



**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

ORDER SHEET OF THE HEARING ON 21st MAY, 2025

CP(IB)/11/GB/2024

**Present: 1. Hon'ble Member (Judicial), Shri Rammurti Kushawaha
2. Hon'ble Member (Technical), Shri Yogendra Kumar Singh**

In the Matter of	Stratvisors Private Limited Vs Source Dot Com Private Limited
Under Section	U/s 9 of IBC, 2016

Appearances (via video conferencing/physically)

For Petitioner (s) : Mr. Shailendra Singh, Adv.
: Mr. A. Dhasmana, Adv.

ORDER

Order Pronounced in open court *vide* separate sheets.

Sd/-
Yogendra Kumar Singh
Member (Technical)

Sd/-
Rammurti Kushawaha
Member (Judicial)



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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, to initiate Corporate Insolvency Resolution Process;

In the matter of:

M/s Stratvisors Private Limited, [CIN No. U74999DL2018PTC330738], Registered Office at H. No. 32A, F/F, Opp. UNA Enclave, Mayur Vihar Phase-I, Patparganj Village, Delhi- 110091; Also at- 711, 7th Floor, Pearls Emaxe, Plot No B-1, Netaji Subhash Place, North West Delhi, Delhi --- 110034;

...Petitioner/Operational Creditor

-Versus-

M/s Source Dot Com Private Limited, [CIN No. U72200ML2008PTC008301], Registered Office at J. Poshna, Upper Kench's Trace near Bethesda Hospital Shillong, East Khasi Hills, Meghalaya- 793004; Also at- Plot No- 16, Electronic City Sector- 1, Udyog Vihar Phase IV, Gurugram, Haryana— 122015;

... Respondent/Corporate Debtor

Coram:

Shri Rammurti Kushawaha : Member (Judicial)
Shri Yogendra Kumar Singh : Member (Technical)

Appearances (through video conferencing):

For the Petitioner : Mr. S. Singh, Mr. A. Dhasmana, (Adv.s)
For the Respondent : Mr. A. Prakash, Mr. A. Sharma, Ms. S. Yasmin, (Adv.s)

Order pronounced on: 21.05.2025

ORDER

1. The Present Application has been filed by the Operational Creditor- **M/s Stratvisors Private Limited**, under section 9 of the Insolvency and Bankruptcy



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Code, 2016 (“**Code**”) to initiate Corporate Insolvency Resolution Process with respect to the Corporate Debtor- **M/s Source Dot Com Private Limited**. The Petitioner herein prays for the following reliefs:

- a) To allow the present application, being filed under Section 9 of the IBC, 2016, and/or*
- b) To initiate insolvency proceedings against the Respondent/Corporate Debtor, in furtherance of the present application under Section 9 of the IBC, 2016, and/or*
- c) To pass an order, imposing moratorium in terms of Section 13 and Section 14 of the IBC, 2016, and/or*
- d) To pass any such order, as this Hon’ble Tribunal may deem fit and necessary in the interest of justice.*

2. Brief facts as stated by the Petitioner are as follows:

- 2.1 The Petitioner/Operational Creditor rendered comprehensive IT services, including Digital Marketing and Annual Maintenance Contract (AMC), to the Corporate Debtor for a considerable period from 01.04.2019 to 31.01.2023. Invoices for these services were raised, and importantly, no dispute regarding these invoices was raised by the Respondent at that juncture or within a reasonable time thereafter.
- 2.2 Significantly, the Audited Balance Sheet of the Corporate Debtor for the year ending 31.03.2021 explicitly acknowledges and records a liability of Rs. 2,33,38,459/- (**at page 165, Annexure A-6 of the petition**) as on 31.03.2021 owed to the Petitioner.
- 2.3 That part payment of Rs. 60,00,000/- and Rs. 55,00,000/- was received on 17.06.2021 and 18.06.2021 respectively from the Corporate Debtor, out of the outstanding due of Rs. 2,33,38,460/-. Despite repeated reminders and follow ups by the team of the Petitioner, the Corporate Debtor failed to clear the dues and till date, the principal amount of **Rs. 1,18,38,460/- remains unpaid**. The Copy of unpaid invoices are annexed herewith as “ANNEXURE A-3” to the Petition.
- 2.4 It is stated that an email was sent by the Finance Team of Stratvisors Private Limited to Source Dot Com on 05.09.2022 regarding the pending payment



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of Rs. 1,18,38,460/- along with the comprehensive ledger account maintained by the Petitioner, evidencing the outstanding dues.

- 2.5 A Demand Notice in Form 3 was issued by the Counsel for the Operational Creditor to the Corporate Debtor on 30.05.2023. The Respondent had explicitly acknowledged receipt of the Demand Notice dated 30.05.2023 in its Reply Affidavit dated 11.10.2024, thus confirming effective service.
- 2.6 In response to the Demand Notice, the Respondent/Corporate Debtor filed Civil Suit No. CS/403/2023 before the Ld. Civil Court at Panchkula. The Respondent has admitted to instituting the said civil suit on 08.06.2023 in their Reply Affidavit. However, this chronology, with the suit being filed on 08.06.2023, clearly after the issuance of the Form 3 Demand Notice dated 30.05.2023, establishes that there was no pre-existing dispute before the issuance of the statutory demand notice.
- 2.7 Subsequently, the Petitioner relies on the judgment of the Hon'ble Apex Court in ***Mobilox Innovations (P) Ltd. v. Kirusa Software (P) Ltd.*, [(2018) 1 SCC 353]**, which held that for a dispute to be considered as pre-existing, it must exist before the receipt of the demand notice or invoice. In the absence of any such dispute or record of pending suit or arbitration proceedings before the demand notice, an application under Section 9 cannot be rejected and must be admitted. Relevant Extract from the Mobilox Judgment is as follows:
- “33....Within a period of 10 days of the receipt of such demand notice or copy of invoice, the corporate debtor must bring to the notice of the operational creditor the existence of a dispute and/or the record of the pendency of a suit or arbitration proceeding filed before the receipt of such notice or invoice in relation to such dispute [Section 8(2)(a)]. What is important is that the existence of the dispute and/or the suit or arbitration proceeding must be pre-existing i.e. it must exist before the receipt of the demand notice or invoice, as the case may be,...”*
- 2.8 The debt falls due on the respective dates of invoices raised by the Operational Creditor, stands acknowledged *vide* the email dated 19.09.2022



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by the Corporate Debtor, and remains due till date. Hence, the present application.

3. The Petitioner *vide* Rejoinder dated 26.12.2024 submits that:
- 3.1 A perusal of the Reply affidavit by Respondent shows no denial of the existence of the **Operational Debt** as per section 5(20) of the Code. Furthermore, there is also no denial of the contractual relationship between the Corporate Debtor and Operational Creditor.
 - 3.2 The plea of a pre-existing dispute, as taken by the Corporate Debtor, is totally unfounded and is a mere tool to misguide this Tribunal by placing incorrect facts on record.
 - 3.3 The Civil Suit CS/403/2023, cited by the Corporate Debtor as a pre-existing dispute, was admittedly instituted on 08.06.2023. This suit is argued to have been instituted as a counter action to the FORM 3 Demand Notice, dated 30.05.2023, sent by the Operational Creditor to the Corporate Debtor. Hence, this does not qualify as a pre-existing dispute, as it was initiated after receiving the Demand Notice from the Operational Creditor. Thus, the Section 9 Petition under the Code is stated to be not barred by a pre-existing dispute.
 - 3.4 While denying to the Respondent's contention that the Operational Creditor failed to supply crucial documents like service delivery records, Petitioner stated that the Operational Creditor was constantly following up with the Corporate Debtor for payment.
 - 3.5 Petitioner stated that the litigation pending before Panchkula have been initiated subsequent to the issuance and delivery of the FORM 3 Demand Notice dated 30.05.2023 and is described as an afterthought action by the Corporate Debtor.
 - 3.6 Petitioner further denied to the Respondent's contention of the petition being barred by limitation, as the last unpaid invoice was issued on 14.11.2020, and the FORM 3 Demand Notice was issued on 30.05.2023. It is therefore submitted that the petition has been instituted within the three-



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year limitation period as per Article 18 of the Limitation Act, 1963, arguing that the limitation period starts from the date the Demand Notice was issued.

3.7 Nonetheless, it is stated that the principal outstanding amount is Rs. 1,18,38,460/-, which, even without interest, is stated to be suffice to meet the required threshold of the Pecuniary Jurisdiction to approach this Tribunal. The total amount due along with compound interest is Rs. 1,69,05,616.84/-, which is based on 7 invoices dated between 07.10.2020 and 14.11.2020.

3.8 The Corporate Debtor's failure to disburse payments despite multiple reminders indicates towards the inability of the Corporate Debtor to repay the debts. Thus, the petition is maintainable and hence deserves to be admitted.

4. On the other hand the Corporate Debtor *vide* its reply dated 14.10.2024 and written submissions dated 01.05.2025 submits that:

4.1 The present company petition under Section 9 of the Code, filed by the Petitioner is not maintainable due to the existence of a **pre-existing dispute** between the parties.

4.2 It is submitted that there is an ongoing civil suit bearing number CS/403/2023 pending adjudication before the Hon'ble Court of Ms. Arunima Chauhan, Civil Judge (Junior Division) at Panchkula, Haryana. It is contended that this suit was instituted by the Corporate Debtor on **08.06.2023**, which is much prior to the initiation of the present IBC proceedings by the Operational Creditor. Further hearing in the civil suit is fixed for **21.07.2025** for ex-parte evidence against the Plaintiff.

4.3 The Corporate Debtor alleges pre-existing dispute and material suppression by the Operational Creditor. It is submitted that in their reply email dated 19.09.2022 (**at page 55 of the petition**), they had clearly mentioned that they were not getting proper support at the customer end from the Operational Creditor and needed to engage another agency for support and



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maintenance, much prior to the Section 8 notice dated 30.05.2023. The pending civil suit directly pertains to the same alleged outstanding invoices and forms the subject matter of the present insolvency petition.

- 4.4 Subsequently, the Corporate Debtor alleges failure to provide service delivery records as well as validation of invoices. While the Operational Creditor provided IT support, digital marketing, and AMC-related services, and invoices were raised, the Corporate Debtor claims to have continuously failed to obtain essential documents, including service delivery records, despite formal requests. This failure significantly hampered the Corporate Debtor's ability to assess, challenge, or validate the charges reflected in the invoices, thereby hindering resolution.
- 4.5 The Corporate Debtor further stated that they had replied to the Demand Notice dated 30.05.2023 on 09.06.2023 (**at page 186- Annexure A-8 of main petition**), but the Operational Creditor failed to provide any substantial response.
- 4.6 It is noteworthy that the alleged invoices forming the basis are dated 01.11.2020, 11.11.2020, and 14.11.2020 (**at page 51-55 of the Petition**) and that the present petition was filed only on 04.05.2024, which is beyond the prescribed three-year limitation period as per Article 18 of the Limitation Act, 1963.
- 4.7 Furthermore, there also exists a statutory bar under Section 10A of the Code, wherein the initiation of CIRP was suspended for defaults occurring on or after 25.03.2020 for an initial period of six months, subsequently being extended by three months and further extended by another three months w.e.f. 25.12.2020. In *Bhavit Sheth v. Madan Bajrang Lal Vaishnawa*, Company Appeal (AT) (Insolvency) No. 328 of 2024 (decided April 30, 2024), the NCLAT held that defaults during the Section 10A IBC period (March 25, 2020 – March 24, 2021) are immune from CIRP. Acknowledgment of debt after this period does not revive the right to initiate CIRP, and even if the Corporate Debtor fails to invoke Section 10A, the Adjudicating Authority must still reject a time-barred application.



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Henceforth, the present application is argued to be not maintainable under Section 10A of the Code.

- 4.8 The Corporate Debtor while denying any liability for the claimed amount, submits that all legitimate invoices were duly honored. The demand notice for Rs. 1,18,38,460/- is based on October and November 2020 invoices which were already disputed *vide* email dated 19.09.2022 (at **page 55 of main Petition**). Nevertheless, the Code is intended for resolution and revival of the Corporate Debtor, not for debt recovery. In this case, the Operational Creditor is misusing the insolvency process to exert pressure on the Corporate Debtor. In *Navin Madhavji Mehta v. Jaldhi Overseas Pvt. Ltd. & Ors.* (NCLAT, Feb 28, 2025), it was reiterated that the Code is not a debt recovery tool, particularly where the debt is disputed. The Tribunal emphasized that insolvency proceedings cannot substitute recovery mechanisms in cases involving pre-existing disputes. Therefore, it is submitted that the present petition is stated to be an abuse of process of law, being a purely contractual dispute subject to adjudication before the Civil Court at Panchkula.
- 4.9 The Operational Creditor failed to disclose the basis for treating 31.03.2023 as the date of default, despite the limitation period for recovery being governed by Article 18 of the Limitation Act, which runs from the date of the invoice. Furthermore, it is claiming interest at an annual rate of 19.5%, compounded monthly, which is not only illegal but no agreement has been signed between the parties so far. Moreover, the Operational Creditor has failed to submit the Record of Default (RoD) as mandated by IBBI Circular No. IBBI/IU/59/2023 dated 16.06.2023 in the present petition.
- 4.10 Hence, the Corporate Debtor prays that the present Company Petition be dismissed as not maintainable and that costs be imposed upon the Operational Creditor for filing a frivolous and vexatious petition.
5. Heard the learned Counsel for the Operational Creditor as well as learned Counsel for the Corporate Debtor and perused the records.



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6. The present application has been filed by the Operational Creditor under Section 9 of the Code, seeking initiation of CIRP against the Corporate Debtor due to default in payment of operational debt. As per the framework under Sections 8 and 9 of the Code, the Operational Creditor must first serve a demand notice or invoice under Section 8(1). In response, the Corporate Debtor may, within ten days, inform the creditor of any existing dispute or pending litigation under Section 8(2). If neither payment nor notice of dispute is received, the creditor is entitled to file an application under Section 9. The Adjudicating Authority shall admit the application if it is complete and no dispute exists; otherwise, under Section 9(5)(ii)(d), it must be rejected where a pre-existing dispute is evident, thereby preventing misuse of the CIRP mechanism.
7. It is pertinent to mention herein that, the Respondent sought to rely on its email dated 19.09.2022 wherein they had clearly mentioned that they were not getting proper support at the customer end from the Operational Creditor and needed to engage another agency for support and maintenance, before the Demand Notice was received. However, it is observed that this e-mail was in response to a follow-up by the Operational Creditor for payment of the pending invoices. There is nothing on record to indicate any deficiency in service giving rise to a possible dispute after the last invoice dated 14.11.2020. Moreover, the Respondent failed to point out that it made part payment of Rs. 60,00,000/- and Rs. 55,00,000/- on 17.06.2021 and 18.06.2021 respectively, against the pending invoices, out of the total outstanding due of Rs. 2,33,38,460/- without any protest. Additionally, the Audited Balance Sheet of the Corporate Debtor for the year ending 31.03.2021 explicitly acknowledges and records a liability of Rs. 2,33,38,459/- (at page 165, Annexure A-6 of the petition) as on 31.03.2021.
8. Thus, the Respondent cannot rely upon the afore-mentioned e-mail to argue about pre-existing dispute. The Respondent has not pleaded about or shown any pre-existing dispute between the Parties as regards its obligation to pay the Operational Debt before the receipt of the statutory Demand Notice, which must be established for a valid defence in a proceeding under Section 9 of the Code (*Mobilox Innovations (P) Ltd. v. Kirusa Software (P) Ltd.* [(2018) 1 SCC 353]). Also, it is evident that the Civil Suit



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CS/403/2023, cited by the Corporate Debtor as a pre-existing dispute, was admittedly instituted on 08.06.2023 as a counter action to the FORM 3 Demand Notice, dated 30.05.2023, sent by the Operational Creditor to the Corporate Debtor. Hence, this **does not qualify as a pre-existing dispute**, as it was initiated after receiving the Demand Notice from the Operational Creditor.

9. It is clear from the records that there is continuing default commencing from 31.03.2023 and which is continuing till date. The above Company Petition being filed on 15.03.2024 is **within the limitation period** allowed under the Limitation Act, 1963. The Operational Debt claimed is Rs. 1,18,38,460/- (Rupees one crore eighteen lakhs thirty- eight thousand four hundred and sixty rupees only) as principal amount, which is **above the threshold limit** as per the notification dated 24.03.2020 made by the Ministry of Corporate Affairs.
10. Significantly, the bar under Section 10A of the Code, as mentioned by the Corporate Debtor to prove non-maintainability of the present Petition, applies only where the default occurred during the suspension period, i.e., from 25th March 2020 to 25th March 2021. The mere issuance of invoices during this period does not attract the bar, unless the actual default in payment also arose within that timeframe. This position has been affirmed by the Hon'ble NCLAT in *NuFuture Digital (India) Ltd. v. Appellant* (Order dated 31.01.2023), holding that:
"Section 10A bars applications for defaults occurring during the specified period. However, if the default occurred after this period, the application is not barred, even if the invoice was issued during the suspension period."
11. With regard to the Corporate Debtor's submission that the Operational Creditor has failed to submit the Record of Default (RoD) as mandated by IBBI Circular No. IBBI/IU/59/2023 dated 16.06.2023, it is trite law that absence of RoD is not fatal to a Section 9 application, provided the debt and default are otherwise proven. The NCLAT judgment in *Vijay Kumar Singhania v. Bank of Baroda*, upheld by the Supreme Court, provides clarity on the flexibility available to financial creditors in proving default under the Code. The judgment emphasizes that while Information Utilities play a crucial role, they are not the exclusive method for establishing default.



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12. For the aforesaid reasons, the above Company Petition No. CP (IB) No.11/GB/2024 is hereby **allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s Source Dot Com Private Limited, under Section 9 of the Code, read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule, 2016, with the following orders:
- 12.1 The Operational Creditor has suggested the name of M/s Resurgent Resolution Professionals LLP to perform the duties of the Interim Resolution Professional (**IRP**) in the petition. This Bench hereby appoints **M/s Resurgent Resolution Professionals LLP**, having Registration No: IBBI/IPE-0084/IPA-3/2022-23/50018, address at 905, 9th Floor, Tower C, Unitech Business Zone Nirvana Country Sector-50, Gurgaon-122018, email id-legal@resurgentindia.com, as the Interim Resolution Professional to carry out the functions as mentioned under the Code.
- 12.2 The Operational Creditor shall deposit an amount of Rs. **Two (2) Lakh** only, towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount only towards expenses and not towards his fee.
- 12.3 As per Section 14 of the Code, and by the operation of law, a **moratorium** is hereby imposed on the Corporate Debtor with immediate effect, which will remain in force during the insolvency resolution process. Accordingly, this Bench prohibits initiation or continuation of suits or proceedings against the Corporate Debtor, including execution of judgments or orders by any Court, Tribunal, or Authority; transfer, encumbrance, or disposal of the Corporate Debtor's assets or rights; enforcement of any security interest, including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002; and recovery of property by owners or lessors in possession of the Corporate Debtor.
- 12.4 The supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.



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- 12.5 The provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- 12.6 The order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, as the case may be.
- 12.7 The public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code.
- 12.8 During the CIRP period, the management of the Corporate Debtor will vest in the IRP/RP. The suspended directors and employees of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- 12.9 Registry shall send a copy of this order to the Registrar of Companies, Guwahati, for updating the Master Data of the Corporate Debtor.
13. Accordingly, with the above observations and directions, CP (IB) No. 11/GB/2024 is **admitted**.
14. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
15. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
16. File be consigned to records.

Sd/-
Yogendra Kumar Singh
Member (Technical)

Sd/-
Rammurti Kushawaha
Member (Judicial)

Signed this on 21st day of May, 2025

Nabanita S. [LRA]