



NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)
IN
CP (IB) NO. 405/(ND)/2026

IN THE MATTER OF:

(Under Section 9 of IBC, 2016)

Dr. Ravi Gupta

B-41, Kailash Colony,
New Delhi — 11004

**... Applicant/
Operational Creditor**

Versus

M/S Commercial Law Publishers (India) Pvt. Ltd.

C-2/32, Model Town-III,
Delhi — 110009

**... Respondent/
Corporate Debtor**

Order Delivered on: 13.10.2026

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)

SH. ATUL CHATURVEDI, HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Mr. Saubhagya Agarwal, Adv & Mr. Vaibhav
Srivastava. Adv- For Operational Creditor in IB-
405/ND/2026(New RA104/ND/2026)



ORDER

PER: ASHOK KUMAR BHARDWAJ, MEMBER (J)

As can be gathered from the facts narrated in the application preferred by the Applicant the conspectus of the matter is that in terms of the Publishing Agreement dated 08.10.2020 entered into between the Applicant and the Respondent, the Applicant granted publication and allied rights in respect of the publications specified therein to the Corporate Debtor for a contractual period of five years.

2. In terms of *clause 6* of the Publishing Agreement, the Corporate Debtor was under contractual obligation to pay an assured lump-sum royalty on monthly basis, irrespective of the volume of sales, profitability, stock position or any other commercial consideration. The royalty payable thereunder was agreed to be shared equally between the Applicant/Operational Creditor and the co-author, Dr. Girish Ahuja.

3. The ledger account maintained by the Corporate Debtor in the name of Applicant records an admitted outstanding royalty liability of Rs. 43,80,000/- (Rupees Forty-Three Lakhs Eighty Thousand) as on 31.03.2024. According to Applicant, after the said date, further amount became payable to Applicant from time to time. The factual matrix of the case as given by the Applicant in Part-IV (1 and 2) of the application reads thus:-



PART IV

PARTICULARS OF OPERATIONAL DEBT

1.	Total amount of debt, details of transactions on account of which the debt fell due, and the date from which such debt fell due	The total Operational Debt due and payable by the Corporate Debtor to the Applicant/Operational Creditor is Rs.1,17,30,000/- (Rupees One Crore Seventeen Lakhs Thirty Thousand Only), exclusive of contractual interest and other consequential reliefs. <u>The details of the transaction on account of which the said debt fell due are as follows:</u> The said Operational Debt has arisen out of the Publishing Agreement dated 08.10.2020 executed between the Corporate Debtor, the Applicant/Operational Creditor, Dr. Ravi Gupta, and Dr. Girish Ahuja, whereby the Applicant granted
		publication and allied rights in respect of the publications specified therein to the Corporate Debtor for a contractual period of five years, while the copyright in the said publications continued to vest with the Authors. A copy of the Publishing Agreement dated 08.10.2020 is annexed herewith as "<u>Annexure-B</u>" In terms of <i>Clause 6</i> of the aforesaid Publishing Agreement, the Corporate Debtor was under a contractual obligation to pay an assured lump-sum royalty on a monthly basis, irrespective of the volume of sales, profitability, stock position or any other commercial consideration. The royalty payable thereunder was agreed to be shared equally between the Applicant/Operational Creditor and the co-author, Dr. Girish Ahuja. The Applicant duly performed and fulfilled all obligations under the Publishing Agreement and permitted the Corporate Debtor to publish, distribute, market and commercially



	exploit the publications in accordance with the terms thereof. The Corporate Debtor, in the ordinary course of business, consistently acknowledged its liability towards payment of royalty by recording royalty entries in its books of account, deducting tax at source under Section 194J of the Income-tax Act, 1961, and carrying forward unpaid royalty balances from one accounting period to another. The ledger account maintained by the Corporate Debtor in the name of the Applicant records an admitted outstanding royalty liability of Rs.43,80,000/- (Rupees Forty-Three Lakhs Eighty Thousand Only) as on 31.03.2024, which constitutes a clear and unequivocal acknowledgement of debt. Further, the Corporate Debtor has undercredited the royalty payments for the Financial Year 2023-24 by unilaterally applying a 0% escalation: The Corporate Debtor credited a restricted sum of Rs. 6,00,000/- per month, thereby breaching the contractually mandated 50% increment,
	which explicitly requires a monthly payment of Rs. 6,50,000/-, as prescribed under Clause 6 of the Publishing Agreement, resulting in a deficiency of Rs.6,00,000/- payable to the Operational Creditor. The Ledger Account maintained by the Corporate Debtor in the name of the Operational Creditor, dated 01.04.2023 to 31.03.2024, acknowledging the outstanding royalty liability, is annexed hereto as "<u>Annexure-C</u>" The Corporate Debtor further under-credited the royalty payable for the Financial Year 2023-2024 by crediting royalty at a constant rate of 0% increment and crediting Rs.6,00,000/- per month instead of the contractual royalty of Rs.7,00,000/- per month stipulated under Clause 6 of the Publishing Agreement, resulting in a



		deficiency of Rs.6,00,000/-, being the Applicant's contractual share.
		Further, notwithstanding that the Publishing Agreement remained operative till October, 2025, the

4. The primary issue arises for our consideration is as to whether the amount of royalty payable in terms of Publishing Contract to an author can be treated as operational debt payable by the publisher.

5. The term operational debt has been defined in Section 5(21) of IBC, 2016, which means a claim in respect of provisions 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. The Section 5(21) reads thus:-

“Section 5: Definitions.

...

(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”

6. Whether the amount of royalty can be treated as operational debt or not would depend upon the facts and circumstances of a particular case. In the present case, the Applicant agreed to give the Respondent the publishing rights for the publications mentioned in clause 2 of the Agreement. The clause 6 of Agreement dated 08.10.2020 the talks of the amount of royalty and schedule for payment of the same. The clause reads thus:-



“6. That the Authors will be entitled to a lump sum assured royalty payable monthly towards the publication of the above said books, irrespective of the quantum of sales, as under:

- (1) Rs. 6,00,000 (Rupees Six Lakh) per month for the first and the second year, i.e. 2020-2021 and 2021-2022 (starting from October 2020);*
- (2) Rs. 6,50,000 (Rupees Six Lakh Fifty Thousand) per month for the third year, i.e. 2022-2023;*
- (3) Rs. 7,00,000 (Rupees Seven Lakh) per month for the fourth year, i.e. 2023-2024;*
- (4) Rs. 7,50,000 (Rupees Seven Lakh Fifty Thousand) per month for the fifth year, i.e. 2024-2025.*

The TDS under the Income-tax Act will be made while crediting the above royalties to the Authors. The royalty will be paid to and shared equally half and half between the Authors.

If any Goods And Service Tax (GST) is payable in relation to the right and licenses granted by the Authors to the Publishers or in relation to any payments to be made by the Publishers to the Authors, the same shall be borne and paid by the Publishers if the law so requires. If such taxes are levied in the first instance on the Authors, the Publishers shall reimburse such taxes paid by the Authors (and not any interest, fine or penalty in relation to such taxes) based on appropriate invoices raised on the Publishers. If any other taxes (other than GST) are imposed in relation to grant of the rights and licenses by the Authors to the Publishers, or in relation to any payments made or to be made by the Publishers to the Authors, these shall also be borne by the Publishers.”

7. In *Somesh Choudhary Suspended Director at M/s. Global Fragrances Private Limited vs. Knight Riders Sports Private Limited*

(Company Appeal (At) (Insolvency) No. 501 of 2021), Hon’ble NCLAT ruled that



the consideration for right to distribute and advertise the licensed products/intellectual property rights would be Operational Debt. Para 15 of the judgment reads thus:-

“15. In the instant case, the Respondent has permitted the (a) use manufacture, sell, distribute and advertise the licensed products (b) use of intellectual property rights i.e., the trademark 'Kolkata Knight Riders'/(KKR) brand logo and any other trademark which as the first Respondent may designate in its sole and absolute discretion or in association with the licensed products in India as well as on packaging, promotional and advertising material associated therewith. We are of the considered view that the 'Claim' of the Respondent is in respect of the provision of the Goods and Services for which the 'Corporate Debtor is contractually obligated to make the payments towards such 'Claim'. The clauses of the Agreement provided for Royalties to be paid as a variable amount to the first Respondent and the minimum guaranteed amount to be paid as a fixed payment as stipulated under Clause 4.2 of the Agreement. Keeping in view the terms and conditions of the Agreement, we are of the earnest view that the first Respondent has established a 'Right to Payment in respect of the provisions of goods and services. We hold that granting an exclusive right and license to the 'Corporate Debtor', to use manufacture, sell, distribute and advertise the licensed products and to use the trademark in association with the licensed products as well as on packaging, promotional advertising material has a direct nexus with the business operations and sales and also with the actual product supplied by the 'Corporate Debtor. Hence, we hold that the 'Claim' in respect of such provisions of 'goods and services', under the terms of the Agreement, fall within the ambit of the definition of Operational Debt as defined under Section 5(21) of the Code.”



8. It would not be out of context to make reference to the order passed by Hon'ble NCLAT in **M. Ravindranath Reddy vs. G. Kishan and Others** (2020 SCC OnLine NCLAT 84) wherein a view was taken that no other debt except the one referred to in para 28 of the order could be treated as Operational Debt. The paras 28 to 32 of the judgment reads thus:-

“28. Therefore, an operational debt is essentially a claim in respect of the following:

- (a) provision of goods;*
- (b) provision of services, including employment; or*
- (c) a debt arising under any statute and payable to Government/local authority.*

29. If the claim by way of debt does not fall under any of the three categories as mentioned above, the claim cannot be categorised as an operational debt, even though there may be a liability or obligation due from the corporate debtor to the creditor, and hence, such a creditor disentitled from maintaining an application for initiation of corporate insolvency resolution process (CIRP) of the corporate debtor.

30. There seems to be some rationale in restricting only to operational creditors for initiation of CIRP, other than financial creditors. Default committed to operational creditors about payment of their debt connotes that the corporate debtor is not even in a position to service the regular payments and operational expenses, as required in the day-to-day functioning of the corporate debtor, which provides a clear indication to its insolvency, warranting the resolution process being put in place.

31. The law has not gone into defining goods or services hence, one has to rely on general usage of the terms so used in the law, with due regard to the context in which the same has been used. Simultaneously, it is also relevant to understand the intention of the



lawmakers. The Bankruptcy Law Reforms Committee (BLRC), in its report dated November 2015¹, states that "Operational creditors are those whose liability from the entity comes from a transaction on operations". While discussing the different types of creditors, the Committee points out that "enterprises have financial creditors by way of loan and debt contracts as well as **operational creditors such as** employees, **rental obligations**, utilities payments and trade credit." Further, while differentiating between a financial creditor and an operational creditor, the Committee indicates "**the lessor, that the entity rents out space from is an operational creditor to whom the entity owes monthly rent on a three-year lease**". Hence, the BLRC recommends the treatment of lessors/landlords as operational creditors. However, the Legislature has not completely adopted the BLRC Report, and only the claim in respect of goods and services are kept in the definition of operational creditor and operational debt u/s Sec 5(20) and 5(21) of the Code. The definition does not give scope to the to interpret rent dues as operational debt.

32. The Code provides that for an amount to be classified as an Operational Debt under **I&B Code, 2016** the alleged claim should fall in the definition of:-

3(6) "Claim" means-

- (a) a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured or unsecured;
- (b) right to remedy for breach of contract under any law for the time being in force, if such breach gives rise to a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured or unsecured;

3(11) "debt" means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt;



3(12) "default" means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not [paid] by the debtor or the corporate debtor, as the case may be;

5(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;

5(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"

9. Subsequently, in **Jaipur Trade Expocentre Pvt. Ltd. vs. M/s Metro Jet Airways Training Pvt. Ltd.** (Company Appeal (AT) (Insolvency) No. 423 of 2021), Hon'ble NCLAT viewed that the judgment in **M. Ravindranath Reddy vs. G. Kishan and Others** (2020 SCC OnLine NCLAT 84) does not lay down the correct law. Paras 39 and 40 of the order reads thus:-

"39. The observation of this Tribunal in the above case in respect of definition of 'service' under Consumer Protection Act, 2019 and Central Goods and Services Tax Act, 2017 are not covered by Section 3(37) of the Code, with regard to which observation, no exception can be taken. However, in the facts of the present case, where Agreement itself contemplate payment of GST for the services under the Agreement, on which GST is payable, the definition of 'service' under Central Goods and Services Tax Act, 2017 cannot be said to be irrelevant. More so, even if an expression is not defined in the statute, the meaning of expression in general parlance has to be considered for finding out the meaning and purpose of expression. After making above observation in **Promila Taneja's** case (supra), this Tribunal did not dwell with the question as to what is the



meaning of expression of 'service' used in Section 5(21) of the Code. Reference to Section 5(8)(d) regarding 'financial debt' by this Tribunal in the above case also was not relevant for finding out definition of expression 'service' under Section 5(21). We, thus, are of the view that both in *Mr. M. Ravindranath Reddy* and *Promila Taneja* this Tribunal did not dwell upon the correct meaning of expression 'service' used in Section 5(21) of the Code. In any view of the matter, in the above mentioned two cases, the dues were in the nature of rent of immovable property whereas the present is a case of license granted for use of premises on Warm Shell Building with fittings and fixtures, electrical, flooring as per good corporate standards. Hence, the Licnesees were licensed for a particular kind of service for use by the Licensee for running a business of Educational Institution. Hence, in the present case, debt pertaining to unpaid license fee was fully covered within the meaning of 'operation debt' under Section 5(21) and the Adjudicating Authority committed error in holding that the debt claimed by the Operational Creditor is not an 'operational debt'. The judgment of this Tribunal in **Promila Taneja's** case reiterate the law as laid down in **Mr. M. Ravindranath Reddy's** case. We having held that judgment of **Mr. M. Ravindranath Reddy's** case does not lay down correct law, the judgment in **Promila Taneja's** case can also not be followed.

40. In view of the foregoing discussion, we answer the two questions referred to the larger Bench in the following manner:

- (1) Judgment of this Tribunal in **Mr. M. Ravindranath Reddy** (supra) as well as judgment in **Promila Taneja's** case does not lay down the correct law.
- (2) The claim of Licensor for payment of license fee for use of Demised Premises for business purposes is an 'operational debt' within the meaning of Section 5(21) of the code."



10. In terms of the aforementioned view taken by Hon'ble NCLAT in Jaipur Trade Expo Centre, one may not avoid to take a view that the Royalty Fee claimed by the Applicant falls in the category of Operational Debt.

11. To establish the amount of debt the Applicant has enclosed two invoices at page nos. 47 and page 48 of the application. The amounts of two invoices dated 31.03.2025 and 01.10.2025 are Rs. 45,00,000/- and 22,50,000/-. It is seen from both the invoices that the rate of Royalty payable to Applicant as mentioned therein is @ Rs. 3,75,000/- per month for the periods from 01.04.2024 to 31.03.2025 and from 01.04.2025 to 30.09.2025.

12. The total amount mentioned in two invoices is Rs. 67,50,000/-. Thus, it is difficult to appreciate that how the Applicant could arrive at the amount of Rs. 1,17,30,000/-. In terms of Regulation 2B of IBBI (Resolution Process for Corporate Persons) Regulations, 2016, the Operational Creditor should along with application under Section 9 furnish copies of relevant extracts of forms GSTR-1 and Form GSTR-3B under the provisions of the relevant laws relating to Goods and Services Tax. Besides, as per the provisions of Section 9(3)(a) of Section 9 of the Code, the Operational Creditor should along with Application furnish copies of the Invoice demanding payment or Demand Notice delivered by the OC to CD. In the present case, it is not so that the Applicant could furnish only Demand Notice as enclosure to the application and not the invoices. Once, the Applicant decided to place on record copies of Invoices, it should be established on the basis of the same that total amount of debt is more than Rs. One Crores. One may say that to arrive at the amount of Rs. 1,17,30,000/-, the Applicant added Rs. 43,80,000/-. With such calculation



and logic also, the figure of the amount of Rs. 1,17,30,000/- would not be arrived at. The addition of Rs. 67,50,000/- and Rs. 43,80,000/- would be One Crore Eleven Lakhs Thirty Thousand. To cover up the difference, an amount of Rs. 6,00,000/- is sought to be added to aforementioned amount of Rs. 1,11,30,000/-. However, there is no invoice placed on record except the invoices for the amount of Rs. 67,50,000/-.

13. As far as calculation of amount of Rs. 67,50,000/- is concerned, when the monthly Royalty payable to the Applicant for the fifth year viz. 2024-2025 as mentioned in clause 6 of Publishing Agreement is Rs. 7,50,000/- per month, in the invoice dated 31.03.2025 the amount of Royalty mentioned for the period from 01.04.2024 to 31.03.2025 is Rs. 3,75,000/- per month. Thus, there is apparent anomaly in the documents placed on record by the Applicant to substantiate his claim. The Invoice dated 31.03.2025 reads thus:-

INVOICE Bill No. 45/2025-26		Date: 31-03-2025	
Ravi Gupta Advocate B-41, Kailash Colony New Delhi-110048 Telephone: 1179679955 PAN: AAJPG 2870 K		Commercial Law Publishers Private Limited 4239/1, Shakahar Bhawan Ansari Road Daryaganj New Delhi-110002	
PROFESSIONAL FEE IN CONNECTION WITH Royalty @Rs. 3,75,000 p.m from 01-04-2024 to 31-03-2025 GST is payable on Reverse Charge Mechanism (Forty Five lakhs Only)		 45,00,000/- 45,00,000/-	

14. With the aforementioned anomaly in the documents placed on record by the Applicant, no confidence can be inspired regarding the plea of amount of debt defaulted to be paid, taken by the Applicant.



15. We may not be oblivious of the position that the object of CIRP is to put the Corporate Debtor back to its feet and to rescue it. From the tenor of the application it nowhere appears that the same has been preferred with such object. Indubitably, a single individual is not expected to be concerned about revival of a Corporate Debtor, to enable it to contribute to the economy to achieve the object of IBC, thus no such expectation can be there also from the Applicant. He has preferred the present application with sole object to recover the debt, the calculation of which is also not supported by any clear documentary evidence. It is *Stare decisis* that CIRP is not a debt recovery process but is a process for revival of a company fallen in debt. In **Tottempudi Salalith vs. State Bank of India and Others** [(2024) 1 Supreme Court Cases 24], Hon'ble Supreme Court ruled thus:-

“21. IBC itself is not really a debt recovery mechanism but a mechanism for revival of a company fallen in debt, but the procedure envisaged in IBC substantially relates to ensuring recovery of debts in the process of applying such mechanism. The question of election between the fora for enforcement of debt under the 1993 Act and initiation of CIRP under IBC arises only after a recovery certificate is issued. The reliefs under the two statutes are different and once CIRP results in declaration of moratorium, the enforcement mechanism under the 1993 Act or the SARFAESI Act gets suspended. In such circumstances, after issue of recovery certificate, the financial creditor ought to have option for enforcing recovery through a new forum instead of sticking on to the mechanism through which recovery certificate was issued. In Transcore v. Union of India 13, application of SARFAESI mechanism was held permissible even though the subject-proceeding was instituted under the 1993 Act.”



16. A similar view was taken by Hon'ble Supreme Court in **Glas Trust Company LLC vs. BYJU Raveendran & Ors.** (Civil Appeal No. 9986 of 2024).

Relevant excerpt of the judgment reads thus:-

“39

...

c. IBC must not be used as a tool for coercion and debt recovery by individual creditors. Improper use of the IBC mechanism by a creditor includes using insolvency as a substitute for debt enforcement or attempting to obtain preferential payments by coercing the debtor using insolvency proceedings. That the mechanism under the IBC must not be used as a money recovery mechanism has been reiterated in a consistent line of precedent by this Court; 25 and”

17. Way back in the year 2019, in **Swiss Ribbons Pvt. Ltd. vs. Union of India & Ors.** [Writ Petition (Civil) No. 99 of 2018], Hon'ble Supreme Court viewed thus:-

“12. It can thus be seen that the primary focus of the legislation is to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation. The Code is thus a beneficial legislation which puts the corporate debtor back on its feet, not being a mere recovery legislation for creditors. The interests of the corporate debtor have, therefore, been bifurcated and separated from that of its promoters / those who are in management. Thus, the resolution process is not adversarial to the corporate debtor but, in fact, protective of its interests. The moratorium imposed by Section 14 is in the interest of the corporate debtor itself, thereby preserving the assets of the corporate debtor during the resolution process. The timelines within which the resolution process is to take place again protects the corporate debtor's assets from further dilution, and also



protects all its creditors and workers by seeing that the resolution process goes through as fast as possible so that another management can, through its entrepreneurial skills, resuscitate the corporate debtor to achieve all these ends.”

18. Taking a holistic view in the matter, **we are not inclined to admit the petition and the same is rejected.**

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

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