

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI COURT-III

IB – 394(ND)/2025

Order 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:

NARINDRA & NARINDRA STEEL CORPORATION

(Through Mr. Narendra Nahata, Partner)

Having Its Registered Office at:

Unit No. 504 - 506,

Ansals Imperial Tower, C-Block,

Naraina Vihar, New Delhi - 110028

... OPERATIONAL CREDITOR

VERSUS

SWADESH GREEN INFRA LIMITED

At:

C-201, Naraina Industrial Area,

Phase-1, New Delhi – 110028

Also at:

B-13, Gulmohar Park, New Delhi - 110049

... CORPORATE DEBTOR

Order Pronounced On: 08.07.2026

CORAM:

SHRI BACHU VENKAT BALARAM DAS,

HON'BLE MEMBER (JUDICIAL)

SHRI RAVINDRA CHATURVEDI,

HON'BLE MEMBER (TECHNICAL)

APPEARANCES

For the Applicant : Mr. Tushar Nirwal, Adv., Mr. Rakesh Mukhija,
Mr. Narendra Mohta (Applicant)

For the Respondent : Mr. Mahesh Kumar, Mr. Tanishq Verma, Advs.

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ORDER

PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

1. This Application has been filed by M/s. Narindra & Narindra Steel Corporation, the Applicant / Operational Creditor, before this Adjudicating Authority, under Section 9 of the Insolvency and Bankruptcy Code, 2016 (“IBC” or “Code”) r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, (“Adjudicating Authority Rules”), for initiating the Corporate Insolvency Resolution Process (“CIRP”), declaring moratorium and for appointment of Interim Resolution Professional (“IRP”), against M/s. Swadesh Green Infra Limited, the Respondent/Corporate Debtor, on the ground that the Corporate Debtor has defaulted to the tune of Rs. 1,03,32,546.17 (Rupees One Crore Three Lakhs Thirty Two Thousand Five Hundred Forty Six and Seventeen Paise Only).

SUBMISSIONS OF THE APPLICANT/OPERATIONAL CREDITOR:

2. The Applicant/Operational Creditor submitted that it is engaged in the business of sale, purchase, and supply of iron materials/products, including M.S. angles and other iron-related products. In the ordinary course of business, the Corporate Debtor approached the Operational Creditor and represented that it was engaged in the trading of Iron and Steel products and possessed the capacity to meet bulk requirements of materials such as M.S. Plates, Sheets, and HR Coils. The Corporate Debtor further assured the Operational Creditor of a reliable supply chain through its established dealings with manufacturing companies.
3. The Applicant, relying upon the representations and assurances extended by the Corporate Debtor, placed Purchase Order No. NNSC-PO-2425-146 dated 24.05.2024, pursuant to which it issued Proforma Invoice No. SOIL/24-25/PI/02 dated 24.05.2024. Against the said purchase order and proforma invoice, the Applicant made aggregate payments of Rs. 18,27,46,113.19/- to the Corporate Debtor.



4. Pursuant thereto, the Corporate Debtor raised invoices dated 24.06.2024 and 25.06.2024 and supplied material worth an aggregate sum of Rs. 17,24,13,567.02/- to the Applicant. However, despite receipt of the entire consideration, the Corporate Debtor failed to supply the remaining material, resulting in an outstanding balance of Rs. 1,03,32,546.17/- lying with the Corporate Debtor as an advance payment against unsupplied goods.
5. It was submitted that upon follow-up by the Applicant, a meeting was held on 22.10.2024, wherein the Corporate Debtor acknowledged its inability to supply the remaining material and agreed to refund the balance advance amount. In pursuance thereof, Mr. Ravi Gupta, Director of the Corporate Debtor, issued a cheque bearing No. 504653 dated 30.11.2024 for an amount of Rs. 1,00,00,000/- towards repayment of the admitted dues.
6. The aforesaid cheque was dishonoured on presentation on account of "Funds Insufficient" vide return memo dated 07.01.2025. Thereafter, proceedings under Section 138 of the Negotiable Instruments Act, 1881, were also initiated by the Applicant.
7. The Applicant submitted that a demand notice dated 25.02.2025, under Section 8 of the Code, was duly served upon the Corporate Debtor on 27.02.2025 and 28.02.2025 as well as through email; however, neither any payment was made, nor any notice of dispute was ever raised by the Corporate Debtor within the statutory period.
8. In view of the above, the Applicant submitted that the Application under Section 9 of the Code is complete in all respects, and the material placed on record clearly establishes the existence of an operational debt and default on the part of the Corporate Debtor. Accordingly, the Application is liable to be admitted.

SUBMISSIONS OF THE RESPONDENT/CORPORATE DEBTOR:

9. The Respondent/Corporate Debtor, Swadesh Green Infra Limited, has filed its Reply denying the contentions of the Applicant/Operational Creditor and submitted that the present petition is misconceived, misleading, constitutes



an abuse of the insolvency process and suppressive of material facts. It was contended that the Applicant has suppressed material facts and has approached this Adjudicating Authority without clean hands.

10. It is submitted that the Application filed by the Operational Creditor is not maintainable under the provisions of the Code and is liable to be dismissed on the basis of the following submissions.
11. The Corporate Debtor that the Applicant does not qualify as an “Operational Creditor” within the meaning of Sections 5(20) and 5(21) of the Code. The Respondent/ Corporate Debtor submitted that since the Applicant never supplied any goods or services to the Corporate Debtor and had merely advanced money to the Corporate Debtor, the claim of the Applicant does not constitute an operational debt under the Code.
12. It was submitted that there were pre-existing disputes between the parties for which, reliance was placed upon email exchange between the parties to contend that disputes had arisen regarding the transaction and that the Applicant itself had sought refund of money instead of insisting upon supply of goods.
13. It was further submitted that the cheque issued by Mr. Ravi Gupta, Director of the Corporate Debtor, was merely a security cheque issued from his personal account as a safeguard pending resolution of disputes between the parties and was never intended to be presented for encashment. Therefore, dishonour of the said cheque cannot constitute evidence of admission of liability by the Corporate Debtor.
14. It is submitted that as the ledger of the Applicant, an amount of Rs. 18,27,46,113.19 was advanced to it by the Applicant, and the closing balance is shown as 1,03,32,546.17. However, as per the ledger maintained by the Corporate Debtor, it reflects that the Applicant has paid an advance of Rs.18,26,00,000, and the closing balance is reflected as only Rs. 85,22,208.98/-, which is below the threshold prescribed under Section 4 of the Code. It was argued that even on the Applicant's own showing, the amount claimed is disputed and requires detailed examination and



reconciliation of accounts, which cannot be undertaken in summary insolvency proceedings.

15. Reliance was placed upon the judgments in *Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd.* and other authorities to submit that where a plausible contention requiring investigation exists, and a genuine dispute is shown to have arisen before issuance of the demand notice, a petition under Section 9 is liable to be rejected.
16. It was further argued that the Applicant has simultaneously invoked remedies under Section 138 of the Negotiable Instruments Act and the Insolvency and Bankruptcy Code, thereby attempting to use the Code as a recovery mechanism. Such conduct, according to the Respondent/ Corporate Debtor, amounts to forum shopping and misuse of the insolvency framework.
17. Learned Counsel also raised objections regarding maintainability, alleging non-compliance with Section 9(3)(b), non-filing of material documents, incorrect default date, and absence of requisite evidentiary certification.
18. The Respondent/ Corporate Debtor, therefore, submitted that in view of the factual and legal position explained above, the present Application deserves to be dismissed by this Adjudicating Authority.

REJOINDER:

19. The Applicant has filed its rejoinder dated 30.10.2025, pursuant to the reply filed by the Corporate Debtor, whereby the Applicant denied all allegations made in the Reply and submitted that the entire defence set up by the Corporate Debtor is false, evasive, and unsupported by any contemporaneous record. It was contended that the alleged dispute is a moonshine defence raised only to avoid repayment of admitted dues.
20. It was submitted that the Respondent/Corporate Debtor has failed to demonstrate any genuine pre-existing dispute as understood under the settled law laid down in *Mobilox* (supra). Mere use of expressions such as



“pre-existing dispute”, “quality”, “quantity” or “performance” without supporting material cannot constitute a dispute under the Code.

21. The Applicant reiterated that it is an Operational Creditor and the outstanding amount clearly falls within the ambit of “debt” and “default” under the Code. The contention of the Respondent/ Corporate Debtor that the transaction is not an operational debt was stated to be wholly misconceived.
22. It was further submitted that the email correspondence relied upon by the Respondent/ Corporate Debtor does not establish any dispute; rather, the same demonstrates repeated requests by the Applicant for a refund after the Respondent/ Corporate Debtor failed to honour its obligation to supply material despite receiving the advance amount.
23. The Applicant specifically denied that the cheque was issued as a security cheque and reiterated that the same was issued in discharge of an admitted liability after the Corporate Debtor acknowledged its inability to supply the remaining goods and agreed to refund the advance amount.
24. By way of Rejoinder, the Applicant challenged the authenticity of the ledger account and debit-note entries relied upon by the Corporate Debtor, contending that the same were fabricated and subsequently created with the sole object of reducing the outstanding liability below the statutory threshold prescribed under the Code.
25. It was submitted that the Corporate Debtor had deliberately suppressed the TDS component of Rs. 1,46,113.19/-, which had been duly deducted and deposited on its behalf, and consequently sought to incorrectly portray the total amount paid by the Applicant as Rs. 18,26,00,000/- instead of the actual amount of Rs. 18,27,46,113.19/-.
26. The Applicant further alleged that the Corporate Debtor had artificially reduced its liability by introducing a ledger entry of Rs. 16,64,224/-, purportedly based on Debit Note No. DN/24-25/09 dated 31.03.2025. According to the Applicant, no such debit note was ever issued, communicated, or disclosed at any stage before the present proceedings,



and the same had been created subsequently as an afterthought to defeat the claim of the Applicant. It was thus contended that the Respondent/ Corporate Debtor had relied upon false, fabricated, and ante-dated documents in support of its defence and had sought to misrepresent the true state of accounts before this Adjudicating Authority.

27. It was further contended that the Application satisfies the threshold prescribed under Section 4 of the Code and that the alleged closing balance of Rs. 85,22,208.98 relied upon by the Corporate Debtor is based on fabricated entries and cannot defeat the claim of the Applicant.
28. Accordingly, the Applicant reiterated that there exists no pre-existing dispute, the debt and default stand established, the cheque constitutes an acknowledgment of liability, and the petition under Section 9 is fully maintainable and liable to be admitted.

ANALYSIS AND FINDINGS:

29. We have heard the submissions advanced by the Learned Counsel appearing for the Applicant/Operational Creditor and the Respondent/Corporate Debtor and have perused the pleadings and documents placed on record.
30. The principal issues which arise for consideration before this Adjudicating Authority in the present matter are:
- (i) Whether the claim of the Applicant constitutes an “Operational Debt” within the meaning of Sections 5(20) and 5(21) of the Insolvency and Bankruptcy Code, 2016;
 - (ii) Whether a debt and default exceeding the threshold prescribed under Section 4 of the Code stands established; and
 - (iii) Whether there existed any pre-existing dispute between the parties prior to issuance of the demand notice under Section 8 of the Code.



31. At the outset, the Respondent/ Corporate Debtor has questioned the maintainability of the present Application on the ground that the Applicant is not an Operational Creditor. According to the Respondent/ Corporate Debtor, the Applicant merely advanced money to the Corporate Debtor and did not supply any goods or services to it. Consequently, it has been contended that the amount claimed does not qualify as an operational debt under the Code.
32. In order to examine the aforesaid contention, it is necessary to consider the nature of the transaction between the parties. The record reflects that the Applicant placed Purchase Order No. NNSC-PO-2425-146 dated 24.05.2024, upon the Corporate Debtor for the procurement of iron and steel products. Pursuant thereto, the Applicant remitted an aggregate amount of Rs. 18,27,46,113.19/- towards consideration for the supply of goods. It is further not disputed that goods valued at Rs. 17,24,13,567.02/- were supplied by the Corporate Debtor against the said order. The claim in the present proceedings pertains to the balance amount allegedly retained by the Corporate Debtor against material that remained unsupplied.
33. Thus, the advance payment was not a standalone financial transaction or a loan arrangement. The payment was intrinsically linked to a commercial transaction involving the purchase and supply of goods. The amount claimed by the Applicant arises directly out of the supply arrangement between the parties. It represents the value of goods which, according to the Applicant, were never supplied despite receipt of consideration by the Corporate Debtor. Therefore, prima facie, the claim emanates from a transaction having a direct nexus with the provision and supply of goods and cannot be rejected merely on the ground that the Applicant had initially paid the consideration in advance.
34. The next question that falls for consideration is whether the debt and default stand established from the material available on record. The Applicant has placed reliance upon the purchase order, invoices, ledger account, bank transactions, demand notice under Section 8 of the Code,



and the dishonoured cheque issued by the Director of the Corporate Debtor. The record indicates that after part of the supply of goods, a balance amount remained outstanding. The Applicant has further asserted that upon being called upon to fulfil its obligations, the Corporate Debtor acknowledged its inability to supply the remaining material and agreed to refund the outstanding amount.

35. In this regard, particular significance attaches to the issuance of a cheque bearing No. 504653 dated 30.11.2024 for Rs. 1,00,00,000/-. The Respondent/ Corporate Debtor has sought to explain the cheque as a security instrument issued from the personal account of one of its Directors. However, apart from making a bald assertion, no contemporaneous material has been produced to establish that the cheque was intended only as a security or that the parties had agreed that the same would not be presented for encashment. On the contrary, the issuance of a cheque for a substantial amount subsequent to the disputes regarding the supply of material lends support to the Applicant's case that the outstanding liability was acknowledged and arrangements for repayment were being explored.
36. The dishonour of the cheque by itself may not conclusively establish default under the Code; however, it constitutes a relevant circumstance which cannot be ignored while appreciating the overall factual matrix. When viewed alongside the admitted commercial relationship, the advance payments made by the Applicant and the admitted supply of goods only to a limited extent, the issuance and dishonour of the cheque assumes evidentiary significance.
37. The principal defence raised by the Corporate Debtor is that there existed a pre-existing dispute between the parties. Reliance has been placed upon certain email communications and ledger entries to contend that disputes regarding the transactions had arisen much prior to the issuance of the demand notice.



38. The law relating to the examination of pre-existing disputes in proceedings under Section 9 of the Code is no longer res integra. The Hon'ble Supreme Court in *Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd.* has held that while considering an application under Section 9, the Adjudicating Authority is not required to determine the merits of the dispute. The test is whether there exists a genuine dispute requiring further investigation and not a patently feeble legal argument or unsupported assertion.
39. Applying the aforesaid principles to the facts of the present case, we find that the Respondent/ Corporate Debtor has not placed on record any contemporaneous document demonstrating a dispute relating to quality, quantity, specifications, or performance of the goods supplied by the Corporate Debtor. The correspondence relied upon by the Respondent/ Corporate Debtor primarily indicates discussions regarding the refund of the balance amount and the inability of the Corporate Debtor to complete the supply of material. Such communications do not, by themselves, establish the existence of a bona fide dispute concerning the underlying liability.
40. The Respondent/ Corporate Debtor has also relied upon its own ledger account to contend that the outstanding balance is only Rs. 85,22,208.98/- and therefore below the threshold prescribed under Section 4 of the Code. However, the Applicant has specifically disputed the correctness of the ledger and has alleged that the reduction in liability has been achieved by suppressing the TDS component and by introducing a debit note dated 31.03.2025, which, according to the Applicant, was never previously disclosed.
41. Significantly, the alleged debit note relied upon by the Corporate Debtor is stated to have been generated on 31.03.2025, i.e., after issuance of the demand notice dated 25.02.2025 and after the dispute regarding repayment had already crystallised. The Respondent/ Corporate Debtor has not placed sufficient material on record to demonstrate that the debit note had been communicated to or accepted by the Applicant at the



relevant time. Further, no explanation whatsoever has been furnished by the Respondent/Corporate Debtor as to the nature, basis, or purpose of the alleged debit note, thereby rendering the entry wholly unsubstantiated. In the absence of such evidence, the said document does not inspire confidence at the stage of admission.

42. Furthermore, even the discrepancy in ledger balances relied upon by the Respondent/ Corporate Debtor itself demonstrates that the parties are ad idem regarding the substantial payments made by the Applicant and the existence of an outstanding balance. The controversy essentially pertains to the quantum of such a balance and the entries relied upon by the Respondent/ Corporate Debtor for reducing the liability. Such unilateral accounting entries, unsupported by convincing contemporaneous evidence, cannot by themselves constitute a genuine pre-existing dispute within the meaning of the Code.
43. We also do not find merit in the contention that the Applicant has invoked the provisions of the Code merely as a recovery mechanism because proceedings under Section 138 of the Negotiable Instruments Act, 1881, have also been initiated. It is settled law that the availability or invocation of another statutory remedy does not by itself bar recourse to the provisions of the Code, provided the requirements of debt and default are otherwise satisfied.
44. In view of the foregoing discussion, this Adjudicating Authority is of the considered opinion that the material placed on record prima facie establishes the existence of an operational debt and default. The defence sought to be raised by the Respondent/Corporate Debtor does not disclose a genuine and plausible pre-existing dispute requiring further investigation in terms of the law laid down by the Hon'ble Supreme Court in Mobilox (supra). Accordingly, the objections raised by the Corporate Debtor are liable to be rejected.

ORDER:



45. In view of the above facts and circumstances and the foregoing discussion, we are satisfied that the present Application fulfils the criteria laid down under Section 9 of the Code. It is accordingly ordered as follows: -

a) The Application, **(IB)-394(ND)/2025** filed by the Applicant under Section 9 of the Code read with Rule 6 of the Adjudicating Authority Rules for initiating CIRP against the Respondent/Corporate Debtor, hereby ***stands admitted.***

b) We declare a moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flow 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.*

[Explanation.- For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance 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, shall not be suspended or terminated 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, concession, clearances or a similar grant or right during the moratorium period;]



- c) It is made clear that the provisions of the 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 the 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.
- d) As per Section 9(4) of the Code, the Operational Creditor may propose the name of a Resolution Professional along with the application to act as the Interim Resolution Professional (IRP) for the Corporate Debtor. The Applicant in the present matter has proposed the name of Mr. Niraj Kumar to act as the IRP.
- e) Therefore, this Adjudicating Authority appoints **Mr. Niraj Kumar** as the IRP. The details of the IRP are as follows:
- Registration No.** : IBBI/IPA-001/IP-P-02368/2021-2022/13586
- Address** : E-47, IARI Pusa Campus, New Delhi-
110012
- Contact No.** : +91 9818727408
- E-mail** : njhaandco@gmail.com
- f) The appointed IRP is further directed to submit a valid Authorization for Assignment along with Written Consent in Form-2 and a copy of the Registration Certificate within 3 days of the pronouncement of this order.
- g) 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 3 (three) days, as clarified by the Explanation to Regulation 6(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- h) 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.

- i)** The IRP is expected to take full charge of the assets of the Corporate Debtor and documents without any delay whatsoever. He is also free to take police assistance, and this Adjudicating Authority directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
- j)** The Operational Creditor is directed to deposit a sum of Rs. 2,00,000/- (Rupees Two Lakhs only) with the IRP to meet out the expenses to perform the functions entrusted to him. However, this amount shall be subject to adjustment by the Committee of Creditors, based on the accounts maintained by the IRP upon the conclusion of the CIRP.
- k)** The IRP/RP is further directed to submit periodic progress reports to this Adjudicating Authority at the conclusion of each quarter.
- l)** In accordance with the provisions of the Code, the Registry is 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.
- m)** The Registrar of Companies shall update its website by updating the status of the Corporate Debtor, and specific mention regarding the admission of this application must be made.
- n)** The Registry is further directed to send a copy of this order to the IBBI for their record.

No order as to costs.

SD/-

**RAVINDRA CHATURVEDI
MEMBER (TECHNICAL)**

SD/-

**B.V. BALARAM DAS
MEMBER (JUDICIAL)**