact that the CD acted upon the terms of the invoice and is thus estopped from disputing the levy of the interest clause now.

5.5 It is denied that the imposition of interest was arbitrary or unilateral. All invoices issued by the Applicant expressly provided for interest at the rate of 12% p.a. on delayed payments. The CD made payments against such invoices without protest, thereby evidencing its unequivocal acceptance of all invoice terms. The current dispute over the interest clause is clearly an afterthought aimed at avoiding liability.

5.6 The Hon'ble National Company Law Appellate Tribunal (NCLAT), in Prashant Agarwal vs. Vikash Parasrampuria and Ors. (15.06.2022-NCLAT): MANU/NL/0503/2022, categorically held that interest stipulated in invoices, where not objected to, forms an integral part of operational debt and must be considered in determining the threshold under Section 4 of the IBC.

5.7 Similarly, in Bhotika Trade and Services Private Limited vs. Avinash EM Projects Private Limited (14.11.2022 - NCLT - New Delhi): MANU/NC/5259/2022, the NCLAT held that where the Corporate Debtor's own ledger reflected interest-bearing dues and no objections were raised at the material time, interest was rightfully included in the operational debt amount.

5.8 Furthermore, the reliance placed by the CD on the judgment of the Hon'ble NCLAT in Rishabh Infra Pvt. Ltd. vs. Sadbhav Engineering Ltd. is wholly misplaced and inapplicable to the facts of the present case. In the said

judgment, the facts were that the entire principal amount had already been paid by the CD and only the interest component remained unpaid. However, in the present matter, the CD has merely made an advance payment, and a substantial portion of the principal amount, which stands duly acknowledged by the CD, continues to remain outstanding.

5.9 The total operational debt of Rs.1,05,46,546/-, including interest, clearly exceeds the minimum limit of Rs.1 crore as prescribed by Notification No. S.O. 1205(E) dated 24.03.2020.

5.10 The Operational Creditor has invoked its rights under the IBC strictly in accordance with law after having exhausted all other avenues. The mere fact that the creditor seeks resolution does not make the Petition an abuse of process.

5.11 The Petition has been filed with clean hands and after having served a statutory demand notice and receiving no payment despite several written assurances. The allegations of harassment are made in bad faith and deserve to be rejected.

6. SYNOPSIS (OC) dt. 16.08.2025

6.1 The Applicant supplied screening and auxiliary solutions to the Respondent as per the purchase orders placed by the Respondent. Supplies were made as per agreed specifications, and the received goods were duly examined by the Respondent. No complaint was made by the Respondent as regards quality of the supplied goods, and all supplied goods have been duly accepted by the Respondent.

- 6.2 The value of total supply made by the Applicant is Rs.1,16,34,799/-. Invoices were raised by the Applicant, and their receipt has been duly acknowledged by the CD. Against the billed amount of Rs.1,16,34,799/-, the CD paid an amount of Rs. 24,85,914/- and committed that “balance payment shall happen positively in April month” by email dated 27.03.2023 (page 114 of the Petition). Subsequently, by email dated 17.08.2023 (page 115 of the Petition), the CD wrote that “we would like to confirm that we are expecting funds this month end so we shall be able to disburse your payment in first week of September 2023”.
- 6.3 Even today, there is no denial on the part of CD to receipt of the goods and corresponding liability to make payment to the Applicant. There is not even formal denial to the communications dated 27.03.2023 and 17.08.2024 committing to make balance payment against the invoices.
- 6.4 The present Application is not being contested on the ground that there exists any dispute as regards liability to make payment to the Applicant, or even the amount liable to be paid to the Applicant.
- 6.5 The only ground of resisting the present Application is that the debt amount is below the threshold limit prescribed in law for initiation of corporate insolvency resolution process. It is contended that the principal amount due is Rs.91,48,885/-, and therefore the application is not maintainable in law.
- 6.6 This contention of Respondent overlooks the “terms of payment” contained in the purchase order placed by CD, wherein it is categorically mentioned that “balance 90% will be paid within 30 days of delivery of material at site”. The liability crystallises on expiration of 30 days of delivery of goods. The invoice raised by the Applicant, which follows the supply pursuant to the

offer of the CD to purchase goods from the Applicant, concludes the contract and the invoice specifically states that “interest will be charge @12% p.a. if payment not made as per agreed payment term”. This clause, assuming that it is treated as a counter offer, stands accepted by the CD by its conduct of receiving the goods under the invoice and not conveying any dispute to the conditions mentioned in the invoice. Further, there is admission of the billed amount, thereby conveying implied acceptance of the invoice together with the conditions mentioned therein.

6.7 The Hon’ble NCLAT, Chennai Bench, in *Prashant Agarwal vs. Vikash Parasrampuria and Ors.* MANU/NL/0503/2022, held that interest stipulated in invoices, where not objected to, forms an integral part of operational debt and must be considered in determining the threshold under Section 4 of the IBC. Similarly, the Hon’ble NCLAT in the New Delhi Bench, in *Bhotika Trade and Services Private Limited vs. Avinash EM Projects Private Limited* MANU/NC/5259/2022, held that where no objections were raised at the material time, interest was rightfully included in the operational debt amount.

6.8 It is further submitted that the balance of Rs.91,48,885/- is due and outstanding towards the principal amount along with @ 12% p.a., an interest amount of Rs.13,97,660/- accrued as on 31.03.2024 is also due and pending. Therefore, the total amount of debt amounts to Rs. 1,05,46,546/-, clearly exceeding the minimum limit of Rs. 1 Crore. Therefore, the contention of the CD that the Petition fails to satisfy the threshold limit under Section 4 of the IBC is wrong, legally untenable, and liable to be dismissed.

6.9 Furthermore, as no real or pre-existing dispute has been raised, nor supported by any material on record by the CD, and the only objection to

the jurisdiction of the Hon'ble Tribunal to entertain the application on the ground of debt due amount being less than the threshold limit, it is prayed that this Hon'ble Tribunal may be pleased to admit the Petition and initiate the CIRP against the CD in the interest of justice.

7. SYNOPSIS (CD) dt. 18.08.2025

7.1 In the present case the Applicant has imposed an exorbitant amount of interest i.e. 12% p.a. in each of its invoices, which translates to a cumulative interest component of Rs.13,97,660/- over and above the allegedly outstanding principal amount of Rs.91,48,885/-.

7.2 However, the Applicant claims that it is entitled to interest on account of a clause for interest in the invoices raised by it. It is pertinent to note that the Purchase Order which formed the basis of the business between the present parties did not contain any clause for interest on delayed payments. The Applicant has unilaterally imposed an inflated amount of interest @ of 12% p.a. on the alleged Operation Debt, which cannot be allowed.

7.3 In support of its contentions, the Corporate Debtor is relying upon the following judgments:

- a) S.S. Ploymers vs. Kanodia Technoplast Limited, [C.A. No. (AT) 1227/2019] has held that the application was pursued for realisation of the interest amount, which, according to us is against the principle of the I&B Code, as it should be treated to be an application pursued by the Applicant with malicious intent (to realise only Interest) for any purpose other than for the Resolution of Insolvency, or Liquidation of the

'Corporate Debtor and which is barred in view of Section 65 of the I&B Code.'

- b) Rishabh Infra v. Sadbhav Engineering Ltd. in [C.A. No. (AT) 1881/2024] has held that invoices which have been sent by the Operational Creditor containing the term of interest cannot be operated against the Corporate Debtor unless there is an agreement for interest or any other document showing that the CD has accepted the obligation for interest.
- c) Jindal SMI Coated Products Limited Vs Total Print Solutions Private Limited [C.P. (IB)/341(MB)2025]. The Hon'ble Tribunal was pleased to dismiss the petition on the ground that the interest component, having been unilaterally imposed without any contractual agreement acknowledgment, cannot be included for the purpose of determining the total debt amount. Therefore, the claim, to the extent it exceeds the principal amount, is not legally sustainable under the provisions of the Code.

7.4 As this Hon'ble Tribunal is aware, the Ministry of Corporate Affairs issued a notification on 24.03.2020 increasing the minimum debt specified in section 4 of the IBC to Rs. 1 Crore. Admittedly, the present petition is filed after that date. As stated above, the Applicant is not entitled to claim interest from the CD in the absence of any agreement for the same. As such, the principal amount being claimed by the Applicant is only Rs.91,48,885/- which is below the threshold. Therefore, the present petition must be dismissed.

7.5 The Supreme Court in the case of M/s Invest Asset Securitisation and Reconstruction Pvt. Ltd. v/s Ginnar Fibres Ltd. (Civil Appeal No. 3033 Of 2022) reiterated that the provisions of IBC are essentially intended to bring

the corporate debtor to its feet and are not of money recovery proceedings as such.

8. ANALYSIS AND FINDINGS

8.1 We have perused the documents as placed before us and heard the Ld. Counsels for the Applicant and the CD.

8.2 The undisputed facts of the matter are:

- (i) the Applicant supplied goods to the CD pursuant to Purchase Orders dated 17.12.2019 and 08.03.2022;
- (ii) invoices aggregating to Rs.1,16,34,799/- were raised by the Applicant;
- (iii) the CD has made part-payment of Rs. 24,85,914/-;
- (iv) the principal outstanding amount is Rs.91,48,885/-; and
- (v) the Purchase Orders forming the basis of the contractual relationship do not contain any clause providing for payment of interest on delayed payments.

8.3 The disputed aspects, however, are:

- (i) whether the Operational Creditor is entitled to claim interest @12% p.a. solely on the basis of a clause mentioned in its invoices;
- (ii) whether such interest forms part of "operational debt" under Section 5(21) of the Insolvency and Bankruptcy Code, 2016; and
- (iii) whether the said interest component can be included to meet the statutory threshold of Rs. 1 Crore under Section 4 of the IBC.

8.4 It is evident from the Applicant's own pleadings that the total amount claimed to be in default is Rs.1,05,46,546/-, comprising of principal amount of

Rs.91,48,885/- and interest component of Rs.13,97,660/- calculated at 12% p.a. till 31.03.2024. Once the interest component is excluded, the principal amount admittedly falls below the statutory threshold of Rs. 1 crore prescribed under Section 4 of the IBC.

8.5 At the outset, it is necessary to note that by virtue of Notification dated 24.03.2020 issued by the Ministry of Corporate Affairs, the minimum threshold for initiation of CIRP stands enhanced to Rs. 1 Crore, and the present petition, having been filed subsequent thereto, must mandatorily satisfy the said requirement. In the facts of the present case, the principal operational debt admittedly falls short of the threshold, and therefore, the maintainability of the petition hinges entirely on whether the interest component can be legally included within the ambit of "operational debt" for the purpose of Section 9 of the IBC.

8.6 We find that the Purchase Orders, which constitute the foundational contractual documents governing the relationship between the parties, do not contain any stipulation for payment of interest on delayed payments. The Apoplicant has sought to rely upon a clause mentioned in its invoices providing for interest @12% p.a.; however, such invoices are unilateral documents raised by the supplier and cannot, in the absence of mutual agreement, impose additional financial obligations upon the CD. It is a settled principle of law that any claim towards interest must emanate from a consensual arrangement between the parties or be otherwise supported by a contractual or statutory provision.

8.7 The applicant has failed to establish that in the past dealings, the respondent has paid any interest to the applicant for delayed payments.

8.8 In the present case, there is no material to demonstrate that the CD had agreed to the payment of such interest. Mere acceptance of goods or part-payment of invoices cannot be construed as acceptance of a unilateral stipulation regarding interest, particularly when the governing Purchase Orders are silent on this aspect.

8.9 In a recent judgement of a 3-member bench of Hon'ble NCLAT, New Delhi, in the matter of **Ajay Rana (Director of Erstwhile Sarika Industries Pvt. Ltd.) vs. Sanjay Kumar Goel and Ors.**, Company Appeal (AT) (Ins) 1045 of 2023, the following was held in para 15:-

“15. In this regard, there is no dispute that the principal amount of Rs. 79,82,857/- is less than the threshold of Rs. 1 Cr. and the interest component is of Rs.45,12,857/- which is claimed by the OC on the basis of the entry in the invoice for charging interest at the rate of 18% p.a. on delayed payment. There is also no dispute that there is no other evidence on record which may suggest or indicate that the parties had agreed to pay 18% interest p.a. on the delayed payment of the invoice. Thus, the only evidence possessed by the OC is the invoice regarding which this Court, in the case of Rishabh Infra (Supra) and Shitanshu Bipin Vora (Supra), after taking into consideration the decision in the case of Prashant Agarwal (Supra), relied upon by the OC, has categorically held that

mere unilateral entry of interest in the invoice, in the absence of an agreement for interest or any other document showing that the CD had accepted the obligation to pay the interest, is not sufficient to claim the same. Thus, in our considered opinion, the Tribunal has committed an error in relying solely upon the unilateral entry in the invoice regarding the interest.”

8.10 Applying the ratio of the above judgment, the interest claimed by the Applicant on the basis of unilateral entries in the invoices, not being grounded in any contractual clause in the Purchase Orders and not supported by any other evidence on record suggesting that the parties had agreed to pay interest, is legally unsustainable. Such unilateral imposition cannot be enforced against the CD and cannot be treated as part of operational debt for the purposes of Section 9 proceedings.

8.11 The attempt of the Applicant to include the said interest for the purpose of crossing the statutory threshold is therefore impermissible in law. Once the interest component is excluded, the admitted principal amount of Rs.91,48,885/- remains below the threshold limit of Rs. 1 Crore, rendering the present Petition not maintainable.

8.12 We also find merit in the contention of the CD that the present proceedings are in the nature of a recovery action rather than a genuine insolvency resolution process. The scheme of the IBC does not permit its use as a substitute for recovery proceedings or as a tool for coercive payment, particularly where the claim itself is sought to be artificially inflated through

components that are not legally sustainable. The legislative intent underlying the IBC mandates that only those applications which satisfy the statutory requirements and disclose a legally enforceable operational debt above the prescribed threshold be admitted.

8.13 In view of the foregoing discussion, this Tribunal is of the considered opinion that the present petition fails to meet the mandatory requirement under Section 4 of the Insolvency and Bankruptcy Code, 2016 and is therefore not maintainable.

8.14 We make it clear that the Applicant is free to approach any other forum, as permissible under the law, for the recovery of the outstanding dues.

8.15 Accordingly, CP (IB)/123(MB)2025 stands **rejected being not maintainable**.

8.16 A certified copy of this order may be issued by the Registry if applied for expeditiously.

Sd/-

**NILESH SHARMA
MEMBER (JUDICIAL)**

//AS//

Sd/-

**SAMEER KAKAR
MEMBER (TECHNICAL)**