

NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.6
C.P.(IB)/16(MP)2022

Proceedings under Section 9 IBC

IN THE MATTER OF:

Collegedunia Web Pvt Ltd
V/s
Scocre Rating Agency and Consulting Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 04/04/2024

Coram:

P. Mohan Raj, Hon'ble Member(J)
Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

Sd/-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

A. Bhadauria

Sd/-

P. MOHAN RAJ
MEMBER (JUDICIAL)

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH

C.P.(IB)/16(MP)2022

(An application filed under section 9 of the Insolvency and Bankruptcy Code, 2016)

In the matter of:

Collegedunia Web Private Limited

CIN: U80103DL2013PTC262063

RZ – 672 – 41E, Gali No – 27G,

Sadh Nagar – II, Palam Colony,

New Delhi – 110045

Also Registered at

Plot Nos. 418-419, AIHP Signature Tower,

Udhyog Vihar, Phase-Iv,

Gurugram-122015

....Operational Creditor

Versus

Score Rating Agency and Consulting Private Limited

CIN: U72900MP2019TC050334

721, 7th Floor, Tower 6,

Swastik Grand, Near Ruchi Lifescape

Bhopal, M.P. – 462047 MP

.....Corporate Debtor

Coram: P. Mohan Raj, Hon'ble Member (J)

Kaushalendra Kumar Singh, Hon'ble Member (T)

Appearance:

For the Applicant : Ld. Adv. Mr. Arijeet Banerjee

For the Respondent : *Ex-parte* (11.11.2022)

Pronounced on: 04.04.2024

ORDER

1. The present application is filed on 13.10.2021 by the applicant Collegedunia Web Private Limited (Operational Creditor) through its head Finance Mr. Mangej Singh Yadav under section 9 of the Insolvency and Bankruptcy Code, 2016 for initiating the Corporate Insolvency Resolution Process ('CIRP') against the respondent Score Rating Agency and Consulting

Private Limited (Corporate Debtor). The amount of debt in default, as stated in the application is Rs. 1,05,22,199/- Plus 18% interest p.a. thereon. In column 2 of part IV of the application, the date of default is given in the table appended therein however, those are the dates on which invoices were raised between 19.04.2021 to 29.08.2021. The invoice dated 19.04.2021 is raised by the applicant company whereas other invoices dated 11.05.2021, 11.06.2021, 03.08.2021, 11.08.2021 and 29.08.2021 are raised by the applicant's subsidiary company namely 3 DOT 14 Mobitech Private Limited.

2. The applicant is a private company registered under the provisions of Companies Act, 1956. The applicant company as well as its subsidiary company 3 DOT 14 Mobitech Private Limited are engaged in the business of online advertising by way of offering services by running campaigns by way of performance, brands, publishing and re-targeting. The respondent company is a listed company under the provisions of Companies Act and is in the business of providing and assisting in score and accurate credit report of individuals and companies.

3. The facts/averments stated by the applicant and presented/argued by the learned counsel are summarized here as under:

(i) The applicant on mutual discussion and in the initial stage, got into an agreement with the respondent for advertising of the services being offered by the Corporate Debtor.

(ii) The Corporate Debtor issued work orders. The work order No. CD02/02/2021 and CD03/02/03/2021 were issued by the respondent in the months of February and March 2021. Following that during the course of business, the applicant vide email dated 17.03.2021 had informed the respondent for change in billing in the name its wholly owned subsidiary i.e. 3 DOT 14 Mobitech Private Limited. Accordingly, further work orders were raised by the respondent in the name of this subsidiary company.

(iii) The default relates to the following invoices:

Sr No.	Date	Invoice No.	Amount	Issuing Company
1	19.04.2021	314/21-22/H0061	Rs. 18,60,742/-	Collegedunia Web Private Limited
2	11.05.2021	3DOT14/21/0130	Rs. 11,72,743/-	3DOT 14 Mobitech Private Limited
3.	11.06.2021	3DOT14/21/0288	Rs. 17,34,187/-	3DOT 14 Mobitech Private Limited
4	03.08.2021	3DOT14/21/0525	Rs. 18,24,575/-	3DOT 14 Mobitech Private Limited
5	11.08.2021	3DOT14/21/H012	Rs. 19,64,936/-	3DOT 14 Mobitech Private Limited
6	29.08.2021	3DOT14/21/H023	Rs. 19,64,936/-	3DOT 14 Mobitech Private Limited
Total		Rs. 1,05,22,199/- (Rupees One Crore Five Lakhs Twenty-Two Thousand One Hundred and Ninety Nine Only)		

(iv) As the payments were not made by the respondent company, the applicant had sent reminders dated 12.08.2021 & 07.09.2021 vide emails, to which the respondent reverted vide email dated 07.09.2021 admitting the work being done but disputing the invoices for the month of July and August, 2021.

(v) The Operational Creditor vide email dated 10.09.2021 clarified the query raised by the respondent and informed them of being constrained to initiate proceedings under the Insolvency and Bankruptcy Code, if payments are not cleared. The respondent then reverted vide email dated 12.09.2021 reiterating of the discrepancy in the invoices for the month July and August 2021 and thereby refused to clear the outstanding dues of the Operational Creditor and its subsidiary.

(vi) Following that the applicant issued a demand notice dated 17.09.2021 under Section 8 of the Code. The respondent replied to it vide letter dated 22.09.2021 whereby they denied their liability and disputed the debt amount.

4. During the course of the hearing none appeared for the respondent. The applicant had filed an affidavit of service dated 12.05.2022 and enclosing the envelope, postal receipt as well as tracking report. As per the tracking report the postal authorities returned the letter as unserved with a remark that the 'premise was locked'. Following that in compliance of order dated 18.08.2022 the applicant had published the notice in English (Times of India) & vernacular language (Patrika Bhopal) newspapers in the area where the registered office of the respondent is situated. However, in spite of that, none appeared for the respondent. Accordingly vide order dated 11.11.2022 the respondent was set as *ex-parte*.

5. We have heard the learned counsel appearing for the applicant. We also perused the relevant documents placed on record. We note that as per the invoice issued under reference, the respondent was to make payment within 60 days. Further unpaid invoice dated 19.04.2021 amounting Rs. 18,60,742/- only was issued by the applicant. That amount is less than threshold limit of Rs. 1 crore. The other invoices dated 11.05.2021 for Rs. 11,72,743/-, 11.06.2021 for Rs. 17,34,187/-, 03.08.2021 for Rs. 18,24,575/-, 11.08.2021 for Rs.19,64,936/- and 29.08.2021 for Rs. 19,64,936/- were not issued by the applicant. Rather those notices were issued by its wholly owned subsidiary namely 3 DOT 14 Mobitech Private Limited which is a separate entity under the Companies Act and as such those invoices cannot be included by the applicant in its application filed under Section 9 of the Code.

6. We also note that even otherwise the respondent vide its email dated 07.09.2021, i.e. prior to issuance of demand notice under Section 8, had disputed the proforma invoices dated 11.08.2021 and 29.08.2021 (in respect of the campaign for the month of July-2021 & August-2021). Vide that email respondent has stated that campaign has not run from the side of the applicant in the month of July, 2021 and August, 2021 and, therefore, both the proforma invoices were null and void. In that email the respondent also referred to the work order and stated that after issuance of the work order, if 70% work is not completed then 10% penalty will be charged on the total work order value and accordingly vide that email, respondent had conveyed the

penalty amount of Rs. 1,11,600/- and 74,400/- which has to be adjusted against the invoices. We also note these issues have also been raised by the respondent in its reply dated 22.09.2021 to Section 8 notice. As such the amount of debt in default in respect of the applicant being less than the threshold limit of Rs. 1 crore as well as in view of the pre-existing dispute, the application so filed by the applicant is not maintainable, accordingly the same deserves to be rejected.

7. Accordingly, **C.P.(IB)/16(MP)2022** stands **dismissed**.

Sd/-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

Narendra S. Tomar/Stenographer

Sd/-

P. MOHAN RAJ
MEMBER (JUDICIAL)