

**NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT-II)**  
**IN**  
**Company Petition No. (IB)-233/ND/2025**

**IN THE MATTER OF:**  
**(Under Section 9 of IBC, 2016)**

**PARSVNATH DEVELOPERS LTD.**  
Registered Office: Parsvnath Tower,  
Near Shahdara Metro Station,  
Shahdara, Delhi - 110032

**... Applicant/  
Operational Creditor**

**Versus**

**VINU PROMOTERS PRIVATE LTD.**  
Registered Office: 1st Floor, 90,  
Okhla Industrial Estate,  
Phase Iii, New Delhi - 110020

**... Respondent/  
Corporate Debtor**

**Order Delivered on: 20.05.2026**

**CORAM:**

**SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)**  
**SH. ATUL CHATURVEDI, HON'BLE MEMBER (T)**

**PRESENT:**

**For the Applicant** :

**For the Respondent** : Adv. Jaspreet Singh, Adv. Nandini Singh

## **ORDER**

### **PER: SHRI ASHOK KUMAR BHARDWAJ, MEMBER (J)**

The captioned petition has been preferred by Parsvnath Developers Ltd. (hereinafter referred to as the “Operational Creditor/Petitioner”) under Section 9 of the Insolvency and Bankruptcy Code, 2016 qua M/s Vinu Promoters Private Limited (hereinafter referred to as the “Corporate Debtor/Respondent”) seeking initiation of Corporate Insolvency Resolution Process on account of alleged default in payment of operational debt amounting to ₹17,00,00,000/- (Rupees Seventeen Crores Only). The said amount is stated to be due and payable towards consideration for construction and development services rendered by the Operational Creditor to the Corporate Debtor in relation to the development of a commercial complex viz., “Shoppers Den”.

**2.** The facts as espoused by the OC in the present petition are:-

- I. The Corporate Debtor i.e., M/s Vinu Promoters Private Limited, was allotted four commercial plots bearing Plot Nos. 41, 42, 43 and 44 situated in Block H1A, Sector-63, Noida, admeasuring 1200 sq. mtrs. (hereinafter referred to as the “said plots”) on leasehold basis for a period of 90 years by the New Okhla Industrial Development Authority (NOIDA), pursuant to Lease Deeds executed on 27.09.2004.
- II. By virtue of an Agreement dated 20.09.2004, as subsequently amended on 19.09.2008, the Corporate Debtor engaged the Operational Creditor for development of the said plots and transferred the development rights in favour of the Operational Creditor. Pursuant thereto, the Operational

Creditor undertook construction and development of a commercial complex known as “Shoppers Den” on the said plots.

III. Upon completion of the construction work, the parties mutually agreed to transfer back the entire rights, title, interest in the said plots and the building to the Corporate Debtor, accordingly executed a Cancellation Agreement dated 31.03.2014. Under Clauses 3 and 4 of the said Agreement, the Corporate Debtor agreed to pay a total consideration of ₹25 Crores to the Operational Creditor. It is stated that an amount of ₹2.50 Crores was paid by the Corporate Debtor to the Operational Creditor at the time of execution of the said Agreement, while the balance amount of ₹22.50 Crores was agreed to be paid within a period of 90 days.

IV. It is the case of the Operational Creditor that against the agreed consideration amount of ₹25 Crores, the Corporate Debtor has paid only a sum of ₹5.50 Crores and has failed to pay the remaining outstanding operational debt of ₹17 Crores till date. Operational Creditor issued a Legal Notice dated 11.04.2023 calling upon the Corporate Debtor to clear the outstanding dues. Upon receipt of the said notice, the Corporate Debtor made a further payment of ₹25 Lakhs on 24.05.2023. The details of the part payments made by the Corporate Debtor reads thus:

Date of payment	Amount (Rs.)
07.01.2021	15,00,000/-
24.03.2021	85,00,000/-
31.03.2021	2,00,00,000/-

13.04.2021	1,00,00,000/-
15.04.2021	1,00,00,000/-
07.03.2023	25,00,000/-
24.05.2023	25,00,000/-
<b>Total</b>	<b>Rs. 5,50,00,000/-</b>

- V. Despite repeated requests, the Corporate Debtor failed to clear the outstanding dues. Consequently, the Operational Creditor issued a Demand Notice dated 03.07.2023 under Section 8 of the Insolvency and Bankruptcy Code, 2016. Upon receipt of the said notice, the Corporate Debtor approached the Operational Creditor and sought further time for making payment. However, even after lapse of considerable time, the Corporate Debtor failed to discharge its liability, compelling the Operational Creditor to issue another Demand Notice dated 07.10.2024 under Section 8 of the Code. It is the case of the Operational Creditor that despite receipt of the Demand Notice, the Corporate Debtor neither replied the same nor made payment of the outstanding amount.
- VI. According to the Operational Creditor, the existence of operational debt has never been disputed by the Corporate Debtor at any point of time. Operational Creditor had rendered construction and development services in respect of the commercial complex developed on the subject plots and in consideration thereof, the Corporate Debtor had agreed to pay a total amount of ₹25 Crores in terms of the Cancellation Agreement dated 31.03.2014. Out of the said amount, the Corporate Debtor has paid only ₹8 Crores, inclusive of the initial payment of ₹2.50 Crores made at the time of execution of the Agreement. The

Operational Creditor emphasized that the last payment made by the Corporate Debtor on 24.05.2023 viz. subsequent to issuance of the legal notice dated 11.04.2023, clearly shows the acknowledgment and admission of liability by the Corporate Debtor.

VII. It is the contention of the Operational Creditor that the outstanding operational debt has been continuously acknowledged by the Corporate Debtor and duly reflected in its audited Balance Sheets from the financial year 2014–2015 till 2023–2024 and therefore, the present petition is well within the period of limitation. According to the Operational Creditor, the Corporate Debtor has raised only a bald and untenable defence with regard to limitation by contending that the petition has been filed beyond the prescribed period.

VIII. The audited Balance Sheets of the Corporate Debtor for the financial years 2014–2015 to 2023–2024 clearly disclose the outstanding amount payable to the Operational Creditor under the head “Trade Payables”, which constitutes continuous acknowledgment of debt in terms of law. In support of the said contention, the Operational Creditor has placed on record a tabulated statement reflecting the details of part payments made by the Corporate Debtor and reflected in the balance sheet of the CD, which reads thus:-

<b>Year(s)</b>	<b>Opening Balance Due to the Operation Creditor (Rs)</b>	<b>Part Payment made by the Corporate Debtor (Rs)</b>	<b>Outstanding Due as per the records of Operational Creditor (Rs)</b>	<b>“Trade Payables” shown in the Audited Balance Sheet of Corporate Debtor</b>
31.03.2015	22,50,00,000/-	0	22,50,00,000/-	22,50,00,000/-
31.03.2016	22,50,00,000/-	0	22,50,00,000/-	22,53,15,946/-
31.03.2017	22,50,00,000/-	0	22,50,00,000/-	22,51,13,437/-

31.03.2018	22,50,00,000/-	0	22,50,00,000/-	22,50,90,005/-
31.03.2019	22,50,00,000/-	0	22,50,00,000/-	22,51,30,954/-
31.03.2020	22,50,00,000/-	0	22,50,00,000/-	22,54,10,831/-
31.03.2021	22,50,00,000/-	3,00,00,000/-	19,50,00,000/-	19,73,36,712/-
31.03.2022	19,50,00,000/-	2,00,00,000/-	17,50,00,000/-	17,50,00,000/-
31.03.2023	17,50,00,000/-	25,00,000/-	17,25,00,000/-	17,25,00,000/-
31.03.2024	17,25,00,000/-	25,00,000/-	17,00,00,000/-	17,00,00,000/-

IX. In support of its contention regarding limitation and acknowledgment of debt, the Operational Creditor has placed reliance upon the judgment of the Hon'ble Supreme Court in ***IL&FS Financial Services Limited v. Adhunik Meghalaya Steels Private Limited, 2025 SCC OnLine SC 1567***, wherein the Hon'ble Supreme Court examined the issue as to whether an entry in the Balance Sheet constitutes a valid acknowledgment of debt under Section 18 of the Limitation Act, 1963. In this case though the quantum of amount of credit is reflected in the Balance Sheet of Corporate Debtor, name of the Creditor was not shown therein. After detailed analysis, Hon'ble Supreme Court held that though the name of creditor is not specifically shown in the Balance sheet, the quantum of amount shown in the Balance Sheet reflects the valid acknowledgment of liability and hence the claim is not barred by limitation.

X. Reliance has also been placed on the judgment of the Hon'ble Supreme Court in ***Axis Bank Ltd. v. Naresh Sheth & Anr. (2024) 1 SCC 679***, wherein it was held that acknowledgment of debt in the Balance Sheet of the Corporate Debtor constitutes a valid acknowledgment for the purposes of Section 18 of the Limitation Act, 1963.

- XI. The Operational Creditor has further relied upon the judgment of the Hon'ble Supreme Court in ***Dena Bank v. C. Shivakumar Reddy & Anr. (2021) 10 SCC 330***, wherein it was held that entries in the books of accounts and/or Balance Sheets amount to acknowledgment of debt. The Hon'ble Supreme Court clarified that such acknowledgments contained in Balance Sheets are valid and binding and are sufficient to extend the period of limitation and keep the debt alive.
- XII. According to the Operational Creditor, the claim in the present petition arises solely out of the construction and development services rendered by it to the Corporate Debtor and the consideration amount agreed to be paid under the Cancellation Agreement dated 31.03.2014. The Share Purchase Agreement (SPA), relied upon by the Corporate Debtor is an internal arrangement amongst the shareholders of the Corporate Debtor and has no bearing on the present proceedings. The Operational Creditor has specifically averred that it was neither a party to the said SPA nor had any role, stake or involvement in the internal commercial arrangements entered into amongst the shareholders of the Corporate Debtor. Therefore, according to the Operational Creditor, any reliance placed upon the said SPA is wholly irrelevant and misconceived for adjudication of the present petition.
- XIII. The conduct of the Corporate Debtor in making part payments during the period from 2021 to 2023 and continuously reflecting the outstanding dues payable to the Operational Creditor in its audited Balance Sheets from the year 2014 onwards constitutes a clear

admission and constructive acknowledgment of the operational debt, without any pre-existing dispute.

XIV. The Corporate Debtor accepted the terms and conditions of the Cancellation Agreement dated 31.03.2014 and acted upon the same by making substantial part payments thereunder, thus is estopped from denying its liability at this stage. According to the Operational Creditor, the principle of estoppel embodied under Section 115 of the Indian Evidence Act, 1872 applies to the facts of the present case.

3. The Operational Creditor has furnished the details of the operational debt in Part IV of the petition, the relevant excerpt of which reads thus: -

PARTICULARS OF OPERATIONAL DEBT FOR EACH APPLICANT		
1.	TOTAL AMOUNT OF DEBT, DETAILS OF TRANSACTIONS ON ACCOUNT OF WHICH DEBT FELL DUE, AND DATE FROM WHICH SUCH DEBT FELL DUE	<p><b>Rs. 17,00,00,000/-</b></p> <p><b>(Rupees Seventeen Crores Only).</b></p> <p>a. The Operational Creditor i.e Parsvanth Developers Limited is a company registered under the Companies Act, 1956 (as</p>

**XXXX**

2.	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF AMOUNT AND DATES OF DEFAULT IN TABULAR FORM)	<p><b>Rs. 17,00,00,000/-</b></p> <p><b>(Rupees Seventeen Crores only).</b></p> <p>Computation Statement is produced and marked as <b><u>Annexure-A-8.</u></b></p> <p>As stated above, the default fell due from the 90<sup>th</sup> day of the execution of the Cancellation Agreement dated 31.03.2014 i.e from 29.06.2014 onwards. The account was a running account and the last date of part payment made was on 24.05.2023.</p>
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4. The Respondent/Corporate Debtor filed its reply opposing the opposing the petition by espousing that the Operational Creditor has not approached this tribunal with clean hands. The pleas raised on behalf of the Respondent are:-

- I. The Respondent Company was originally held by M/s Noida Marketing Private Limited. According to the Respondent, an Agreement dated 20.09.2004 was executed between the Petitioner Company and the Respondent Company, whereby the Petitioner had agreed to make payment of the requisite amounts to the NOIDA Authority on behalf of the Respondent Company so as to enable the Respondent Company to complete payment of the premium amount required under the terms of allotment, obtain execution of lease deeds in respect of the subject plots and take possession thereof from the Authority. The plots were thereafter handed over to the Petitioner for the purpose of construction and development in terms of the said Agreement.
- II. In the year 2014, M/s Noida Marketing Private Limited, Moonrock Hospitality Pvt. Ltd. and Vinu Promoters Private Limited entered into a Share Purchase Agreement, whereby M/s Noida Marketing Private Limited transferred its entire 100% shareholding in Vinu Promoters Private Limited in favour of Moonrock Hospitality Pvt. Ltd.
- III. Prior to execution of the aforesaid Share Purchase Agreement, the erstwhile shareholders/directors of the Respondent Company had entered into a Cancellation Agreement dated 31.03.2014 with the Petitioner Company, whereby liability of ₹25 Crores was created in the books of the Respondent Company towards transfer of development

rights in the developed portion back to the Respondent Company. According to the Respondent, under Clause 2.7 of the Share Purchase Agreement, the said liability was to be borne by the new shareholders of the Respondent Company. Thus, the obligation to infuse funds and discharge the said liability was upon the incoming shareholders and there existed no direct liability upon the Respondent Company itself.

- IV. The present shareholding of the Respondent Company consists of Late Sh. M.P. Mehrotra and Moonrock Hospitality Private Limited. It is stated that Sh. M.P. Mehrotra expired on 05.04.2024. Further, Mr. Vikas Mehrotra, who allegedly held 95.24% shareholding in Moonrock Hospitality Private Limited, expired on 13.07.2023 and Ms. Divya Mehrotra, holding 4.67% shareholding therein, expired on 04.01.2024. On the basis of the aforesaid facts, it is contended that the persons responsible under the Share Purchase Agreement dated 31.03.2014 have already expired.
- V. It is the case of the Respondent that the present petition is barred by limitation. According to the Respondent, the petition has been filed on the basis of the Cancellation Agreement dated 31.03.2014 under which the Respondent Company had agreed to pay a sum of ₹25,00,00,000/- to the Petitioner within a period of 90 days from the date of execution of the said Agreement. The default, therefore, arose immediately upon expiry of the said period of 90 days, i.e., on 30.06.2014. The present petition is filed in the year 2025, after expiry of more than ten years from the date of default, is barred by limitation. The limitation period applicable to the present proceedings is three years under Article 137

of the Limitation Act, 1963 and consequently, the petition is liable to be dismissed on this ground.

- VI. Without prejudice to the aforesaid submissions, the Respondent has contended that even assuming that the limitation period stood extended on account of certain payments made to the Petitioner, such extension would not be available in the facts of the present case. Reliance has been placed on Section 19 of the Limitation Act, 1963 to contend that any part payment for extension of limitation must be made before expiry of the prescribed limitation period and by the person liable to pay the debt. According to the Respondent, under the Cancellation Agreement dated 31.03.2014, the payment was required to be made within 90 days from the date of execution of the Agreement and there exists no written acknowledgment by the Respondent acknowledging the alleged debt within the prescribed period. Hence, according to the Respondent, the limitation period cannot be extended in any manner whatsoever.
- VII. The Petitioner has also failed to disclose the exact date of default in the petition, which, according to the Respondent is a material and essential requirement for maintaining proceedings under Section 9 of the Insolvency and Bankruptcy Code, 2016.
- VIII. The present petition has been instituted by the Petitioner Company with an ulterior motive to evade possible criminal liability, as a detailed investigation into the affairs of the Petitioner Company is stated to have been initiated by the Serious Fraud Investigation Office under Section 212 of the Companies Act, 2013.

- IX. The Petitioner was eligible to receive the payment under the Share Purchase Agreement dated 31.03.2014, which, according to the Respondent, was executed subsequent to the Cancellation Agreement of the same date. The amount in question was not directly payable by the Respondent Company to the Petitioner Company, but was to be paid only upon infusion of funds by the shareholders/signatories to the said Share Purchase Agreement.
- X. The Respondent Company cannot be treated as the Corporate Debtor of the Petitioner. In support of this contention, reliance has been placed upon the legal notice dated 11.04.2023 issued by the Petitioner, wherein the claim amount of ₹51,00,78,164/- was demanded jointly and severally from multiple noticees, namely: (i) the Respondent Company, (ii) Ms. Divya Mehrotra, (iii) Sh. Mahesh Prasad Mehrotra, (iv) Sh. Pradeep Kumar Sharma, (v) Moonrock Hospitality Private Limited, (vi) Sh. Rajesh Jhalani, (vii) Sh. Subhash Chandra Jain and (viii) Sh. Vikas Mehrotra. According to the Respondent, the said notice itself shows that it was never the case of the Petitioner that the Respondent Company alone was liable for payment of the dues.
- XI. There was no running account between the Petitioner and the Respondent Company. According to the Respondent, for a running account to exist, there must be reciprocal transactions between the parties creating independent obligations on both sides and not merely payments made by one party towards discharge of obligations owed by it. The Respondent Company had only made certain payments to the Petitioner in terms of the Share Purchase Agreement dated 31.03.2014

and no corresponding reciprocal transaction or independent obligation was ever created by the Petitioner in favour of the Respondent Company.

- XII. The Respondent argued that there exists no direct liability of the Respondent Company towards the Petitioner and consequently no “debt” within the meaning of the Insolvency and Bankruptcy Code, 2016 is made out.
- XIII. The grievance raised by the Petitioner pertains merely to recovery of alleged contractual dues and the same cannot be adjudicated or enforced through proceedings under the Insolvency and Bankruptcy Code, 2016.
- XIV. The Respondent disputed the reliance placed by the Petitioner on the audited Balance Sheets of the Respondent Company from the year 2015 onwards. According to the Respondent, the Balance Sheets are prepared in compliance with the provisions of the Companies Act and applicable accounting standards and mere disclosure therein cannot suo moto amount to acknowledgment of debt. The Petitioner has failed to establish that the amounts reflected under the head “Trade Payables” in the Balance Sheets pertain to the Petitioner or correspond to the claim raised in the present petition.

**5.** We heard the counsels for the parties and perused the record. The Petitioner entered into the agreement dated 20.09.2004 (Original Agreement) which was subsequently amended on 19.09.2008 for the construction and development activities. However, the Petitioner did not place a copy of above

agreement on record. The respondent has annexed the copy of the agreement dated 20.09.2004, with its reply as Annexure R 6. It is seen from the said agreement that M/S Vinu Promoters Pvt. Ltd. And M/S Parsvnath Developers Ltd., were the parties to the agreement. As per the terms and conditions of the agreement, the petitioner is required to construct the shopping/commercial complex on the plots which were allotted to respondent company through the lease deed executed between NOIDA authority and respondent company. In the agreement the parties also discussed about the terms and conditions pertaining to such activity and the liabilities of the parties to be undertaken by them.

**6.** There is no amended agreement placed on record by either of the parties.

**7.** Upon a comprehensive consideration of the pleadings and documents placed on record, we have observed that the petitioner has relied primarily on the Cancellation Agreement dated 31.03.2014 and not on the original Agreements dated 20.09.2004 and 19.09.2008. It is the said original agreements which initially governed the relationship between the parties and gave rise to their respective rights and obligations in relation to the construction and development activities undertaken by the Petitioner. The debtor-creditor relationship, insofar as the provisions of the Insolvency and Bankruptcy Code, 2016 are concerned, emanated from the services rendered pursuant to the said original development agreements.

**8.** Upon completion of the construction and development work, the parties mutually agreed to transfer back the entire rights, title and interest in the subject plots and the constructed building in favour of the Corporate Debtor.

Consequently, a Cancellation Agreement dated 31.03.2014 executed between the Petitioner and the Respondent. The relevant excerpt of the cancellation agreement reads thus:-

1. The Parties hereby agree that subject to the terms and conditions herein, the Original Agreement and all the rights and obligations accrued therein, hereby stands cancelled, terminated and revoked absolutely and forever.
2. The Parties agree, acknowledge and admit that immediately on execution of this Agreement, all the rights, claims, charge, liens, titles, interests, etc., granted or available to PDL under the Original Agreement including but not limited to any other documents/ approvals, etc., related to or pertaining to the Building and the Said Plots shall stand terminated, revoked, extinguished and lapsed for all purposes and intents save and except to receive the amounts mentioned in Clause 4 below from VPPL.
3. The Parties agree and acknowledge that simultaneously with execution of this Agreement and subject to receipt of the amounts provided in Clause 4 below, PDL shall be left with no rights, title, claims, interests, liens, charge, etc., of any kind whatsoever in the Original Agreement, the Said Plots or the Building. VPPL shall be entitled to deal with the Said Plots or the Building in any manner whatsoever at its sole discretion.
4. In consideration of the cancellation and termination of the Original Agreement by PDL and termination of all its rights, interests, titles, claims, benefits, advantages, etc., accrued there under, and PDL investing its time, money and efforts for the Said Plots and the Building, VPPL shall pay an amount of Rs. 25,00,00,000/- (Rupees Twenty Five Crores only) as full and final payment. The said amount of Rs. 25,00,00,000/- (Rupees Twenty Five Crores only), subject to deduction of applicable income tax in accordance with provisions of the Income Tax Act 1961, shall be paid by VPPL to PDL in the following manner:
  - (i) Rs. 2,50,00,000/- (Rupees Two Crores Fifty Lac only) simultaneously with execution of this Agreement; and
  - (ii) Rs. 22,50,00,000/- (Rupees Twenty Two Crores Fifty Lac only) within 90 (ninety) days of execution hereof or such other extended period as may be mutually agreed amongst the parties.
5. PDL agrees and acknowledges that the payment of above-mentioned amount is towards full and final settlement in respect of cancellation, extinguishment and termination of all the rights, claims, interests, etc., acquired under the Original Agreement or otherwise in the Said Plots, the Building or any matter incidental or relating thereto. PDL shall not raise any claim against VPPL including its directors and shareholders with respect to the Original Agreement, the Said Plots or the Building including for any expenses or cost incurred by it towards the Building, the Said Plots or any claim raised by any third party in future in any manner whatsoever. PDL shall keep VPPL including its directors and shareholders fully indemnified against any claim raised against VPPL by any third party with respect to the Said Plots or the Building due to any action of PDL.
6. PDL has represented to VPPL that it has booked two units, details whereof is annexed herewith vide Annexure A, in the Building. PDL shall cancel the said units and shall settle the accounts of such unit holders on its own without any recourse or liability on VPPL prior to receipt of the entire amount prescribed in Clause 4 above. PDL shall keep VPPL including its directors and shareholders fully indemnified against any claim raised against VPPL with respect to said two units.
7. All electricity and annual maintenance charges for the Building upto April 13, 2014 shall be paid by PDL and thereafter the said charges and other costs for the Building shall be paid by VPPL.

For Parsvnath Developers Ltd.

8. Upon receipt of the amount prescribed in Clause 4 above, PDL shall handover to VPPL the Original Agreement, which now stands cancelled with execution of this Agreement.
9. Notwithstanding the cancellation or termination of the Original Agreement, the terms and conditions of this Agreement shall continue to bind each Party now and for so long as may be necessary to give effect to their respective rights and obligations hereunder.
10. Each Party hereto shall pay and discharge their respective tax liabilities under the Income Tax Act, 1961 and shall indemnify and keep indemnified and harmless the other from and against all claims, charges, proceedings, penalties in respect of any default or failure to pay or discharge such liabilities and debts. However, stamp duty applicable, if any, shall be borne and payable by VPPL.
11. No waiver of any of the terms of this Agreement shall be effective unless made in writing and no waiver of any particular term shall be deemed to be a waiver of any other term.
12. If any article, clause or part thereof, of this Agreement or any agreement or document appended hereto or made a part hereof is invalid, ruled illegal by any court of competent jurisdiction, or unenforceable under present or future laws effective during the term of this Agreement, then it is the intention of the Parties that the remainder of the Agreement, or any agreement or document appended hereto or made a part hereof, shall not be ~~affected thereby unless the deletion of such provision shall cause this Agreement to become materially adverse to any Party in which case the Parties shall negotiate in good faith such changes to the Agreement, or enter into suitable amendatory or supplementary agreements, as will best preserve for the Parties the benefits and obligations under such provision.~~
13. All notices or proceedings in connection with this Agreement shall be given in writing and may be served personally, by registered post or by courier, return receipt requested at the address first stated hereinabove or any other address subsequently notified to the other Party. Such notice shall be deemed to be delivered on receipt thereof.
14. This Agreement shall be construed and interpreted in accordance with and governed by the laws of India and the courts of Uttar Pradesh, alone shall have jurisdiction over all matters arising out of or relating to this Agreement.
15. This Agreement sets forth the entire agreement and understanding between the Parties relating to the subject matter herein and supersedes any and all prior discussions, communications, negotiations, understanding, agreements, or contracts, whether written or oral. No modification of, or amendment to, this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing signed by the Parties.
16. This Agreement may be executed in any number of counterparts, each of which shall be an original, and shall together constitute one and the same instrument.

9. As can be seen from Clause 1 of the Cancellation Agreement, the Original Agreement along with all rights and obligations arising thereunder, stood cancelled, terminated and revoked absolutely and forever between the parties. It is pertinent to note that the construction and development services were admittedly rendered by the Petitioner pursuant to the original development arrangement and not in pursuance of the subsequent Cancellation Agreement dated 31.03.2014.

**10.** Further, a conjoint reading of Clauses 1 and 4 of the Cancellation Agreement reveals that the obligation to pay the amount of ₹25 Crores emanates from the Cancellation Agreement itself and not from the original development Agreement dated 20.09.2004. The said amount was agreed to be paid as consideration for cancellation and termination of the original development arrangement and for relinquishment by the Petitioner of all its rights, interests, titles, claims, benefits and advantages accrued under the original Agreement.

**11.** At this stage, it would be apposite to examine the nature of the claim sought to be enforced in the present proceedings. In our opinion, the Cancellation Agreement executed between the parties is essentially contractual in nature and constitutes a settlement/restructuring of rights inter se the parties after completion of the development activity. The liability claimed under the said Agreement does not arise directly from provision of goods or rendering of services, but from the subsequent contractual arrangement entered into for cancellation and termination of the earlier development arrangement/agreement.

**12.** Thus, while the original agreement may have involved rendering of construction and development services, the present petition does not seek enforcement of any dues arising out of unpaid operational services under the original development agreement, instead, the claim has been founded upon the consideration amount stipulated under the Cancellation Agreement dated 31.03.2014. Consequently, the nature and character of the debt claimed assumes significance for determining whether the same falls within the ambit

of “operational debt” as defined under Section 5(21) the Insolvency and Bankruptcy Code, 2016.

**13.** In this regard, Sections 5(20) and 5(21) of the Insolvency and Bankruptcy Code, 2016 are relevant, which reads thus: -

“[...]

*(20) "**operational creditor**" means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred;*

*(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;”*

**14.** From a plain reading of Section 5(21) of the Code, it is noted that “operational debt” must arise in respect of provision of goods or rendering of services. In the present case, no services were rendered by the Petitioner pursuant to the Cancellation Agreement dated 31.03.2014. The services admittedly rendered under the original development arrangement which itself stood cancelled, terminated and extinguished by virtue of the Cancellation Agreement.

**15.** The claim sought to be enforced in the present proceedings is not for unpaid consideration for construction or development services simpliciter, but pertains to payment of an amount agreed under the subsequent Cancellation Agreement towards relinquishment and termination of the rights accrued in favour of the Petitioner under the original Development Agreement. Such a transaction, in our considered opinion, cannot be construed as a claim

arising out of provision of goods or rendering of services within the meaning of Section 5(21) of the Insolvency and Bankruptcy Code, 2016.

**16.** The Cancellation Agreement merely records a contractual arrangement entered into between the parties for cancellation and termination of the earlier development arrangement and settlement of rights flowing therefrom. The relinquishment by the Petitioner of its rights, interests, titles, claims, benefits and advantages under the original Agreement cannot, by itself, be equated with rendering of operational services under the Code. The liability claimed under the said Agreement is therefore contractual in character and does not partake the nature of an operational debt as contemplated under the provisions of the Code.

**17.** In the facts of the present case, the Cancellation Agreement constituted an independent contractual arrangement between the parties which was to be governed and enforced in accordance with its own terms and conditions. In the event of any alleged breach or non-compliance thereof, the parties would necessarily have recourse to appropriate remedies available under law before the competent civil forum. Thus, the dispute between the parties essentially arises out of enforcement of contractual obligations under the Cancellation Agreement which falls within the realm of civil disputes.

**18.** We are also conscious of the settled legal position that the Insolvency and Bankruptcy Code, 2016 is not intended to serve as a recovery mechanism for enforcement of contractual dues. The primary object of the Code is resolution of insolvency and revival of the Corporate Debtor as a going concern and not mere recovery of money. In this regard, reference may be made to the judgment of the Hon'ble Supreme Court in ***Dhanlaxmi Bank Ltd. v.***

**Mohammed Javed Sultan and Ors., (2026) ibclaw.in 244 SC**, wherein it was observed as follow: -

“[...]

*The scheme of the Code is to ensure that when a debt becomes due and is not paid, the Insolvency Resolution Process begins. The Code operates as a collective insolvency resolution mechanism and not as a forum for the adjudication of individual contractual claims. This Court has underscored that where object behind the invocation of Code is to compel payment rather than to address genuine financial distress, such invocation would amount to an abuse of process. The Code must not be used as a tool for coercion and debt recovery by individual creditors.”*

**19.** In view of the foregoing discussion and for the reasons recorded hereinabove, we are of the view that the claim sought to be enforced by the Petitioner does not fall within the ambit of “operational debt” under Section 5(21) of the Insolvency and Bankruptcy Code, 2016. The petition is found devoid of merits and is accordingly rejected.

**Sd/-  
(ATUL CHATURVEDI)  
MEMBER (T)**

**Sd/-  
(ASHOK KUMAR BHARDWAJ)  
MEMBER (J)**