



**IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT-VI, NEW DELHI**

COMPANY PETITION IB (IBC)/748 (ND)/2023

An Application 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:

M/s Bajrang Devcon Private Limited

Registered Address - 6010/2, Sect D, PKT-6,
Vasant Kunj, South Delhi, Delhi-110700

...Operational Creditor

Versus

M/s Siwon Agri Private Limited

Regd. Add: 4654, 1st Floor, Deputy Ganj,
Sadar Bazar, New Delhi-110006.

...Corporate Debtor

Order Delivered on: 09.05.2025

CORAM:

SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)
ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

Appearances (through Video Conferencing/physical hearing)

For the Applicant : Adv Shivani Verma, Adv Sushil Kumar

For the Respondent : Adv Vikas Sethi and Adv Samridhi Malhotra



O R D E R
PER – BENCH

1. This is a Company Petition filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (***‘the Code’***) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by **M/s Bajrang Devcon Private Limited (*‘Operational Creditor’*)** duly authorized for initiation of Corporate Insolvency Resolution Process (***‘CIRP’***) against **M/s Siwon Agri Private Limited (*‘Corporate Debtor’*)**.
2. **M/s Bajrang Devcon Private Limited** (Operational Creditor) is having office at 6010/2, Sector D, PKT-6, Vasant Kunj, South Delhi, Delhi-110700. **M/s Siwon Agri Private Limited** (Corporate Debtor) is a Company registered under the Companies Act, 2013 having its office at 4654, 1st Floor, Deputy Ganj, Sadar Bazar, New Delhi-110006. The Corporate Debtor has Authorized Share Capital of Rs 1,00,000/- (One Lakh Only) and Paid Up Share Capital of Rs 1,00,000/- (One Lakh Only).
3. The present Petition was filed on 07.10.2023 before this Adjudicating Authority for the initiation of CIRP Proceedings by **M/s Bajrang Devcon Private Limited** (Operational Creditor) against the **M/s Siwon Agri Private Limited** (Corporate Debtor) under Section 9 of the IB Code. The total amount claimed in default is Rupees 1,03,40,335/- (Rupees One Crore Three Lakh Forty Thousand Three Hundred & Thirty-Five Only). The ***date of default*** is stated to be on 31.03.2023.
4. **Facts of the case as submitted by the Ld. Counsel appearing on behalf of the Operational Creditor.**
 - a) The Operational Creditor made routine supplies of Guar Churi to the corporate debtor and raised below mentioned Invoices.



b) The Detailed of the Tax Invoices are as follows:-

Sr. No.	Date	Tax Invoice	Amount
	02.03.23	BDPL/Siw on GC/01	7,95,000/-

	04.03.23	BDPL/Siw on GC/02	7,95,000/-
	06.03.23	BDPL/Siw on GC/03	7,95,000/-
	08.03.23	BDPL/Siw on GC/04	7,95,000/-
	09.03.23	BDPL/Siw on GC/05	7,95,000/-
	11.03.23	BDPL/Siw on GC/06	7,95,000/-



	16.03.23	BDPL/Siw on GC/07	7,95,000/-
	21.03.23	BDPL/Siw on GC/08	11,92,500/-
	22.03.23	BDPL/Siw on GC/09	7,95,000/-
	24.03.23	BDPL/Siw on GC/10	7,95,000/-
	25.03.23	BDPL/Siw on GC/11	7,95,000/-

	27.03.23	BDPL/Siw on GC/12	11,92,500/-
	31.03.23	TCS	5335
Total			1,03,40,335/-



- c) However, Corporate Debtor failed to pay the outstanding due. Hence, Demand notice dated 21.08.2023 was issued and sent through speed post.
- d) However, the Speed post was returned "Unclaimed" to the Advocate of the Operational Creditor hence, Advocate of the Operational Creditor sent Email on 25.08.2023

5. The Counsel for the Corporate Debtor filed its reply on behalf of the Corporate Debtor as below: -

- i. That the present application is based on vague misconceived notions and baseless assumptions of the applicant and are therefore denied.
- ii. The Applicant has not approached this commission with clean hands and has suppressed material facts.
- iii. The Applicant has no ground for commencing a proceeding under the Code and the Operational Creditor has not expressed the correct amount which is due and payable by the corporate debtor as of today. The present application solely rests upon documents which are vague, false and nowhere admit any liability of any debt whatsoever and it is obvious that the present application has been filed to harass and extort money from the Respondent.
- iv. It is submitted that respondent received the goods but were not of good quality. It is further submitted that due to bad quality of



goods the purpose for which the Respondent placed the purchased order was defeated.

- v. The respondent further submits that the claim made by the Applicant in the present Petition is totally wrong and arbitrary. The claim amount must be calculated after depreciating the amount of bad goods.
- vi. The documents annexed with the present application does not establish any default on the part of the Respondent and the Applicant has failed to show any service of the invoices to the respondent.
- vii. It is denied that the total Operational Debt is Rs. 1,03,40,335/- (Rupees One Crore Three Lakh Forty Thousand Three Hundred Thirty-Five Only). The applicant has attempted to conceal the fact of the payments received by it and has also incorrectly stated the quantum of part payment made by the Respondent.
- viii. The application relates to the particulars of the operational debts which is denied to the extent that the due amount is Rs. 1,03,40,335/- (Rupees One Crore Three Lakh Forty Thousand Three Hundred Thirty-Five Only). It is denied that Rs. 1,03,40,335/- (Rupees One Crore Three Lakh Forty Thousand Three Hundred Thirty-Five Only) has been due from the Respondent. It is submitted that the goods received from the Applicant was not in good condition and the purpose for which



the Respondent placed the order of the said goods was not fulfilled due to bad condition of the good.

Analysis & Findings

6. We have heard the Learned Counsel for the Operational Creditor and perused the averments made in the petition and also in additional affidavits filed by the Operational Creditor. Since the registered office of the respondent Corporate Debtor is in Delhi, this Tribunal 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.
7. The Corporate Debtor in the present case, had approached the Operational Creditor for supply of goods being Guar Churi and accordingly had placed a Purchase Order dated 15.02.2023 (“**Purchase Order**”) [**Annexure C @ Pg.21 of the Application**]. In terms of the Purchase Order, the Operational Creditor was to supply the goods/product and raise invoices, where after **the invoices were to be cleared within 15 days from the date of delivery of the goods/products.**
8. It is to be noted that the ‘Operational Creditor’ had sent a demand notice dated 21.08.2023 to the ‘Corporate Debtor’ under Section 8 of The Insolvency and Bankruptcy Code, 2016 for payment of outstanding dues. As per the requirement of Section 8(2) of the IB Code, 2016, the Corporate Debtor is required to file reply to the demand notice within 10 days of the Receipt of the Demand Notice. However, no response to the same was given by the Corporate Debtor, nor was any payment made.
9. Further, the Corporate Debtor, nowhere in its entire Reply dated 04.06.2024 has averred or denied receipt of the Demand Notice dated



21.08.2023 on 25.08.2023. In terms of the scheme of the Code, the Corporate Debtor after receipt of the Demand Notice, could respond to the same either intimating the payment made or denying such liability on account of any pre-existing dispute pertaining to the very same transaction.

10. However, in the present case, no reply was ever given by the Corporate Debtor and the issues of quality is only being raised for the very first time in its Reply dated 04.06.2024 filed before this Learned Adjudicating Authority and is clearly an afterthought. The entire defence raised by the Corporate Debtor is an afterthought and is spurious and hypothetical.

11. It is well settled that when the plea of a pre-existing dispute is raised, the Learned Adjudicating Authority is to see whether there is a **plausible contention which requires further investigation and that the ‘disputes’ is not a patently feeble legal argument or an assertion of fact unsupported by any evidence.** In the present case, apart from a vague assertion of fact, no evidence or document is on record to show case the existence of any such dispute, prior to Section 8 notice Reliance in this regard is placed on *Mobilox Innovation Pvt. Ltd. v. Kirusa Software Pvt. Ltd. (2018) 1 SCC 353 at paragraph 51* and *Kay Bouvet Engg. Ltd. v. Overseas Infrastructure Alliance (India) (P) Ltd. (2021) 10 SCC 483 at paragraph 21.*

12. In our considered view, the Applicant has been able to comply with all the parameters as laid down by the Hon’ble Supreme Court in the case of Mobilox Innovations (Supra). Further, the Corporate Debtor has not been able to establish either a pre-existing dispute or that the demand notice or the application under Section 9 was defective.

13. In view of the aforesaid reasons, the present application under Section 9 is admitted and CIRP is initiated.



14. In view of the above facts and circumstances and the foregoing discussion, we are satisfied that the present Applicant fulfills the criteria laid down under Section 9 of the Code. It is accordingly, hereby ordered as follows: -

- I. The Application bearing IB-748/PB/2023, filed by the Applicant under Section 9 of the Code r/w Rule 6 of the Adjudicating Authority Rules for initiating CIRP against the Respondent is hereby admitted.
- II. We also declare a moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flow from the provisions of Section 14(1)(a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:
 - i. The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - ii. Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
 - iii. Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and



Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

- iv. The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the corporate debtor.

[Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;]”

- III. It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government or the supply of the essential goods or services to the Corporate Debtor as may be specified, are not to be terminated or suspended or interrupted during the moratorium



period. In addition, as per the Insolvency and Bankruptcy Code (Amendment) Act, 2018 which has come into force w.e.f. 06.06.2018, the provisions of moratorium shall not apply to the surety in a contract of guarantee to the corporate debtor in terms of Section 14(3)(b) of the Code.

- IV. The Operational Creditor has not proposed any name for the Interim Resolution Professional (“IRP”). Therefore, we appoint name Mrs. Preeti Chauhan as Interim Resolution Professional (“IRP”) having address: His Email id is cspreetichauhan@gmail.com and his Contact No. is 9560998554. His registration number is IBBI/IPA-002/IP-N01273/2023-2024/14331. Therefore, the IRP shall file a valid Authorization for Assignment along with Written Consent in Form-2 and Registration Certificate within 3 days of the pronouncement of this order.
- V. In pursuance of Section 13(2) of the Code, we direct the IRP, as the case may be to make a public announcement immediately with regard to the admission of this application under Section 9 of the Code. The expression immediately means within three days as clarified by Explanation to Regulation 6(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.



- VI. During the CIRP period, the management of the Corporate Debtor shall vest in the IRP/RP, in terms of Section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this order, in default of which coercive steps will follow. There shall be no future opportunity given in this regard.
- VII. The IRP is expected to take full charge of the Corporate Debtor's assets, and documents without any delay whatsoever. He is also free to take police assistance and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
- VIII. The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
- IX. The Operational Creditor shall deposit a sum of Rs. 2,00,000/- (Rupees Two Lakhs only) with the IRP to meet the expenses to perform the functions assigned to him in accordance with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Operational Creditor. The amount however be subject to adjustment by the Committee of Creditors,



as accounted for by IRP, and shall be paid back to the Operational Creditor.

- X. In terms of the Code, the Registry is hereby directed to communicate a copy of the order to the Operational Creditor, the Corporate Debtor, the IRP and the Registrar of Companies, NCT of Delhi and Haryana, by Speed Post and by email, at the earliest but not later than seven days from today. The Registrar of Companies shall update his website by updating the status of the Corporate Debtor and specific mention regarding admission of this Application must be notified.
- XI. The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India ("IBBI") for their record.
- XII. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

-SD/-

**(ATUL CHATURVEDI)
MEMBER (TECHNICAL)**

-SD/-

**(MAHENDRA KHANDELWAL)
MEMBER (JUDICIAL)**