



IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI

BENCH-IV

CP (IB) NO. 176 OF 2023

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:

Uniwoth Enterprises LLP

.... Operational Creditor/Applicant

Versus

Starco Metaplast Pvt Ltd

.... Corporate Debtor/Respondent

CORAM:

**SH. MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)**

**DR. SANJEEV RANJAN,
HON'BLE MEMBER (TECHNICAL)**

Order Delivered on: 09.05.2025

PRESENT:

For the Applicant : Mr. Prutha Bhasvar,
Ms. Natasha Dhruvan, Advs.

For the Respondent : Mr. Mukesh Jain,
Mr. S. B. Chaturvedi, Advs.



ORDER

PER: MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (J)

1. This instant application was filed by Uniworth Enterprises LLP (hereinafter referred as 'Applicant'/ 'Operational Creditor') through its authorized representative Mr. Rajendra Singh Rao (Director), having registered office at B-804 Siddhi Vinayak Tower S.G.Highway, Makarba Ahmedabad, Ahmedabad, Gujarat, 380051 under Section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'the Code') with a prayer to initiate Corporate Insolvency Resolution Process in respect of M/s. Starco Metaplast Private Limited (hereinafter referred as 'Respondent' or 'Corporate Debtor') for defaulting the payment of total amounting to **Rs. 2,83,84,205/- (Rupees Two Crores Eighty Three Lakh Eighty Four Thousand Two Hundred and Five Only)** which comprises of Principal amounting to **Rs. 2,32,60,608/- (Rupees Two Crores Thirty Two Lakhs Sixty Thousand Six Hundred and Eight)** and interest at the rate of 18% **Rs. 51,23,597 /-** (Rupees Fifty One Lakhs Twenty Three Thousand Five Hundred and Ninety Seven) to be paid by the Corporate Debtor.
2. The Respondent Company M/s. Starco Metaplast Private Limited having CIN: U25200DL2016PTC289391, incorporated on 07.01.2016 under the provisions of the Companies Act, 2013, is having its registered office situated at 1/536, C-12, Gali No. 4-A, Friends Colony, Industrial Area, GT Road, Shahdara Delhi East Delhi, DL 110095. Since the registered office of the respondent corporate



debtor is in New Delhi, this Tribunal having jurisdiction over the NCT of Delhi is the Adjudicating Authority in relation to the prayer for initiation of Corporate Insolvency Resolution Process in respect of respondent corporate debtor under sub-section (1) of Section 60 of the Code.

3. Briefly stated the facts of the present case as averred by the Applicant/ Operational Creditor are: -

- a. The Applicant states that Uniworth Enterprises LLP (hereinafter referred to as the "**operational creditor**") is a part of Meghmani Group (hereinafter referred to as "**group**"), established in 2016 to manufacture pharma packaging materials like PVC films, PVC/PVDC, Alu and Triplex Film for the Pharma Industry. It is further stated that the group is also involved in the manufacturing of rigid PVC for the Food Packaging Industry in variants like Deep Draw Films, Anti Fog Films, Freezer grade and also films for stationery and general thermoforming applications. The Applicant states that the group has diverse manufacturing interests like specialty chemicals, agro chemicals, dyes and intermediates, digital printing inks and PVC processing.
- b. The Applicant further states that M/s. Starco Metaplast Private Limited (hereinafter referred to as "**corporate debtor**") is an



eminent manufacturer and supplier of a wide variety of PVC films, having its registered office in Delhi. The Applicant states that on the basis of the operational creditor's impeccable market reputation and quality of service and products, the corporate debtor approached the operational creditor in and around 2019 for purchase of pharma packing materials.

- c. The Applicant states that on evaluation of the prices and quality of goods supplied by the operational creditor, the corporate debtor placed orders for purchase of goods through purchase orders dated 07.07.2021, 10.07.2021, 15.07.2021, 17.07.2021, 19.07.2021, 25.07.2021, 27.07.2021, 28.07.2021, 30.07.2021, 02.08.2021, 06.08.2021, 26.09.2021, 27.09.2021, 28.09.2021 and 04.10.2021 for a total quantity of 2,21,573 kgs. and for a total amount of Rs. 4,07,63,236/-.
- d. The Applicant has further stated that against the said purchase orders, the operational creditor supplied a total quantity of 1,35,567 kgs of goods amounting to Rs. 2,53,88620/- and raised invoices bearing nos. 5160014193, 5160014341, 5160014194, 5160014052, 5160014051, 5160014340, 5160014339, 5160014338, 5160014195, 5160015164, 5160015534, 5160015690 and 5160015299 dated 05.08.2021, 11.08.2021, 20.08.2021, 03.10.2021, 12.10.2021, 24.10.2021 and 09.11.2021 against the total



supplied quantity. It is pertinent to mention that the corporate debtor was required to make payment within 60 days from the receipt of the invoices. (as mentioned in the invoice).

- e. The Applicant submitted that in view of the supply not made, the corporate debtor issued debit notes dated 01.12.2021 for invoices dated 15.07.2021, 25.07.2021, 27.07.2021, 28.07.2021, 30.07.2021, and 02.11.2021 amounting to Rs. 40,84,275/- (including GST) for a total quantity of 85,250 kgs for the difference of rate the corporate debtor had to bear by purchasing from the third party.
- f. As per the debit notes it is noted that the corporate debtor has made a total purchase. of 69,449 kgs only of the goods however has issued debit notes for 85,250 kgs whilst not providing any record or purchase for the remaining quantity of 15,801 kgs from anywhere else.
- g. The Applicant submitted that vide email dated 23.08.2022, it had requested the corporate debtor to make payment towards its pending dues of Rs. 2,32,65,008/- in view of the supplies made on the basis of purchase orders issued by the corporate debtor. Vide the said email, the applicant also informed the corporate debtor that the applicant is open to an amicable resolution to aid the corporate debtor.
- h. The Applicant submitted that in order to reconcile the accounts with the corporate debtor, the parties scheduled a meeting in



the month of November, 2022 wherein it was decided that for non-supply rate difference of materials procured by the corporate debtor, a credit note would be issued by the operational creditor of Rs. 40,84,725 /- on the condition that the corporate debtor shall make the requisite payment of Rs. 1,91,80,733/- for the supplies made or in the alternative issue post-dated cheques of Rs.15,00,000/- for a total amount of Rs.1,91,80,733/- where the last post-dated cheque will be the difference of amount left to complete the payment of Rs. 1,91,80,733/-.

- i. The Applicant stated that the corporate debtor failed to issue any post-dated cheques or make payment of Rs. 1,91,80,733/- . As a consequence of the aforementioned, the applicant vide email dated 04.01.2023 to the corporate debtor once again requested the corporate debtor to provide the applicant with post-dated cheques in order to settle the outstanding dues and to enable the applicant to issue the credit note for an amount of Rs. 40,84,275 / -.
- j. Subsequently, the Applicant stated that the applicant did not receive any response from the corporate debtor as a result of which the applicant was constrained to issue a demand notice dated 23.01.2023 under Form 3 and Form 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 requesting the corporate debtor to make the payment of



Rs. 2,32,60,608/- and applicable interest. The Applicant states that the said demand notice was issued vide speed post dispatched on 25.01.2023 and email dated 04.02.2023. The Applicant states that the demand notice was delivered to the corporate debtor on 31.01.2023.

- k. The Applicant submitted that the corporate debtor furnished a reply dated 09.02.2023 to the demand notice dated 23.02.2023 wherein the corporate debtor has accepted that the corporate debtor, is required to make payment in monthly instalments of Rs. 15,00,000 each amounting to a total of Rs.1,91,80,733/-.

4. Submissions of the Ld. Counsel appearing for the Respondent/Corporate Debtor are:

- a. Respondent/Corporate Debtor appeared through its counsel and filed Reply denying various averments made in the Application
- b. The Respondent submitted that the Operational Creditor has misrepresented facts before this Hon'ble Tribunal by portraying that the purchase orders (Annexure D, Pg. 41-58) and invoices (Annexure E, Pg. 59-91) attached to the petition are the only ones relevant to the claim. However, the Operational Creditor has suppressed material facts, including prior payments made by the Respondent amounting to ₹6,37,69,697 before the claimed period (05.08.2021 to 09.11.2021), and an additional ₹1.98 crores paid against the



very same invoices now being claimed. These material disclosures were not presented in the petition.

- c. The respondent submitted that the present petition is liable to be dismissed due to the existence of a pre-existing dispute between the parties prior to the issuance of the Section 8 demand notice dated 23.01.2023. The Operational Creditor has admitted to not supplying the full quantity of materials as per the purchase order. While the Respondent placed an order for 2,22,573 kgs, only 1,35,567 kgs were supplied. This deficiency in service is acknowledged by the Operational Creditor in Para 22 at Pg. 19 of the Section 9 petition
- d. The respondent in its reply submitted that there has been a short supply of 85,250 kgs of material by the Operational Creditor against the total ordered quantity, which clearly establishes a deficiency of service. This shortfall constitutes a pre-existing dispute between the parties, well before the issuance of the Section 8 demand notice dated 23.01.2023, and therefore, the present petition is liable to be dismissed.
- e. The Respondent suffered substantial financial loss and loss of business opportunities due to the Operational Creditor's failure to supply the requisite material. Consequently, the Respondent was compelled to procure the material from alternate market sources at short notice, resulting in significant hardship. The Respondent reserves its right to seek



appropriate legal remedies for damages. The short supply is further substantiated by debit notes dated 01.12.2021 amounting to ₹40,84,275/-, issued for non-supply of material, which have been duly acknowledged by the Operational Creditor.

- f. Additionally, the Respondent submitted that there exists a pre-existing dispute arising from the inordinate delay in supply of material by the Operational Creditor. As per the purchase orders, the material was to be delivered "immediately," but the delay defeated the very purpose of the order and caused hardship to the Respondent. Such delay constitutes a deficiency of service and gives rise to a valid dispute under the Insolvency and Bankruptcy Code (IBC).
- g. The Respondent asserted that the Operational Creditor failed to supply PVC resin as scheduled, leading to significant production losses. Initial delivery was postponed from August 31, 2021, to September 4, 2021, and then further delayed without explanation, as evidenced by the Respondent's email dated September 4, 2021. This delay halted the Respondent's production and led to potential financial liabilities due to unmet customer commitments.
- h. The respondent submitted that he repeatedly requested the Operational Creditor to dispatch the required material, as evidenced by the email dated 09.09.2021, highlighting that the



Respondent's plant was shut due to non-delivery, resulting in financial losses. To support its contention, it has relied upon order passed by Hon'ble Supreme Court of India in ***Swiss Ribbons (P) Ltd. v. Union of India***, (2019) 4 SCC 17, and ***K. Kishan v. Vijay Nirman Co. (P) Ltd.***, (2018) 17SCC 662.

- i. The Respondent has further submitted that the Operational Creditor's petition under Section 9 of the Insolvency and Bankruptcy Code (IBC) claims an amount of ₹2,32,60,608/- based on 14 invoices. However, within the same application (Para 31, Pg. 24), the Operational Creditor acknowledges that the Respondent is liable to pay only ₹1,91,80,773/- due to a deficiency in service. Notably, all prior communications from the Operational Creditor consistently demanded only ₹1,91,80,773/-, with the increased claim amount appearing for the first time in the petition.
- j. It has been contented by the Respondent that the Operational Creditor has inflated its claim in the present petition by increasing the amount from ₹1,91,80,773/- (as consistently demanded in prior communications) to ₹2,32,60,608/-. This increase was made without disclosing that the Respondent had already paid ₹2,24,19,103/- between August 5, 2021, and December 23, 2022, including ₹1,98,00,000/- specifically towards the invoices now claimed as unpaid.



- k. The Respondent has submitted that the Operational Creditor's petition under Section 9 of the Insolvency and Bankruptcy Code (IBC) is not maintainable, as the Respondent has made substantial payments totaling ₹2,24,19,103 between August 5, 2021, and December 23, 2022, including ₹1,98,00,000 towards the specific invoices claimed. Additional payments of ₹83,00,000 were made through OXYZO Financial Services (P) Ltd., and ₹1.15 Crores via NEFT/RTGS in October 2021. After accounting for these payments, the remaining alleged debt falls below the ₹1 Crore threshold stipulated under Section 4 of the IBC. Furthermore, the Operational Creditor has arbitrarily adjusted these payments towards previous invoices not mentioned in the petition, and the claim for interest appears to be an afterthought introduced to artificially meet the threshold limit. Notably, there was no mention of interest in prior communications or settlements. As held in *M/s. Amsons Communication Pvt. Ltd. Vs. M/s. ATS Estates Pvt. Ltd.*, the provisions of the IBC cannot be used as a recovery mechanism for interest claims by Operational Creditors. Therefore, the petition under Section 9 of the IBC is liable to be dismissed.
1. The Respondent has submitted that the Operational Creditor has willfully suppressed the material fact that the Respondent made payments totaling ₹2,24,19,103 during the relevant invoice period from 05.08.2021 to 23.11.2021. Out of this



amount, ₹1.98 crores were paid specifically against the invoices now claimed in the present petition. The Operational Creditor has failed to disclose these payments in its application, rendering the petition misleading and factually incorrect. Further, vide an Affidavit dated 03.11.2023, the Respondent has placed on record Copies of confirmation of payments by OXYZO Financial services Pvt. Ltd to M/s. Uniworth Enterprises Ltd against its invoices.

5. Rejoinder on behalf of Applicant/ Operational Creditor are: -

- a. The Applicant has stated that the present petition is maintainable under the provisions of the Code, as supported by the facts stated in the petition. The Applicant has submitted that the first payment received on 06.08.2021, as reflected in the statement of accounts annexed to the petition, was appropriately adjusted against earlier purchase orders. The Applicant has duly accounted for all payments received from the Corporate Debtor and determined the outstanding debt based on pending invoices. In accordance with standard accounting practice, payments were appropriated on a FIFO basis, absent any specific instructions from the Corporate Debtor. The allegations made by the Corporate Debtor are unsubstantiated, baseless, and unsupported by any documentary evidence.



- b. It is submitted that the Applicant is claiming dues only for the supply of 1,35,567 kg's of goods delivered to the Corporate Debtor against purchase orders totalling 2,21,573 kg's, after duly accounting for a credit of ₹40,84,275/- on account of rate difference, as agreed upon due to the Respondent's procurement of the shortfall quantity from a third party at higher prices. This was communicated to the Corporate Debtor via email dated 05.09.2021, wherein the short supply was explained as a consequence of COVID-19 related disruptions and raw material cost escalation. The Applicant subsequently agreed to issue the said credit note, and no claim in respect thereof has been made in the present petition. The Corporate Debtor's assertion of a pre-existing dispute is frivolous and unfounded, raised only to evade liability for payment of goods admittedly received and consumed.
- c. It is submitted that as on 05.08.2021, the outstanding dues of the Operational Creditor stood at ₹2,26,92,720/-. Thereafter, goods worth ₹2,30,10,440/- were further supplied from 06.08.2021 to 09.11.2021 based on the Corporate Debtor's demand. During the period 06.08.2021 to 23.11.2021, the Corporate Debtor made payments totalling ₹2.24 crores, which were rightfully adjusted against the prior outstanding as per the FIFO principle. The Corporate Debtor's claim that these payments pertain solely to subsequent supplies is misleading.



Furthermore, no specific appropriation was communicated by the Corporate Debtor prior to its reply affidavit, and under settled legal principles, in the absence of such direction, payments are to be appropriated in chronological order. Accordingly, a principal sum of Rs. 2,32,60,608/- remains due and payable by the Corporate Debtor.

ANALYSIS AND FINDINGS

6. We have heard the Ld. Counsel on behalf of the Applicant/Operational Creditor and further perused the averments made in the application, reply filed by the Corporate Debtor, Rejoinder by the Applicant, Additional Affidavits presented by Operational Creditor and Corporate Debtor. Since, the registered office of the Respondent/ Corporate Debtor is in Delhi, this Adjudicating Authority is having territorial jurisdiction as the Adjudicating Authority in relation to prayer for initiation of Corporate Insolvency Resolution Process (CIRP) under Section 9 of the Insolvency and Bankruptcy Code, 2016, against the Corporate Debtor. Further, the present petition is filed within the period of limitation.
7. On perusal of the Case file, it is observed that the Operational Creditor has sent the first demand notice dated 23.01.2023 to the Corporate Debtor under Section 8 of the Insolvency and Bankruptcy Code, 2016 demanding payment of outstanding dues worth Rs.



2,32,60,608/- and its reply was furnished by Corporate Debtor dated 09.02.2023.

8. On a perusal of Part-IV of Form 5 giving particulars of the operational debt claimed by the applicant in the instant we notice that the applicant has claimed **Rs. 2,83,84,205/- (Rupees Two Crores Eighty Three Lakh Eighty Four Thousand Two Hundred and Five Only)** which comprises of Principal amounting to **Rs. 2,32,60,608/-** (Rupees Two Crores Thirty Two Lakhs Sixty Thousand Six Hundred and Eight) and Interest at the rate of 18% **Rs. 51,23,597 /-** (Rupees Fifty One Lakhs Twenty Three Thousand Five Hundred and Ninety Seven) to be paid by the Corporate Debtor.
9. For admission of the Section 9 application, one of the principal requirements is that there should not be any pre-existing dispute between the Operational Creditor and the Corporate Debtor before issue of the Section 8(1) notice.
10. The Hon'ble Supreme Court in Mobilox Innovations Private Limited vs. Kirusa Software Private Limited (Civil Appeal No. 9405 Of 2017) passed on 21.09.2017 has held:

“We have also seen that one of the objects of the Code qua operational debts is to ensure that the amount of such debts, which is usually smaller than that of financial debts, does not enable operational creditors to put the corporate debtor into the insolvency resolution process prematurely or initiate the process for extraneous considerations. It is for this reason that it is enough that a dispute exists between the parties.”

.....



Therefore, all that the adjudicating authority is to see at this stage is whether there is a plausible contention which requires further investigation and that the “dispute” is not a patently feeble legal argument or an assertion of fact unsupported by evidence. It is important to separate the grain from the chaff and to reject a spurious defence, which is mere bluster. However, in doing so, the Court does not need to be satisfied that the defence is likely to succeed. The Court does not at this stage examine the merits of the dispute except to the extent indicated above. So long as a dispute truly exists in fact and is not spurious, hypothetical or illusory, the adjudicating authority has to reject the application.”

- 11.** The abovementioned judgment has again been reiterated by the **Hon’ble Supreme Court** in its judgement delivered on January 04, 2023 in the matter of **Sabarmati Gas Limited vs. Shah Alloys Limited (Civil Appeal No. 1669 of 2020)** has held:

“It is enough that a dispute exists between the parties and in other words, what is to be seen is whether there was a plausible contention requiring investigation for the purpose of adjudication. Taking note of the nature of the dispute of the respondent as referred hereinbefore in respect of the claim made by the appellant, we do not find any reason to disagree with the concurrent findings of the Tribunals that there existed a ‘pre-existing dispute’ between the parties before the receipt of demand notice under Section 8, IBC. In other words, the dismissal of the application under Section 9, IBC on the ground of ‘pre-existing dispute’ cannot be held to be patently illegal or perverse. We also do not find any reason, in the facts and circumstances, to hold that the case set up by the respondent was a patently feeble legal argument. At any rate, we are not



inclined to brush aside the case of the respondent as spurious. We may hasten to add here that we shall not be understood to have held that the dispute set by the respondent regarding the dues is ultimately to be upheld. Certainly, when the expression 'pre-existing dispute' is used it will only indicate the existence of a dispute prior to the receipt of a demand notice under Section 8, IBC, and the correctness or its truthfulness is a matter of evidence. In short, the respondent has succeeded in raising a dispute describable as 'pre-existing dispute'. In that view of the matter once we find that the Tribunals have rightfully held that there existed a 'pre-existing dispute' between the parties there cannot be an order of remand of the matter to the Tribunal for reconsideration of Section 9 application under IBC."

- 12.** We note that the Applicant/ Operational Creditor has raised invoices dated 05.08.2021, 11.08.2021, 20.08.2021, 03.10.2021, 12.10.2021, 24.10.2021 and 09.11.2021 against the total supplied quantity. Further it has been the contention of the Respondent the debt due against these invoices has been paid by the Respondent /Corporate Debtor. To support its contention, vide affidavit dated 03.11.2023, the Respondent has placed on record copies of instruction letters addressed to its financier, Oxyzo Financial Services Pvt. Ltd., which had sanctioned a credit limit in favour of the Respondent for the disbursement of purchase facilities. Through these letters, the Respondent requested Oxyzo Financial Services Pvt. Ltd. to disburse payments against specific invoices dated 05.08.2021, 11.08.2021, 03.10.2021, 12.10.2021, and 09.11.2021, raised by the Operational Creditor. Pursuant to the said instructions,



part payments were directly remitted by the financier to the Operational Creditor. Further, we observe, that such payments were made to the Applicant specifically in relation to the invoices referenced in the respective instruction letters.

- 13.** In view of the foregoing, it is noted that, as per the submissions of the Corporate Debtor, payments have been made by it, through its financier, in relation to the same invoices which are the subject matter of the present application. As per the averments of the Corporate Debtor, it has submitted that an amount of Rs. 1,98,00,000/- has been remitted by the Corporate Debtor to the Operational Creditor against these specific invoices, which are being alleged as an unpaid amount of Rs. 2,83,84,205/- as per Part-IV of Form 5 by the Applicant. The Applicant has submitted that the amounts credited by the Corporate Debtor were adjusted by the Operational Creditor against back-dated invoices on the basis of the First-In-First-Out (FIFO) method, towards the alleged pending dues. However, it is pertinent to observe that the documentary evidence on record clearly indicates that the payments were made by the Corporate Debtor against specific and identified invoices. In such circumstances, the contention of the Applicant—that the said payments were appropriated towards older dues based on the First-In-First-Out (FIFO) method—cannot be sustained. The adjustment of funds in a manner contrary to the express remittance instructions, particularly when specific invoices have been discharged, is



untenable in the present proceedings. Accordingly, the plea of the Applicant stands discredited to that extent. The appropriate remedy for such a breach may lie in an alternate forum or jurisdiction and not necessarily before the Adjudicating Authority under the Code.

- 14.** Upon a careful examination of the facts of the present case, it becomes evident that there exist disputes and disagreements concerning the alleged outstanding amount claimed by the Applicant/Operational Creditor, which arose prior to the issuance of the statutory demand notice and the filing of the present application, particularly in relation to the invoices raised by the Applicant.
- 15.** It is further observed that the minimum threshold limit of Rs. 1 Crore as laid down under Section 4 of the Code is the statutory requirement which has to be mandatorily complied with and no person shall be entitled to have the privilege of not complying with the statutory requirements. The threshold limit was increased from Rs. 1 lakh to 1 crore vide notification dated 24.03.2020 and the present application was filed on 18.05.2023. Therefore, the present petition failed to meet the minimum threshold amount of Rs. 1 crore. Hence, the present petition is not maintainable and is liable to be dismissed on this ground alone.
- 16.** In view of the observations made herein, and the judicial pronouncements, it is accordingly, hereby ordered that the application bearing **CP (IB) NO. 176 OF 2023** filed by M/s Uniworth Enterprises LLP ('Operational Creditor') under Section 9 of the Code



read with rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP against M/s Starco Metaplast Private Limited ('Corporate Debtor') is not maintainable and is liable to be dismissed and accordingly, the same stands dismissed, however without cost.

Sd/-
(DR. SANJEEV RANJAN)
MEMBER (TECHNICAL)

Sd/-
(MANNI SANKARIAH SHANMUGA SUNDARAM)
MEMBER (JUDICIAL)



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-IV

IA No. 4625 of 2024
in
C.P.(I.B.) No. 176 of 2023

IN THE MATTER OF:

Uniwoth Enterprises LLP

.... Operational Creditor/Applicant

Versus

Starco Metaplast Pvt Ltd

.... Corporate Debtor/Respondent

AND IN THE MATTER OF:

M/s. Starco Metaplast Private Limited

...Applicant

Versus

Uniworth Enterprises LLP

...Respondent

CORAM:

**SH. MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)**

**DR. SANJEEV RANJAN,
HON'BLE MEMBER (TECHNICAL)**

Order Delivered on: 09.05.2025

PRESENT:

PRESENT:

For the Applicant : Mr. Mukesh Jain

Mr. S. B. Chaturvedi, Advs

For the Respondent : Mr. Prutha Bhasvar,
Ms. Natasha Dhruvan, Advs



ORDER

PER: MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (J)

1. This application has been filed by M/s Starco Metaplast Private Limited ("Applicant / Corporate Debtor") against M/s Uniworth Enterprises LLP ("Respondent"/ "Operational Creditor") under **Rule 11 read with Rule 40 of NCLT Rules, 2016 for permission to file additional documents**. Through this application, the Corporate Debtor seeks permission to place on record an additional affidavit along with additional documents in the ongoing insolvency proceedings. The prayer of the applicant is as extracted below:

"1. Allow the application by giving permission to take the documents on record.

2. Permit the applicant/Corporate debtor to rely on the aforesaid documents in aid of his defence.

3. Pass any other or further order as This Hon'ble tribunal may deem fit in the fact and circumstances of the case."

2. The Applicant in this application has submitted that the present application has been filed by the Respondent after both parties concluded their arguments. In its Rejoinder (paragraph 22), the Operational Creditor alleged that the Respondent submitted forged and fabricated documents claiming that Oxyzo Financial Services Ltd. made payments against specific invoices.
3. It is submitted that, in view of the Operational Creditor's allegation in the Rejoinder regarding forged documents, the Respondent has filed



confirmatory documents from Oxyzo Financial Services Ltd., including a certificate dated 24.04.2024 confirming payments were made against specific invoices, consistent with Oxyzo's policy of discounting invoices 15 to 60 days old. These documents support the Respondent's stand.

4. The Operational Creditor falsely claims it was never informed that the payments made were against the invoices mentioned in its application, despite admitting receipt of ₹2,24,19,103/- between 05.08.2021 and 23.12.2021. Of this, ₹1,98,00,000/- was paid specifically against the disputed invoices. To substantiate this, the present Applicant has located WhatsApp chats and emails between Mr. Anil Kumar (VP Sales of Operational Creditor) and Mr. Akshay Jain (Respondent's AR), showing communication of payment of ₹1,15,00,000/- against specific purchase orders/invoices. This evidence, previously omitted due to oversight, clearly establishes that the Applicant has approached this Hon'ble Court with unclean hands by making false statements under affidavit.
5. Further the Present applicant to substantiate its claim has submitted that Hon'ble Supreme court of India in its decision in the case of ***Dena Bank (now Bank of Baroda) Vs C. Shiv Kumar Reddy & Anr. Civil Appeal No.1650 of 2020*** in para 89 has held that there is no bar of filing of documents at any time until a final order either admitting or dismissing the application has been filed.

89: On a careful reading of the provisions of the IBC and in particular the provisions of Sections 7(2) to (5) IBC read with the



2016 Adjudicating Authority Rules there is no bar to the filing of documents at any time until a final order either admitting or dismissing the application has been passed.

6. The respondent submitted that the WhatsApp chats dated 30.09.2021 to 29.11.2021 were in the Applicant's possession but were not placed on record during the filing of their reply. The letter to Oxyzo Financial Services dated 24.04.2024 was issued after an unexplained delay. No justification has been provided for the late filing, nor has the Applicant claimed that these documents were previously unavailable or unknown.
7. Furthermore, the main pleadings contain no averments referring to these documents or asserting lack of prior knowledge. It is therefore evident that the documents were within the Applicant's knowledge and possession during the initial stages, and the present application to place them on record is liable to be rejected.
8. Upon perusal of the documents on record and in light of the settled position of law laid down by the Hon'ble Supreme Court, this Adjudicating Authority is of the considered view that there is no absolute bar on the filing of additional documents at any stage prior to the passing of a final order of admission or dismissal of the petition.
9. Accordingly, in the interest of justice and to ensure comprehensive adjudication of the matter, this Adjudicating Authority deems it appropriate to take the additional documents on record.



IA No. 4625/ND/2024 is accordingly disposed of with the above directions.

Sd/-
(DR. SANJEEV RANJAN)
MEMBER (TECHNICAL)

Sd/-
(MANNI SANKARIAH SHANMUGA SUNDARAM)
MEMBER (JUDICIAL)