

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (IB) No. 5/KB/2025

*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:

Mr. Arvind Miharia Proprietor of National Glass Works

... Applicant/ Operational Creditor.

Versus

APL Metals Limited

... Respondent/ Corporate Debtor.

Date of Pronouncement: 09.06.2026.

CORAM:

SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)

CMDE. SIDDHARTH MISHRA, HON'BLE MEMBER (TECHNICAL)

APPEARANCE:

For the Operational Creditor

Mr. Dripto Majumdar, Adv.

Mr. Riyanshu Agarwal, Adv

For the Corporate Debtor

Mr. Patita Paban Bishwal, Adv.

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ORDER

Per: Cmde Siddharth Mishra, Member (Technical)

1. This Court congregated through a hybrid mode.
2. Heard the Learned Counsels for both parties.

3. *Factual Matrix*

- 3.1** The present application has been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (“IBC”) by the Operational Creditor seeking initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor for an alleged operational debt of Rs. 1,14,40,464/-, comprising principal of Rs. 1,11,65,159/- and interest of Rs. 2,75,305/-.
- 3.2** It is the case of the Operational Creditor that pursuant to purchase orders issued by the Corporate Debtor, Soda Ash Dense was supplied and twelve invoices were raised between 15.04.2024 and 10.07.2024. Payment terms were 90 days from the date of invoice.
- 3.3** Allegedly, the Corporate Debtor failed to make payment upon expiry of the credit period. A Demand Notice dated 27.11.2024 under Section 8 of the IBC was issued and was duly delivered on 29.11.2024. No reply was issued within the statutory period of ten days.
- 3.4** The present Company Petition was thereafter filed seeking initiation of CIRP.

4. SUBMISSIONS ON BEHALF OF THE OPERATIONAL CREDITOR

- 4.1** It is submitted that the Corporate Debtor had placed purchase orders and the goods were supplied strictly in accordance with such orders without any objection as to quality or quantity.
- 4.2** It is contended that twelve invoices were duly raised and acknowledged and that no dispute whatsoever was raised either prior to or after issuance of the invoices.

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- 4.3** It is claimed that the total principal outstanding is Rs. 1,11,65,159/- and that interest has accrued in terms of the invoices.
- 4.4** It is further submitted that the date of default occurred on 08.10.2024, being 90 days from the last invoice dated 10.07.2024.
- 4.5** It is submitted that a Demand Notice under Section 8 was duly issued and served, and despite receipt, the Corporate Debtor neither replied nor made payment.
- 4.6** It is contended that there is no pre-existing dispute and that in its reply affidavit, the Corporate Debtor has admitted its financial distress and inability to pay, thereby acknowledging the debt and default.
- 4.7** It is further submitted that once existence of debt and default above the statutory threshold is established, the application deserves admission.

5. SUBMISSION ON BEHALF OF CORPORATE DEBTOR

- 5.1** It is submitted that the present application is not maintainable and has been filed in abuse of process of law.
- 5.2** It is contended that there is no operational debt within the meaning of the IBC and that the Applicant has failed to demonstrate default.
- 5.3** It is claimed that the ledger account relied upon by the Operational Creditor is unilaterally prepared and cannot be relied upon.
- 5.4** It is further submitted that the balance confirmation has been misused and that the computation of dues is incorrect.
- 5.5** It is contended that the Respondent Company is facing severe financial distress due to income tax demands amounting to Rs. 432,90,47,494/- and garnishee proceedings, resulting in stoppage of operations.
- 5.6** It is claimed that the Company intends to pay the dues in instalments once its financial condition improves.

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ANALYSIS AND FINDINGS

6. Heard Learned Counsel for both the parties and perused the submission and documents placed on record.
7. We note that a Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 bearing **CP (IB) No. 161/KB/2025** has been also filed by the Indian Bank, against the same Corporate Debtor, which has already been allowed and admitted by this Tribunal on 09.06.2026.
8. In view of the admission of the said section 7 Application CP (IB) No. 161/KB/2025 and the consequent commencement of the CIRP against the Corporate Debtor, the prayer of the present Applicant has already been brought into affect and diving into the merits of the present application would therefore be futile.
9. Mr. Arvind Miharia, the Applicant in the present petition, is hereby directed to submit his claim before the Interim Resolution Professional appointed thereunder in accordance with the applicable provisions of the Code and the Regulations framed thereunder.
10. Accordingly, the present **C.P (IB) No. 5/KB/2025** is **disposed of** with liberty to get it revived depending upon the challenge to the admission order, if any, and its outcome.
11. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information.
12. Let the certified copy of the order be issued, if applied for, upon compliance with all requisite formalities.

Cmde Siddharth Mishra
Member (Technical)

Smt. Bidisha Banerjee
Member (Judicial)

Order signed on the 09.06.2026.

S.T (LRA)/Bhatt, O. (LRA)