IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.301

C.P.(IB)/288(AHM)2025

Proceedings under Section 9 IBC

IN THE MATTER OF:

U.P. Analab Through Its Sole Proprietor Mr.Gaueav Goyal **.....Applicant**
V/s
Surya Hybrid (Ndia) Pvt Ltd **.....Respondent**

Order delivered on: 16/11/2026

Coram:
Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet

SD/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

SD/-

CHITRA HANKARE
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL

AHMEDABAD BENCH, COURT - II

CP (IB) No. 288 of 2025

(Filed under Section 9 of the Insolvency & Bankruptcy Code, 2016 read with Rule 6 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

In the Matter of:

U.P. Analab
A Sole proprietorship firm
Through its Proprietor
Mr. Gaurav Goyal
Having its registered office at:
17/61, Kucha Lahori Mal, Seo Ka Bazar,
Agra Uttar Pradesh-282003

...Applicant/
Operational Creditor

V/s.

Surya Hybrid (Ndia) Private Limited
CIN No. U17200GJ2013PTC073540
Having its registered office at:
9/19, Shakti Society, P7/1192,
Rajkot, Gujarat-36001

...Respondent/
Corporate Debtor

Order pronounced on 16.11.2026

Coram:

MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)

DR. V. G. VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)

Present:

For the Applicant : Mr. Pranjal M. Buch Adv.

JUDGEMENT

1. This Petition has been filed under Section 9 of the Insolvency and Bankruptcy code, 2016 ("IBC") read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by U.P. Analab seeking to initiate Corporate Insolvency Resolution Process against Surya Hybrid (Ndia) Private Limited for having default of an amount of Rs. 1,27,67,834.11/-

2. The factual backdrop averred by the applicant and respondent is as under:

   a. The Operational Creditor is a sole proprietorship engaged in the business of silver ornaments and bullion, whereas the Corporate Debtor is a private limited company incorporated on 12.12.2013 and registered with the Registrar of Companies, Ahmedabad. It is submitted that in the year 2021, the Corporate Debtor approached the Operational Creditor for the purchase of silver ornaments and bullion, pursuant to which the Operational Creditor supplied the requisite goods against invoices raised from time to time.

b. It is further submitted that the Corporate Debtor committed default in making payment of the outstanding invoices dated 05.07.2022, amounting to Rs. 36,12,727/- and Rs. 40,20,451/-. Despite repeated requests and assurances of payment by the Corporate Debtor, the Operational Creditor continued making supplies and subsequently supplied goods worth Rs. 50,31,918/- on 16.07.2022. However, the Corporate Debtor failed to make payment towards the outstanding dues, resulting in an aggregate outstanding principal amount of Rs. 1,27,67,834.11/-.

c. The Applicant submitted that despite repeated demands for payment, including WhatsApp communications dated 27.09.2022 and subsequent reminders on various dates, the Corporate Debtor failed to discharge its liability, although its representative allegedly acknowledged the outstanding dues and assured payment through WhatsApp communications.

d. It is further submitted that the Operational Creditor issued a demand notice dated 19.11.2024 under Section 8 of the IBC, 2016, which was dispatched through speed

post on 23.11.2024 but returned with the endorsement "no such person found". Thereafter, the demand notice was again served through email on 18.01.2025 at the registered email address of the Corporate Debtor, which did not bounce back. However, neither any reply nor any notice of dispute was received from the Corporate Debtor, and no payment was made towards the outstanding operational debt. Total amount of default is Rs. 1,27,67,834.11/- It is stated that the date of all defaults are mentioned in the Ledger Account as well as the amount defaulted by the Corporate Debtor

e. The Applicant further submitted that despite making repeated communications with National E-Governance Services Limited (NeSL), it could not obtain Form D/Record of Default, as the underlying business transactions were verbal in nature and no purchase orders were available. It is contended that the invoices raised for the supplies were acknowledged by the Corporate Debtor through WhatsApp communications; however, the same were insufficient for issuance of the Record of Default by NeSL.

f. The applicant/operational creditor has relied on the following documents

   i. copy of the GST registration certificate

   ii. Copy of the invoices dated 05.07.2022 and 16.07.202 issued by the Operational Creditor against the goods delivered to the Corporate Debtor,

   iii. Copy of WhatsApp messages exchanged between the 3o-43 Operational Creditor and Corporate Debtor

   iv. Copy of the ledgers and the bank account statement

   v. Copy of Demand Notice dated 19.11.2024

   vi. Copy of the email dated 18.01.2025,

   vii. copy of the emails sent to National E-Governance Services Ltd. by the Operational Creditor

3. This Tribunal, vide Order dated 29.07.2025, dismissed the present Petition filed by the Operational Creditor. Aggrieved by the said Order, the Operational Creditor preferred an Appeal before the Hon'ble National Company Law Appellate Tribunal, New Delhi. The Hon'ble NCLAT allowed the Appeal and remanded the matter to this Adjudicating Authority, granting an opportunity to the Operational Creditor to establish its prima facie case, and

directed that the matter be proceeded with in accordance with law.

4. The Operational Creditor has filed an Additional Affidavit pursuant to the order dated 04.05.2026, placing on record certain additional documents in support of its Section 9 Petition. It is submitted that the Hon'ble NCLAT, while remanding the matter to this Tribunal, had granted an opportunity to the Operational Creditor to establish its prima facie case. Accordingly, the Operational Creditor has placed on record its GSTR-1 and GSTR-3B returns, GST payment details and relevant GST provisions to substantiate that the GST liability in respect of the invoices dated 05.07.2022 and 16.07.2022 was duly discharged and that the corresponding transactions were genuine.

5. It is further submitted that, in terms of Rule 138(14) of the CGST Rules, 2017, silver items are exempted from the requirement of an e-way bill, and therefore, the absence of e-way bills or delivery acknowledgements cannot be treated as evidence of non-delivery of goods. The Operational Creditor has also submitted that its business

relationship with the Corporate Debtor originated through M/s Prihan Enterprise, whose management allegedly introduced the Corporate Debtor and requested that future invoices be raised in the Corporate Debtor's name. In support thereof, the Operational Creditor has placed on record the GST details and ledger of M/s Prihan Enterprise along with six invoices raised upon the said concern during July–August 2019. It is alleged that the management of the Corporate Debtor deliberately induced the Operational Creditor to commence transactions with the Corporate Debtor and obtain supplies without making payment. Accordingly, the Operational Creditor has sought that the additional documents annexed as Annexures A-12 to A-24 be taken on record for proper adjudication of the Petition.

6. The Operational Creditor has filed a Clarifictory Affidavit in compliance with the order dated 29.07.2026, clarifying that the operational debt of Rs. 1,27,65,096/- arises exclusively from three invoices, namely Invoice No. 66 dated 05.07.2022 for Rs. 37,12,727/-, Invoice No. 67 dated 05.07.2022 for Rs. 40,20,451/- and Invoice No. 74

dated 16.07.2022 for Rs. 50,31,918/-, raised directly upon the Corporate Debtor. It is clarified that M/s Prihan Enterprise is neither a debtor in the present proceedings nor any relief is sought against it. The Operational Creditor further clarifies that Annexures A-12 to A-15 are GST portal records filed to establish the genuineness of the invoices, payment of corresponding GST and availability of input tax credit to the Corporate Debtor, which has allegedly neither been reversed nor rejected.

7. It is further submitted that the silver ornaments supplied fall under Chapter 71 of the Customs Tariff and HSN 71131130 and are exempted from the requirement of generating e-way bills under Rule 138(14) of the CGST Rules, 2017. With regard to M/s Prihan Enterprise, it is clarified that its GST registration was cancelled with effect from 06.10.2021, pursuant to which Mr. Rajiv Mehta represented that future invoices be raised in the name of the Corporate Debtor. The Operational Creditor further relies upon WhatsApp conversations which allegedly establish that the Corporate Debtor and M/s Prihan Enterprise are related entities and reflect outstanding

amounts of Rs. 1,27,65,096/- and Rs. 30,02,918/-, respectively, corresponding with the invoices and ledger accounts placed on record.

8. Despite due service of notice upon the Respondent, none appeared on its behalf. Accordingly, this Tribunal proceeded ex parte against the Respondent vide order dated 27.10.2026.

9. Perused the documents on record alongwith written submissions of the Applicant.

10. Observations & Conclusions:

a. Even though the applicant has stated that a debt is due and to be repaid, due to nature of goods supplied, does not need to produce e challan of delivery, the applicant has not been able to serve the notice under Sec 8 of the IBC 2016 to the respondent.

b. Further, the applicant is not clear on the business relationship, stating that he was introduced through another entity and giving proof of email or whats app messages does not serve the purpose of admitting the application, which will pass on under IBC 2016 process to trace the CD or conduct a process of insolvency

which will be futile, as the resolving the CD through IBC 2016 is not possible. If the goods delivered have not been paid the applicant has to resort to alternate course of law for recovery than IBC 2016, which has to comply with proper serving of notice at the correct address. Serving notice at correct address under Section 8 is mandatory requirement.

c. In view of the above, we pass the following order:

ORDER

CP (IB) No. 288 of 2025 is rejected and disposed of.

SD/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

SD/-

CHITRA HANKARE
MEMBER (JUDICIAL)

KJ