



INSOLVENCY & BANKRUPTCY

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The National Company Law Appellate Tribunal, Principal Bench, New Delhi, in its judgment dated 19 May 2026 in Lyka Labs Ltd. v. Modi Lifecare Industries Ltd., Company Appeal (AT) (Insolvency) No. 726 of 2024, has significantly clarified the evidentiary requirements for operational creditors under Section 9 of the Insolvency and Bankruptcy Code, 2016, particularly where the underlying contract does not mandate invoicing. The Bench comprising Justice Ashok Bhushan, Mr. Barun Mitra and Mr. Arun Baroka examined the necessity of annexing invoices with statutory demand notices and the threshold requirement of a pre-existing dispute in insolvency proceedings.

The Appellant, Lyka Labs Ltd., and the Respondent, Modi Lifecare Industries Ltd., entered into a Technical Guidance Agreement on 14 September 2012, whereby the Respondent agreed to pay royalty fees for manufacturing products under the Appellant's technical guidance. Clause 1D stipulated minimum guaranteed royalty payments: Rs. 1 crore per annum or 5% of total sales value, whichever was higher, for the period ending 2013; and Rs. 2 crores per annum or 5% of total sales value, whichever was higher, for the period from 1 December 2013 to 30 November 2014. By a letter dated 2 August 2013, the parties modified these terms, deferring part of the payments and adjusting the minimum guaranteed amounts for subsequent periods. The Appellant maintained that the Respondent was contractually bound to pay these minimum guaranteed amounts irrespective of actual sales and without the necessity of invoices.

As disputes arose regarding outstanding payments, the Appellant issued several demand letters in 2017. The Respondent, in its reply dated 31 July 2017, acknowledged an approximate liability of Rs. 63 lakhs for the first year but asserted that royalty was payable only on actual sales basis, claiming an oral agreement to that effect which was never formalised. The Appellant reiterated its position, and on 10 October 2017 issued a demand notice in Form-3 under Rule 5 of the IBBI (Application to Adjudicating Authority) Rules, 2016, without annexing invoices, as the Agreement did not require their issuance for minimum guaranteed royalty. The Respondent refused to comply, prompting the Appellant to file Company Petition No. 141 of 2018 under Section 9 of the IBC before the NCLT, Ahmedabad on 8 March 2018.

The NCLT rejected the petition by order dated 20 November 2019, which was remanded by the NCLAT on 16 March 2023 for fresh adjudication. By the impugned order dated 22 February 2024, the NCLT once again rejected the petition, primarily on the ground that the Form-3 demand notice was defective for non-annexation of invoices and that a pre-existing dispute existed regarding the liability. This led to the present appeal.

The Appellant contended that the TG Agreement was the sole document governing the parties' relationship and that the Respondent had admittedly failed to make payments as per its express terms. It argued that the NCLT could not override the strict construction of a commercial contract. The Appellant emphasised that the Respondent's letter dated 31 July 2017 constituted a clear acknowledgment of debt exceeding the statutory threshold of Rs. 1 lakh, and that the dispute was merely one of quantum, not existence. It submitted that Rule 5 of the IBBI Rules does not mandate annexation of invoices with a Form-3 notice, and that the TG Agreement itself did not require invoices for minimum guaranteed royalty. Even for actual sales-based invoices previously raised, payments had not been made. The Appellant relied upon the Supreme Court judgment in Consolidated Constructions Consortium Ltd. v. Hitro Energy Solutions Pvt. Ltd. and the NCLAT ruling in Neeraj Jain v. Cloud Walker Streaming Technologies Pvt. Ltd. to support its position that invoices are not mandatory where the debt arises from a contractual provision.

The Respondent, conversely, argued that the claim was disputed as early as July and September 2017, with the Respondent consistently maintaining that royalty was payable only on actual sales. It highlighted that the Appellant had itself issued invoices on an actual sales basis, thereby demonstrating that the liability was contested. The Respondent pointed to the Appellant's inconsistent claims—Rs. 63 lakhs, Rs. 84,72,740, and Rs. 5,95,04,537 within a short span—as evidence of an unsubstantiated claim. It contended that the failure to annex invoices rendered the Form-3 notice legally defective, and that the claim under Sections 37 and 73 of the Indian Contract Act, 1872, was in the nature of unliquidated damages requiring civil adjudication, not an operational debt under Sections 3(11) and 5(21) of the IBC. The Respondent further pleaded that a substantial part of the claim was barred by limitation under Section 238A of the IBC read with Article 137 of the Limitation Act, 1963, and that the IBC was being abused as a debt recovery mechanism against a solvent going concern, citing Swiss Ribbons Pvt. Ltd. v. Union of India.

The NCLAT examined whether the non-annexation of invoices rendered the demand notice defective. It held that Rule 5 provides two distinct alternatives: a demand notice in Form-3, or a copy of an invoice with a notice in Form-4. A plain reading establishes

that annexation of invoices is not mandatory when Form-3 is employed. The Tribunal noted that the TG Agreement did not cast any obligation upon the Appellant to raise invoices for minimum guaranteed royalty, and the computation of the debt emanated directly from the contract itself. It distinguished the NCLAT judgment in *M/s Agarwal Vineers v. Fundtonic Service Pvt. Ltd.*, observing that the facts therein involved invoice-based claims, whereas the present dispute arose from a contractual minimum guarantee. The Tribunal found that the judgments in *Consolidated Constructions Consortium Ltd.* and *Neeraj Jain* fully supported the Appellant's case.

On the question of pre-existing dispute, the NCLAT observed that while the Respondent had disputed the quantum of liability, its letter dated 31 July 2017 admitted a pendency of Rs. 63 lakhs and conceded that its contention regarding actual-sales-based royalty was never formalised. The Tribunal concluded that the parties' dispute was confined to quantum and accounts reconciliation, not the existence of the debt itself. It rejected the Respondent's submission that the claim constituted unliquidated damages, holding that the reference to Sections 37 and 73 of the Contract Act in Form-5 did not alter the crystallised nature of the contractual royalty obligation. The Tribunal further rejected the plea of abuse of process, noting that the petition was founded on material facts and an admitted default exceeding the threshold limit.

The NCLAT allowed the appeal and set aside the impugned order dated 22 February 2024. It held that the existence of an operational debt and a default exceeding Rs. 1 lakh (as the limit then stood) was admitted, and the conditions for initiation of insolvency resolution under Section 9 were satisfied. The Tribunal directed the Respondent to deposit Rs. 63,00,000 within 30 days from the date of the order, failing which the Adjudicating Authority was empowered to issue orders admitting the Respondent into insolvency under Section 9 of the Code. The appeal and all related interlocutory applications were disposed of accordingly.

The judgment in *Lyka Labs Ltd. v. Modi Lifecare Industries Ltd.* reaffirms that the evidentiary requirements for Section 9 petitions must be interpreted in harmony with the underlying contractual architecture. By holding that invoices are not mandatory where the debt is self-evident from the contract, and by distinguishing between disputes as to quantum and disputes as to existence of debt, the NCLAT has provided valuable guidance on the threshold requirements for operational creditors. The ruling highlights that the IBC's remedial framework is accessible where a crystallised contractual debt and admitted default exist, even in the absence of conventional invoicing documentation.

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