NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT VI

Item No. P2.

C.P. (IB)/828(MB)2026

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **24.09.2026**

NAME OF THE PARTIES: **Alliance Advertising and Marketing Pvt. Ltd.**

Vs

Eduisfun Technologies Pvt Ltd

Under Section 9 of the IBC.

ORDER

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

Sd/-
NILESH SHARMA
MEMBER (JUDICIAL)

Sd/-
SAMEER KAKAR
MEMBER (TECHNICAL)

//S.DUBEY//

IN THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI BENCH-VI

CP (IB) No.828/MB/2026

[Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016]

IN THE MATTER OF:

ALLIANCE ADVERTISING AND MARKETING PVT. LTD
[CIN: U74899DL2000PTC105017]
Having its registered office at:
A-53, First Floor, Okhla Industrial Area
Phase II, Okhla Industrial Estate,
South Delhi, New Delhi, India - 110020

…Operational Creditor/Applicant

V/s

EDUISFUN TECHNOLOGIES PVT. LTD.
[CIN: U74999MH2015PTC263120]
Having its registered office at:
Office No 117, 1st Floor,
Shoppers Point, 208 S.V. Road,
Andheri West, Mumbai,
Maharashtra, India - 400058.

...Corporate Debtor

Pronounced: 24.09.2026

CORAM:
HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)
HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)

<u>Appearances: Hybrid</u>

Operational Creditor: Adv. Mr. Siddharth Kumar, Adv. Mr. Karan
Corporate Debtor: Adv. Mr. Prakash Shah

ORDER

[PER: BENCH]

1. BACKGROUND

1.1 This is an Application bearing C.P. (IB) No.828/MB/2026 filed on 01.08.2026 by **Alliance Advertising and Marketing Pvt. Ltd.**, the Applicant (Operational Creditor) under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "the AAA Rules") through Mr. Arshad Nizam Shawl (Director) vide Board Resolution dated 08.05.2026, the Applicant, seeking for initiating Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") in respect of **Eduisfun Technologies Pvt Ltd**, the Corporate Debtor (CD)**.**

1.2 In Part III of the application, the Operational Creditor has proposed the name of Mr. Vijay Pitambar Lulla, an Insolvency Professional, having Registration No. IBBI/IPA-001/IP-P00323/2017-18/10593, to act as the Interim Resolution Professional (IRP) (having valid Authorisation for Assignment up to 30.06.2027) (as per IBBI site), in case the Application is Admitted.

1.3 The Applicant has relied on the following documents:

i. Copy of the Master Data of the Corporate Debtor.

ii. Copy of the Agreement dated 01.1 1.2019 entered into between the Operational Creditor and the Corporate Debtor for providing advertising services.

iii. Copies of the Ledger of the CD maintained in the Books of OC company for entire set of transaction between them.

iv. Copy of the Corporate Debtor's Balance Confirmation to the Operational Creditor vide E-Mail dated 16.09.2021 confirming the principal outstanding of Rs. 2,03,81,699/- for FY 2020-21.

v. Copy of the Corporate Debtor's Balance Confirmation to the Operational Creditor vide E-Mail dated 21.09.2022 confirming the principal outstanding of Rs. 1,73,81,699/- for FY 2021-22.

vi. Copy of the Credit Note No. CN173/22-23/AAM dated 31 .03 .2023 in favour of the Corporate Debtor for the sum of Rs. 49,10,000/-.

vii. Copies of the 38 overdue invoices raised by the Operational Creditor upon the Corporate Debtor along with proof of delivery.

viii. Copy of the E-Mail dated 31.12.2020 (7:27 PM) addressed by Corporate Debtor to the Operational Creditor regarding the TDS for the invoices raised by the Operational Creditor in the FY20 19-20.

ix. Copies of relevant extracts of Form GSTR-1 and Form GSTR-3B relating to overdue Invoices of the Operational Creditor.

x. Copy of the Unqualified Signed Balance Confirmation issued by the Corporate Debtor in favour of the Operational Creditor vide its E-Mail dated 27.09.2023 (19:24).

xi. Copy of the some of the E-Mails addressed by the Operational Creditor to the Corporate Debtor following up with the latter for its outstanding dues.

xii. Copy of Demand Notice Dated 20.03.2024 addressed by OC along with proof of delivery.

xiii. Certificate of the Banker of the Operational Creditor Company dated 05.05.2026 confirming the non-payment of the unpaid operational debt by the corporate debtor.

xiv. Affidavit u/s 9(3) (b) of the Code on behalf of the Operational Creditor.

xv. Copy of Board Resolution Dated 08.05.2026.

xvi. Copy of written communication by proposed interim resolution professional Form -2 along with validity certificate Form B and IRP registration certificate.

xvii. Copy of Form 1A(IAAA) Form for serving copy of application for initiation of CIRP to the IBBI.

2. AVERMENTS OF THE APPLICANT

2.1 The Operational Creditor submits that it is engaged in the business of providing media and advertising services through Press, Outdoor, Television, Radio and Digital platforms. The Corporate Debtor is engaged in the business of online education under the name and style of "STEPApp". For promotion of its business and products, the Corporate Debtor approached the Operational Creditor for advertising and media services.

2.2 It is stated that the Operational Creditor and the Corporate Debtor entered into an Agreement dated 01.11.2019, for the purpose of formalising the commercial arrangement between them. Under the agreement, the operational creditor was nominated as the agency on record (Media Planning and Buying)/ AOR by the Corporate Debtor. The relevant scheme of the agreement dated 01.11.2019 is summarised as under:

(a) Under the Agreement, the Operational Creditor/ Agency on Record was required to: (i) buy advertising time, space, services and material, etc. on behalf of the Corporate Debtor/Client; (ii) recommend media implementation objectives, develop specific plans for the advertisement of the Corporate Debtor/Client and ensure that the same are placed/ published in the best manner possible; (iii) instruct creative agencies in relation to the submission of advertising material including giving proper instruction to respective media vendors; (iv) Audit all advertising activities undertaken thereunder; etc. (Clause 2.1).

(b) The Corporate Debtor/ Client assumed and acknowledged all liabilities incurred on its behalf by the Operational Creditor/ Agency on Record including contracts, agreements and arrangements with third parties/ media vendors (Clause 2.3).

(c) The Agreement contemplated the requisite compensation under Clause 5 thereunder including Standard Agency Commission, Agency Commission, Performance linked incentives, reimbursement of expenses incurred, production charges, etc. True copy of the Agreement dated 01.11.2019 entered into between the Operational Creditor and the Corporate Debtor for providing advertising services is Annexed as Exhibit – B.

2.3 It is contented that while entering into the Agreement dated 01.11.2019, the Corporate Debtor, acting through its Founder/ Promoter/ Director, Mr. Praveen Tyagi, duly assured the officers of the Operational Creditor Company that the Corporate Debtor would make payments for the services availed from the Operational Creditor in a timely and professional manner especially considering that under the Agreement the Operational Creditor would be required to enter into commercial arrangements and incur financial liability on behalf of the Corporate Debtor. The said transactional financial liability on behalf of the Corporate Debtor was incurred by the Operational Creditor out of its pocket, having a bearing on its working capital and profitability, rendering the timely payment and clearance of the invoices by the Corporate Debtor, the very essence of the Agreement. Upon having breached this essential condition between the parties, the Corporate Debtor is obligated to pay the Operational Creditor the entire outstanding invoiced amounts with accrued interest, without any liberties and relaxations. That based on the assurances of the Corporate Debtor, the Operational Creditor began providing the advertising services to the Corporate Debtor, as contemplated under the Agreement dated 01.11.2019, as per mutual understanding between parties.

2.4 It is contended that between December 2019 and May 2020, the Operational Creditor rendered advertising services worth crores of Rupees to the Corporate Debtor. This includes providing a bouquet of contemplated advertising services through various TV channels, Times of India Network Publication and Jio TV Digital platform to the Corporate Debtor under the cover of the invoices of the Operational Creditor, conforming to the demands for services raised by the Corporate Debtor through its Purchase Orders/ Communications. It is pertinent to note that the invoices raised by the Operational Creditor were sent by way of email and Courier to the Corporate Debtor, from time to time, which were duly received and acknowledged by the Corporate Debtor. The services rendered by the Operational Creditor to the Corporate Debtor was to the complete satisfaction of the Corporate Debtor and the Corporate Debtor has accepted these services from the Operational Creditor without demur or protest, till date. Further, it is contended that the dues of the Corporate Debtor for the services rendered, after adjustment of the any credits extended to the Corporate Debtor by the Operational Creditor are summarized hereinbelow, according to the respective financial years:

Financial Year	Fresh Debit (In Rs.)	Credits (In Rs.)	Balance of the FY (In Rs.)
2019-20	6,66,84,825 [A]	4,68,86,209 [B]	1,97,98,616 [C] = A – B
2020-21	14,64,719 [D]	8,81,636.00 [E]	2,03,81,699 [F] = C + D - E
2021-22	- [G]	30,00,000 [H]	1,73,81,699 [I] = F – H
2022-23	- [J]	49,10,000 [K]	1,24,71,699 [L] = I - K
Total Outstanding			**1,24,71,699 [L]**

2.5 It is contented that it is relevant to note that each of the invoices raised by the Operational Creditor upon the Corporate Debtor stipulated binding payment/ contractual terms, inter alia, including liability of the Corporate Debtor to pay interest at the rate of 3% Per Month for any delay in making payments under the Invoices. The contractual stipulations as contained in these invoices have never been disputed by the Corporate Debtor till date, therefore, these conditions in the Invoices have been duly accepted by the Corporate Debtor. True copies of the Ledger of the Corporate Debtor maintained in the books of the Operational Creditor Company for the entire set of transactions between them till date are annexed hereto as Exhibit - C. That the entirety of the advertising services under the Agreement dated 01.11.2019 by the Operational Creditor upon the Corporate Debtor were In conformity with the terms of the Agreement dated 01.11.2019 and the requirements raised by the Corporate Debtor thereunder which have been to the highest satisfaction of the Corporate Debtor. In fact, till date, no protest/ dispute whatsoever has been raised by the Corporate Debtor as against the Operational Creditor in respect of the entirety of services rendered, including the present 38 overdue invoices which are the subject matter of the present proceedings.

2.6 That however, contrary to the understanding reached as per agreement dated 01.11.2019, numerous undertakings of its Directors Promoters Officers to make timely payment of the invoices of the Operational Creditor, the Corporate Debtor kept delaying its payments under the invoices of the Operational Creditor.

2.7 It is stated that the Corporate Debtor as a routine business practice not only accepted the services supplied by the Operational Creditor without demur or protest but also used to issue signed Yearly Balance Confirmation Documents to the Creditor Company, acknowledging its outstanding dues as per the running account maintained by the Operational Creditor from time to time, including the following:

i. Balance Confirmation E-Mail dated 16.09.2021 confirming the principal outstanding of Rs.2,03,81,6991- for FY 2020-21.

ii. Balance Confirmation E-Mail dated 21.09.2022 confirmation the principal outstanding Rs.1,73,81,699/- for FY 2021-22.

True copy of the Corporate Debtor's Balance Confirmation to the Operational Creditor vide E-Mail dated 16.09.2021 and 21.09.22 confirming the principal Outstanding's of Rs.2,03,81,699/- for FY 2020-21 and Rs.1,73,81,699 for FY 2021-22 respectively are annexed as Exhibit D and Exhibit E.

2.8 It is further stated that, in terms of the discussion between the parties, the Operational Creditor issued a Credit Note No. CN 173/22-23/ AAM dated 31.03.2023 in favour of the Corporate Debtor for the sum of Rs.49,10,000/- raised by the Operational Creditor in favour of the Corporate Debtor on account of some of the transactions with related concerns of the Corporate Debtor/ its promoters as well as the Operational Creditor. The said sum of Rs.49,10,000/- constitutes the last credit entry received by the

Operational Creditor to the account of the Corporate Debtor. A true copy of the said Credit note is annexed as Exhibit F. After taking into account the above Credit Note, the balance principal dues of the Corporate Debtor qua the overdue invoices of the Operational Creditor stood at Rs. 1,24,71,699/- excluding interest, which related to the following overdue invoices of the Operational Creditor, after adjustment of all credits received from the Corporate Debtor:

SR. No.	Invoice Date	Invoice Reference	Outstanding Amount (In RS.)
1	07.01.2020	A2302/19-20/AAM	33,38,255/-
2	07.01.2020	A2303/19-20/AAM	8,20,120/-
3	07.01.2020	A2304/19-20/AAM	38,30,313/-
4	07.01.2020	A2305/19-20/AAM	5,07,500/-
5	27.01.2020	A2506/19-20/AAM	2,12,362/-
6	07.02.2020	A2543/19-20/AAM	20,53,199/-
7	13.02.2020	A2699/19-20/AAM	38,044/-
8	13.02.2020	A2700/19-20/AAM	1,44,931/-
9	13.02.2020	A2701/19-20/AAM	1,39,283/-
10	13.02.2020	A2702/19-20/AAM	20,300/-
11	13.02.2020	A2703/19-20/AAM	15,686/-
12	13.02.2020	A2704/19-20/AAM	43,964/-
13	11.03.2020	A2879/19-20/AAM	4,659/-
14	11.06.2020	A0683/20-21/AAM	1,47,430/-
15	11.06.2020	A0684/20-21/AAM	71,198/-
16	11.06.2020	A0685/20-21/AAM	17,202/-
17	11.06.2020	A0686/20-21/AAM	3,481/-
18	11.06.2020	A0687/20-21/AAM	9,336 /-
19	11.06.2020	A0688/20-21/AAM	87,228/-
20	11.06.2020	A0689/20-21/AAM	12,286/-
21	11.06.2020	A0690/20-21/AAM	12,777/-
22	11.06.2020	A0693/20-21/AAM	19,411/-
23	11.06.2020	A0694/20-21/AAM	8,354 /-
24	11.06.2020	A0695/20-21/AAM	3,440/-
25	11.06.2020	A0696/20-21/AAM	10,443 /-
26	11.06.2020	A0697/20-21/AAM	83,544/-
27	11.06.2020	A0698/20-21/AAM	1,671/-

28	11.06.2020	A0699/20-21/AAM	5,898/-
29	11.06.2020	A0700/20-21/AAM	4,917/-
30	11.06.2020	A0702/20-21/AAM	9,829/-
31	11.06.2020	A0703/20-21/AAM	9,829/-
32	11.06.2020	A0704/20-21/AAM	14,742/-
33	11.06.2020	A0705/20-21/AAM	7,371/-
34	11.06.2020	A0706/20-21/AAM	4,912/-
35	11.06.2020	A0707/20-21/AAM	15,665/-
36	11.06.2020	A0708/20-21/AAM	4,917 /-
37	15.06.2020	A0725/20-21/AAM	4,917 /-
38	15.06.2020	A0726/20-21/AAM	12,285 /-
Total			1,24,71,699/-

2.9 That since the services were rendered by the Operational Creditor to the Corporate Debtor on a running account basis and since the payment terms under the said 38 invoices contemplated different payment terms, as duly recorded on the front leaf of each of the said Invoices. The Invoices also contemplated that the Corporate Debtor was liable to pay interest at the rate of 3% per month for any delay for failure in timely clearance of bills, till the date of actual payment. It is stated that the above overdue Invoices of the Operational Creditor were also acknowledged/ admitted by the Corporate Debtor by further issuing Signed Balance Confirmation acknowledging its liability for the sum of Rs. 1,24,71,699 qua the abovementioned invoices, unequivocally and without protest, inter alia, vide Signed Balance Confirmation/ Confirmation of accounts as on 31.03.2023, vide E-Mail dated 27.09.2023 (19:24) addressed by the Corporate Debtor in response to the Operational Creditor's E-Mail dated 27.09.2023 (4:32 PM) to the Operational Creditor. True copy of the Unqualified Signed Balance Confirmation issued by the Corporate Debtor In favour of the Operational Creditor vide its E-Mail dated 27.09.2023 (19:24) is annexed as Exhibit - J. Further, it contended that the Operational Creditor wrote time and again to the officers/ key managerial persons of the Corporate Debtor Company to clear its outstanding dues, as highlighted hereinabove, however the said officers/key managerial persons, acting for and on behalf of the Corporate Debtor, admitted the above operational debt but failed to clear the same, despite numerous undertakings to do so. The True copies of the some of the E-Mails addressed by the Operational Creditor to the Corporate Debtor following up with the latter for its outstanding dues are annexed as Exhibit - K.

2.10 It is contented that as on 19.03.2024, as per the terms contained on the respective invoices of the Operational Creditor, which are referred hereinabove, interest of Rs. 1,86,40,039/ at the rate of 3% P.M. arose on the above outstanding invoices. Further it is stated that as the Corporate Debtor failed to make payment of the Operational Debt despite admitting its liability time and again, the Operational Creditor issued a Demand Notice dated 20.03.2024 to the Corporate Debtor at its Registered Office at 'Office No. 117, 1st Floor, Shoppers Point 208 S V Road, Andheri West, Mumbai City, Mumbai, Maharashtra, India, 400058, in Form 3 under Section 8 of the Code and the rules framed thereunder, while attaching the up-to-date Ledger maintained in its books, Computation Sheet/ Default chart, copy of Balance Confirmation, copies of abovementioned 38 overdue invoices, and copy of the Agreement dated 01.11.2019.

2.11 The said Demand Notice dated 20.03.2024 was addressed by the Operational Creditor to the Corporate Debtor, through the following medium, all of which stand delivered:

a) Vide E-Mail dated 22.03.2024 (13 :21) addressed upon the Director/Promoter of the Corporate Debtor, Mr. Praveen Tyagi, at his E-mail address “praveen@eduisfun.com” and the registered E-Mail address of the Corporate Debtor at “accounts@eduisfun.com” along with the E-Mail address of its Accounts Department.

b) Vide DTDC Courier Consignment No. Z38919600 dated 21.03.2024 addressed to the Registered Office of the Corporate Debtor (mentioned above), which was delivered on 23.03.2024.

c) Vide Speed Post Consignment No. 'EB855724181IN' dated 21.03.2024 addressed to the Registered Office of the Corporate Debtor, which was delivered on 26.03.2024.

d) Vide Speed Post Registered Letter Consignment No. 'RD377883345IN' dated 2l.03.2024 addressed to the Registered Office of the Corporate Debtor, which was delivered on 27.03.2024.

e) Vide WhatsApp message dated 22.03.2024 addressed to Mr. Praveen Tyagi, Director/Promoter of the Corporate Debtor Company on his authenticated Mobile Number '+91 9821226985' as shared by Mr. Arshad Shawl, Director of the Operational Creditor through his Mobile Number '+91-9810409200'.

True copy of the Demand Notice dated 20.03.2024 addressed by the Operational Creditor (sans enclosures except Annexure C thereto) along with proof of delivery is annexed as Exhibit - L.

2.12 The Operational Creditor stated that there was no pre-existing dispute between the parties prior to receipt of the Demand Notice dated 20.03.2024. At no point prior to the Demand Notice did the Corporate Debtor raise any dispute regarding quality, deficiency, non-performance, non-delivery, rate, reconciliation, invoices, or the contractual terms governing interest. On the contrary, the Corporate Debtor repeatedly confirmed the outstanding balances in writing, including by its signed balance confirmation dated 27.09.2023. That it is apparent from the above that the Corporate Debtor duly received the Demand Notice but deliberately failed to reply thereto or make payment of the outstanding operational debt to the Operational Creditor. It is therefore submitted that this is also indicative of the fact that there is no pre-existing dispute in respect of the operational debt and the Corporate Debtor has committed default within the meaning of the Code. Further, it is contented that the unpaid amounts arise out of advertising and media services rendered by the Operational Creditor and therefore constitute "operational debt" within the meaning of Section 5(21) of the Code. From the above facts and circumstances, it is abundantly clear that the Corporate Debtor has acknowledged and confirmed its liability towards the Operational Creditor and that the amount dues were repayable along with interest at dues was repayable at the rate of 3% Per Month.

2.13 Further, it is stated that the present Application is well within limitation as the dues of the Operational Creditor arising out of the invoices, forming the subject matter of the present Application, raised between 07.01.2020 and 15.06.2020, were repeately acknowledged by the Corporate Debtor, including vide Balance Confirmations dated 16.09.2021 (Exhibit D), 21.09.2022 by (Exhibit E) and 27.09.2023 (Exhibit J), each issued within the subsisting period of limitation of the invoices. The latest signed and unqualified balance confirmation dated 27.09.2023 acknowledges the outstanding principal amount of Rs. 1,24,71 ,699/-, which is the subject matter of the present Application. Accordingly, the present Application is well within limitation. That in view of the Registered Address of the Corporate Debtor being situated in Mumbai, within the jurisdiction of this Hon'ble Tribunal, this Hon'ble Tribunal has territorial jurisdiction for the purposes of entertaining and trying the present Petition U/s 9 of the Code. Further, since the issuance of the Demand Notice by the Operational Creditor on 20.03.2024, further contractual interest of Rs. 94,23,638/- has accrued @3% P.M. till date. i.e. 20.03.2024 till 25.04.2026 along with claim of future interest.

2.14 In light of the above, as on 25.04.2026, the Operational Creditor/Applicant is entitled to the outstanding principal amount of the 38 unpaid invoices along with accrued interest as per the tabular chart annexed as Exhibit - N. That in view of the abovementioned facts and circumstances, it is humbly submitted that there being an admitted and undisputed Operational Debt due and payable by the Corporate Debtor, in respect whereof default has been committed, the statutory Demand Notice under Section 8 having been duly served and no payment or notice of dispute having been received there against, the Corporate Debtor is liable to be admitted into Corporate Insolvency Resolution Process in accordance with Section 9 of the Insolvency and Bankruptcy Code, 2016. Therefore, the present company petition is being filed by Operational Creditor/ Applicant on account of default of the Operational Debt committed by the Corporate Debtor.

2.15 During the pendency of the present Company Petition, when the matter was taken up for hearing on 11.08.2026, Ld. Counsel appearing for the Applicant sought leave of this Tribunal to obtain instructions from the Applicant as to whether it intended to continue with the Company Petition in its existing form or withdraw the same. Thereafter, on 12.08.2026, Ld. Counsel, upon instruction, submitted that the Applicant did not intent to withdraw C.P.(IB)/828/2026 and wished to proceed with the same.

2.16 At the hearing held on **12.08.2026**, this Tribunal specifically called upon the Applicant to **amend Form 5** in view of the issues concerning the invoices falling due within the Section **10A period** and the interest claimed on the basis of invoices despite absence of an interest clause in the Agreement. However, Learned Counsel for the Applicant, upon instructions**, refused to modify Form 5 and elected to continue with the Application in its existing form**. Accordingly, the matter was heard and reserved for orders on maintainability. The relevant portion of the Order dated 12.08.2026 is reproduced hereunder:

> *“**3.** Thereafter, we have heard the Ld. Counsel on maintainability of the C.P. on two following issues: -*
>
> > ***i)** The debt claimed in the Application contains certain invoices which fell due within the 10A period.*
> >
> > ***ii)** In the Application the interest amount has been claimed based on an entry in the invoices and that the Agreement entered into between the parties does not contain any clause in regard to payment of interest.*
>
> ***4.** Ld. Counsel for the Applicant has also filed a brief note on admissibility of C.P. on behalf of the Operational Creditor, which is taken on record.*
>
> ***5.** Ld. Counsel was specifically asked as to whether he is willing to amend the Form-5 in regard to the above issues, however, he says that he wants to continue with the Application and refused to modify the Form-5, however, he states that he is willing to file an affidavit bringing to the notice of this Bench the invoices, which fell due for payment within 10A period.*
>
> ***6.** Considering the above we reserve the matter for order on maintainability.”*

3. ANALYSIS AND FINDINGS

3.1. We have heard the Ld. Counsel for the Applicant and have perused the records as placed before us. Our findings in the matter are as under: -

3.2. During the course of hearing, this Tribunal noticed two issues having a direct bearing upon maintainability. Firstly, the operational debt claimed in the Application comprises certain invoices which fell due during the period covered by **Section 10A of the Code**. Secondly, the Operational Creditor has included a substantial amount towards interest on the basis of a stipulation appearing in the invoices, whereas the underlying Agreement between the parties does not contain any corresponding clause providing for payment of interest. These two issues were specifically put to the Learned Counsel for the Operational Creditor. It is pertinent that the Operational Creditor was specifically asked whether it was willing to **amend Form 5** in view of the aforesaid issues. Learned Counsel, upon instructions, stated that the Operational Creditor intended to continue with the Company Petition and **declined to modify Form 5**, though willingness was expressed to file an affidavit identifying the invoices which fell due within the Section 10A period. The matter was thereafter reserved for orders on maintainability.

3.3. From Part IV of the Application, we find that the Operational Creditor has claimed an aggregate operational debt of **Rs.4,05,25,376/- as on 25.04.2026**. The claim comprises principal outstanding of **Rs.1,24,71,699/-** against 38 invoices, interest of **Rs.1,86,40,039/-** calculated up to 19.03.2024 and further interest of **Rs.94,13,638/-** calculated from 20.03.2024 to 25.04.2026, besides further interest claimed until realization. The principal amount of Rs.1,24,71,699/- itself arises from 38 invoices. The invoice-wise statement forming part of the Petition shows that Serial Nos. 1 to 13 are dated between 07.01.2020 and 11.03.2020, whereas Serial Nos. 14 to 36 are dated 11.06.2020 and Serial Nos. 37 and 38 are dated 15.06.2020. More importantly, the

Operational Creditor itself pleads that the 38 invoices contained **different payment terms**. Thus, for the purpose of Section 10A, the relevant enquiry cannot be confined merely to the date appearing upon an invoice; what is material is the date on which payment became due and the corresponding default occurred.

3.4. Section 10A of the Insolvency and Bankruptcy Code, 2016 was inserted by the Insolvency and Bankruptcy Code (Second Amendment) Act, 2020 with effect from 05.06.2020. The provision expressly stipulates that no application under Sections 7, 9 or 10 shall ever be filed for initiation of the Corporate Insolvency Resolution Process in respect of any default arising on or after 25.03.2020 for a period of six months or such further period not exceeding one year as may be notified. The said period was subsequently extended twice and had finally ended on 24.03.2021. The proviso to Section 10A further declares that no application shall ever be filed for the said defaults.

3.5. Section 10A of the Code is reproduced below:

> *"Section 10A. Suspension of Initiation of corporate insolvency resolution process. -*
>
> > *Notwithstanding anything contained in section 7, 9 and 10, no application for initiation of corporate insolvency resolution process of a corporate debtor shall be filed, for any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf.*
> >
> > *Provided that no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period.*

Explanation. – For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply to any default committed under the said sections before 25th March, 2020."

The said period was extended by the Central Government for a period of 3 months vide S.O. 3265 (E) dated 24.09.2020 and was further extended for a further period of 3 months vide S.O. 4638(E) dated 22.12.2020.

3.6. The object behind the enactment of Section 10A was to protect corporate persons from being pushed into insolvency on account of financial distress arising from the unprecedented disruption caused by the COVID-19 pandemic. The legislative intent is explicit that where the default falls within the protected period, initiation of CIRP is permanently barred irrespective of the date on which the application is subsequently filed.

3.7. In the present case, the Operational Creditor has not confined the operational debt pleaded in Form 5 to a separately identified and quantified default occurring prior to 25.03.2020. On the contrary, it has presented a composite claim, consisting of all 38 invoices together with interest thereon, as the operational debt in default. The invoices at Serial Nos**. 14 to 38**, forming part of the very same principal claim, are dated 11.06.2020 and 15.06.2020. These invoices indisputably originate during the period contemplated under Section 10A. The Bench had at the time of hearing held on 11.08.2026 noticed that certain invoices forming part of the debt claimed had **fallen due within the Section 10A period**.

3.8. The Hon'ble Supreme Court in **Ramesh Kymal v. Siemens Gamesa Renewable Power Pvt. Ltd.,** [(Civil appeal no. 4050 of 2020), dated of order 09.02.2021], has categorically held that where the date of default falls within the period covered by Section 10A, the embargo is absolute and the application is not maintainable. The expression **"no application shall ever be filed"** employed by the Legislature leaves no scope for any contrary interpretation. Relevant portion of para 23 of the said judgment is reproduced hereunder:

> ***"23*** *Adopting the construction which has been suggested by the appellant would defeat the object and intent underlying the insertion of Section 10A. The onset of the Covid-19 pandemic is a cataclysmic event which has serious repercussions on the financial health of corporate enterprises. The Ordinance and the Amending Act enacted by Parliament, adopt 25 March 2020 as the cut-off date.* ***The proviso to Section 10A stipulates that <u>"no application shall ever be filed"</u> for the initiation of the CIRP <u>"for the said default occurring during the said period"</u>. The expression <u>"shall ever be filed"</u> is a clear indicator that the intent of the legislature is to bar the institution of any application for the commencement of the CIRP in respect of a default which has occurred on or after 25 March 2020 for a period of six months, extendable up to one year as notified****. The explanation which has been introduced to remove doubts places the matter beyond doubt by clarifying that the statutory provision shall not apply to any default before 25 March 2020. The substantive part of Section 10A is to be construed harmoniously with the first proviso and the explanation. Reading the provisions together, it is evident that Parliament intended to impose a bar on the filing of applications for the commencement of the CIRP in respect of a corporate debtor for a default occurring on or after 25 March 2020; the embargo remaining*

in force for a period of six months, extendable to one year. Acceptance of the submission of the appellant would defeat the very purpose and object underlying the insertion of Section 10A. For, it would leave a whole class of corporate debtors where the default has occurred on or after 25 March 2020 outside the pale of protection because the application was filed before 5 June 2020."

(emphasis supplied)

3.9. Applying the aforesaid principle, an Operational Creditor cannot invoke Section 9 in respect of a default which falls within the statutory prohibition merely because the debt subsequently continued to remain outstanding or was subsequently acknowledged. Continuation of non-payment after expiry of the Section 10A period does not shift the original default occurring during the protected period to a later date so as to overcome the statutory bar. The principle emerging from the aforesaid judgment is that a creditor cannot rely upon an amount arising from a **Section 10A-protected default** for satisfying the statutory requirements governing initiation of CIRP. Such amount has necessarily to be kept outside consideration while examining an application under Section 9.

3.10. We are conscious that the Petition also contains invoices which precede 25.03.2020. However, the difficulty in the present matter arises from the manner in which the Operational Creditor has consciously chosen to prosecute the Application. The Operational Creditor has neither amended Part IV/Form 5 nor confined the operational debt in default to a clearly segregated qualifying default outside Section 10A. Instead, notwithstanding the specific issue pointed out by this Tribunal, it has elected to continue with the composite claim as originally pleaded.

3.11. This Tribunal cannot substitute itself for the Operational Creditor and rewrite the foundational particulars of default contained in Form 5. Nor can the Adjudicating Authority suo motu reconstruct the Operational Creditor's case by segregating invoices, determining separate dates of default under different payment terms, recalculating the debt and thereafter treating the reconstructed figure as the amount in default for the purpose of Section 9, particularly when the Operational Creditor was specifically afforded an opportunity to amend Form 5 and consciously declined to do so.

3.12. The Operational Creditor has also relied upon Balance Confirmations dated **16.09.2021 and 21.09.2022**, as well as the signed Balance Confirmation transmitted by e-mail dated **27.09.2023**, whereby an outstanding principal amount of Rs. 1,24,71,699/- is stated to have been acknowledged.

3.13. Consequently, the subsequent balance confirmations cannot be relied upon to shift the defaults falling within Section 10A to 2021, 2022 or 2023. To hold otherwise would effectively permit the statutory embargo expressed in the words **"no application shall ever be filed"** to be circumvented merely through a subsequent acknowledgment, which would be contrary to the object and language of Section 10A as explained in *Ramesh Kymal* (supra).

3.14. There is yet another material lacuna with the claim as presented. Against the principal amount of Rs.1,24,71,699/-, the Operational Creditor has claimed interest aggregating to approximately Rs.2,80,53,677/- up to 25.04.2026, calculated at the rate of 3% per month. Thus, the interest component is more than twice the principal amount and constitutes a substantial part of the total claim of Rs.4,05,25,376/-. The Operational Creditor relies upon the unilateral stipulation appearing on the invoices for claiming interest at 3% per month. Indeed, certain invoices state that overdue amounts would be charged at 3% per month.

3.15. However, as specifically noticed by this Tribunal in its Order dated 12.08.2026, the Agreement entered into between the parties does not contain any clause in regard to payment of interest. The Applicant failed to bring to the notice of this Tribunal any evidence to demonstrate that the Respondent ever paid any interest on delayed payments to the Applicant. Hence it is safe to conclude that interest was never agreed between the parties. Nevertheless, the Operational Creditor has incorporated the interest computed on the basis of the invoice stipulation as an integral component of the operational debt claimed in Form 5.

3.16. The Operational Creditor has presented one composite operational debt comprising: (i) invoices/defaults falling within the statutory embargo under Section 10A; (ii) other invoices carrying different payment terms without identifying legally sustainable dates of default; and (iii) a substantial interest component calculated at 3% per month notwithstanding the absence of an interest clause in the underlying Agreement.

3.17. Most significantly, these defects were specifically brought to the notice of the Operational Creditor by this Tribunal. An opportunity was afforded to amend Form 5. The Operational Creditor, acting upon instructions, declined to amend the statutory Application and elected to proceed with the Petition in its existing form.

3.18. The Adjudicating Authority cannot thereafter undertake the exercise which the Operational Creditor itself has consciously declined to undertake, namely, reconstructing the claim by excluding Section 10A invoices, identifying separate dates of default, recalculating the qualifying principal amount and substituting the resulting figure for the operational debt pleaded in Form 5.

3.19. We are, therefore, of the considered view that the Company Petition, as framed and prosecuted before this Tribunal, cannot be sustained. The statutory bar under Section 10A attached to the defaults falling within the protected period and such defaults cannot be made the basis for initiation of CIRP. The subsequent acknowledgments do not cure that statutory bar. Further, the substantial interest component forming part of the composite operational debt requires an adjudication, which cannot simply be presumed in favour of the Operational Creditor when the underlying Agreement itself contains no interest clause.

3.20. Accordingly, taking into consideration the cumulative effect of the aforesaid circumstances, namely:

i. inclusion in Form 5 of invoices/defaults falling within the period protected under Section 10A;

ii. absence of a clearly segregated and pleaded qualifying default after excluding the Section 10A component;

iii. different payment terms governing the 38 invoices;

iv. inclusion of approximately Rs. 2.80 crore towards interest at 3% per month despite absence of an interest clause in the underlying Agreement;

v. inability of subsequent balance confirmations to revive a default permanently protected by Section 10A; and

vi. the Operational Creditor's express decision not to amend Form 5 despite an opportunity granted by this Tribunal.

we hold that the present Company Petition is not maintainable in the form in which it has been filed.

3.21. In view of the foregoing discussion, **CP(IB)/828(MB)2026**, filed by Alliance Advertising and Marketing Private Limited vs. Eduisfun Technologies Private Limited under Section 9 of the Insolvency and Bankruptcy Code, 2016, is **dismissed as not maintainable.**

Sd/-	**Sd/-**
NILESH SHARMA	**SAMEER KAKAR**
MEMBER (JUDICIAL)	**MEMBER (TECHNICAL)**

//S. Dubey//