

**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-I), CHANDIGARH**

CP (IB) No. 265/Chd/Pb/2024

(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:

G S DEVELOPERS AND CONTRACTORS PVT. LTD.

Through its Director
Office at: 201-202, Shahpuritirath
Singh Tower, C-58 Community Center
Janakpur, West Delhi, New Delhi,
Delhi, India, 110058
Email: info@gsdcpl.in

Operational Creditor/ Petitioner

Versus

PARAS NUTRITIONS PVT. LTD.

Through its Director
CIN: U15400PB2011PTC046450
Regd. Office at: VPO Khosa Pandoo Zira
Road,
Moga, Punjab-142001
Email: finance@parasspices.com,
inderjitsingh@parasnutrition.com,
vinev@parasspices.com,
paras@parasspices.com

Corporate Debtor/Respondent

Order delivered on: 21.05.2026

**CORAM: MR. KHETRABASI BISWAL, HON'BLE MEMBER (JUDICIAL)
MR. SHISHIR AGARWAL, HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Petitioner : Mr. Mohit Chaudhary, Advocate
Mr. Pranjal P Chaudhary, Advocate
For the Respondent : Mr. Ranjit Singh Kalra, Advocate
Mr. Randeep Singh, Advocate

ORDER

1. The present petition is filed by **G.S. Developers and Contractors Private Limited** (hereinafter referred to as the ““Petitioner/Operational Creditor”) under Section 9 of the Insolvency and Bankruptcy Code (hereinafter referred to as “Code”) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as the “Rules”), for, inter alia, seeking to initiate the Corporate Insolvency Resolution Process (CIRP) against **Paras Nutritions Private Limited** (hereinafter referred to as the “Respondent/Corporate Debtor”) for an outstanding amount of Rs. 2,49,99,617/- as principal along with 18% interest.
2. Facts of the case, as averred in the Petition, which are relevant to adjudicate the issue involved in the case, are as follows:
 - 2.1. The Operational Creditor is engaged in the business of providing construction services, while the Corporate Debtor is engaged in the manufacture of cattle feed in pellet and mash form.
 - 2.2. The Corporate Debtor awarded a Work Order dated 04.01.2023 to the Operational Creditor for the construction of a factory building at

Jundla, Karnal, Haryana, for a total contract value of ₹11,48,71,112/-. As per the terms of the said Work Order, the Operational Creditor was required to submit running account (RA) bills periodically, against which 75% of the billed amount was payable within 7 days of submission and the remaining 25% within 20 days upon due verification and certification by the Corporate Debtor. It is further stated that an addendum dated 25.08.2023 was issued incorporating additional works. A copy of Work Order dated 04.01.2023 and addendum dated 25.08.2023 are annexed as Annexure II-D and Annexure II-F to the Petition.

- 2.3. The civil construction works for the new cattle feed plant near Jundla, Karnal, Haryana was to be governed by Commercial RFQ document for Civil Construction Works. In terms of the agreements being work order dated 04.01.2023 and Commercial RFQ, the arrangement between the parties was such that upon execution of Civil Construction work, the Operational Creditor would raise a RA Bill to the Corporate Debtor accompanied with Measurement Sheet(s) and a detailed quantity extract depicting the work executed by the Operational Creditor.
- 2.4. Upon receipt of each RA bills the same were verified by the Corporate Debtors' civil engineers along with a representative engineer of the Operational Creditor. Based on the certified RA-Bill/ Final bill, a

corresponding tax Invoice is generated and forwarded to the Corporate Debtor for immediate payment.

- 2.5. The Operational Creditor submits that the construction work was completed and the project was handed over to the Corporate Debtor on 25.11.2023, after which the Corporate Debtor installed its machinery and commenced operations. It is further stated that RA Bills from RA-1 to RA-13A were raised, and the Final Bill was submitted on 30.05.2024. The invoices issued are annexed as Annexure II-H to the Petition.
- 2.6. It is further averred that Minutes of Meeting dated 10.07.2024 record discussions regarding the outstanding dues. Thereafter, the Final Bill was verified and certified by the Corporate Debtor on 01.09.2024, pursuant to which invoices were issued. However, despite such certification, the Corporate Debtor allegedly failed to make payment of the outstanding amount.
- 2.7. The Operational Creditor has stated that an amount of ₹2,49,99,617/- remains due and payable. Accordingly, a demand notice dated 12.09.2024(Annexure-I) under Section 8 of the Code was issued to the Corporate Debtor, which was duly served.

REPLY OF THE RESPONDENT:

3. The Respondent has opposed the Petition by filing its Reply dated 16.02.2026 by ,inter-alia, contending as follows:

- 3.1. The instant Petition is wholly misconceived, premature and not maintainable in the eyes of law and the same was on incorrect, erroneous and misleading factual averments, and has been instituted with the sole intention of exerting undue pressure on the Corporate Debtor and converting what is essentially a commercial disagreement into an insolvency proceeding. The application has been filed as a recovery mechanism, which is impermissible in law.
- 3.2. It is further submitted that a pre-existing dispute between the parties arose much prior to the issuance of the demand notice dated 12.09.2024. The disputes relate to delay in execution of work, incomplete and defective construction, and overstatement of quantities and bill amounts. The Corporate Debtor had, through a series of communications, called upon the Operational Creditor to adhere to timelines, rectify deficiencies, and complete the pending works, thereby evidencing that the dispute is real and not a feigned defence.
- 3.3. The Corporate Debtor submits that under the Work Order dated 04.01.2023, time was of the essence of the contract, which is evident from Clause 8 prescribing a definite completion schedule. The contract envisaged completion within 5.5 months for the main works and an additional 2.5 months for ancillary works, fixing the completion date as 19.08.2023. A limited extension of 22 days was granted *vide* email dated 09.06.2023, extending the timeline to

10.09.2023. Despite such extension and repeated follow-ups, the Operational Creditor failed to complete the work within the stipulated period, thereby attracting the consequences contemplated under the contract, including liquidated damages.

- 3.4. It is submitted that the alleged claim of ₹2,49,99,617/- is unilateral and disputed, and has never been admitted by the Corporate Debtor. On the contrary, the Corporate Debtor has raised claims on account of delay, defective work, and costs incurred for rectification and completion of pending works, which are required to be adjudicated.
- 3.5. It is further submitted that the Corporate Debtor has already invoked arbitration proceedings in terms of the contract, and the disputes between the parties are pending adjudication before the learned Arbitral Tribunal.
- 3.6. It is further contended that the entire petition is a disguised recovery attempt and does not fall within the true ambit and purpose of the IBC. The Operational Creditor is attempting to misuse the insolvency mechanism to arm-twist the Corporate Debtor, relying upon inflated and selectively presented figures. Section 7 cannot be used as a substitute for recovery, and the present petition is filed with ulterior motives. The Respondent relies on the settled principle that the IBC is not a debt recovery mechanism and that a petition filed for collateral purposes must be dismissed.

3.7. The Respondent refers to the principles laid down in ***Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd., (2018) 1 SCC 353***, and other judgments, asserting that where substantial disputes or foundational defects exist in the creditor's claim, the petition must be rejected.

OBSERVATIONS AND ANALYSIS:

4. We have heard the Ld. Counsels for both Parties and carefully perused all the pleadings placed on record by the Parties, the extant provisions of the Code and Rules made thereunder and the settled position of law on the issue.
5. From the averments made by both the parties, this tribunal notes the following issues which are required to be discussed:
 - (i) Whether there is an "operational debt" or not?
 - (ii) Whether the documentary evidence furnished with the application shows that the operational debt is due and payable and has not yet been paid?
 - (iii) Whether there is existence of a dispute between the parties or the record of the pendency of a suit or arbitration proceeding filed before the receipt of the demand notice of the unpaid operational debt in relation to such dispute?
6. For the adjudication of an application filed under Section 9 of the Code, the Adjudicating Authority is also required to see that the application is complete and the Corporate Debtor has not made payment to the

Operational Creditor, and the demand notice or invoice is served upon the Corporate Debtor. For ready reference, we reproduce section 9 of the Code hereunder;

“9. Application for initiation of corporate insolvency resolution process by operational creditor. –

.....

(3) The operational creditor shall, along with the application furnish-

(a) a copy of the invoice demanding payment or demand notice delivered by the operational creditor to the corporate debtor;

(b) an affidavit to the effect that there is no notice given by the corporate debtor relating to a dispute of the unpaid operational debt;

(c) a copy of the certificate from the financial institutions maintaining accounts of the operational creditor confirming that there is no payment of an unpaid operational debt 1[by the corporate debtor, if available;]

[(d) a copy of any record with information utility confirming that there is no payment of an unpaid operational debt by the corporate debtor, if available; and

(e) any other proof confirming that there is no payment of any unpaid operational debt by the corporate debtor or such other information, as may be prescribed.]

(4) An operational creditor initiating a corporate insolvency resolution process under this section, may propose a resolution professional to act as an interim resolution professional.

(5) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), by an order–

(i) admit the application and communicate such decision to the operational creditor and the corporate debtor if, -

(a) the application made under sub-section (2) is complete;

(b) there is no [payment] of the unpaid operational debt;

- (c) the invoice or notice for payment to the corporate debtor has been delivered by the operational creditor;*
 - (d) no notice of dispute has been received by the operational creditor or there is no record of dispute in the information utility; and*
 - (e) there is no disciplinary proceeding pending against any resolution professional proposed under sub-section (4), if any.*
- (ii) reject the application and communicate such decision to the operational creditor and the corporate debtor, if -*
- (a) the application made under sub-section (2) is incomplete;*
 - (b) there has been [payment] of the unpaid operational debt;*
 - (c) the creditor has not delivered the invoice or notice for payment to the corporate debtor;*
 - (d) notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility; or*
 - (e) any disciplinary proceeding is pending against any proposed resolution professional:*

Provided that Adjudicating Authority, shall before rejecting an application under subclause (a) of clause (ii) give a notice to the applicant to rectify the defect in his application within seven days of the date of receipt of such notice from the Adjudicating Authority.

(6) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (5) of this section.”

It is also relevant to refer to what is ‘debt’ and ‘Operational debt’ under the provisions of the Code. Sections 3(11) and 5(21) of the Code define these terms as under:

*(11) “**debt**” means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt;*

(21) **“operational debt”** means a claim in respect of the provision of goods or services including employment or a debt in respect of the [payment] of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority;

7. In light of the above provisions of the Code, we have to examine whether the instant Petition satisfies the provisions or not. We have gone through all the facts stated by the parties, and it is observed that the Corporate Debtor vehemently contests the quantum of the claim, stating that the amount is disputed as it arises out of a construction agreement, the terms of which were not adhered to by the Operational Creditor. The amount is stated to be disputed as the construction carried out has never been ascertained, nor has any independent inspection been carried out. It is observed that, in response to the demand notice dated 12.09.2024 (Annexure II-L), the Corporate Debtor, *vide* reply dated 23.09.2024, had reiterated the aforesaid disputes, including allegations of delay, breach of contractual terms, and its claim towards liquidated damages, while specifically denying the liability towards the alleged operational debt. In support of these contentions, the Corporate Debtor has placed reliance on contemporaneous communication. Notably, the e-mail dated 28.02.2024 (Annexure CD-6 of the Reply) highlights the deficiencies pointed out by the Corporate Debtor in the quality and inefficiency in completion of the project. Further, the email dated 02.07.2024 (Annexure CD-7 and CD-8 of the Reply) also indicates that the Corporate Debtor had alleged breach of the terms of the Work

Order and had communicated a “final defect list”, thereby raising issues relating to the quality and completion of the project.

8. It is further observed that the Corporate Debtor invoked the arbitration clause vide notice dated 15.12.2024, seeking adjudication of the disputes arising out of the contract. Pursuant thereto, an independent Sole Arbitrator has been appointed by the Hon’ble High Court, and claims as well as counter-claims have been filed by both parties before the Arbitral Tribunal. As submitted by the Corporate Debtor, the claim raised by the Operational Creditor before the Sole Arbitrator amounts to Rs. 6,30,46,239/-, prima facie indicating the existence of a dispute.
9. It is evident from the documents placed on record by the Corporate Debtor that there exists a pre-existing dispute between the parties before issuance of the demand notice dated 12.09.2024, pertaining to the quality of the services provided. The averment pertaining to the pre-existing dispute between the Operational Creditor and the Corporate Debtor has been substantiated by the virtue of various communications which explicitly state that the quality of the work provided by the Operational Creditor were not up to the stipulated standard.
10. Consequently, it is the mandate of law that if there is a pre-existing dispute between the parties the Adjudicating Authority is liable to reject the application under section 9(5)(ii)(d).

Reliance can be placed on the landmark precedent of Hon’ble Supreme Court in ***Mobilox Innovations Pvt. Ltd. Vs. Kirusa Software Private***

Limited 2018 1 Supreme Court Cases 353. Para 40 of the aforesaid judgement which reads as under –

“40. It is clear, therefore, that once the operational creditor has filed an application, which is otherwise complete, the adjudicating authority must reject the application under Section 9(5)(2)(d) if notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility. It is clear that such notice must bring to the notice of the operational creditor the “existence” of a dispute or the fact that a suit or arbitration proceeding relating to a dispute is pending 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. In the present case, the material on record, including communications highlighting deficiencies and breach of contractual terms, as well as the reply to the demand notice dated 23.09.2024 reiterating such disputes, coupled with the subsequent invocation of arbitration and pendency of

proceedings before the Arbitral Tribunal, indicate the existence of a plausible and bona fide dispute between the parties. In terms of the ratio laid down in ***Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd.***, this Adjudicating Authority is only required to ascertain whether such dispute is real and not spurious or illusory; and the aforesaid material sufficiently demonstrates that the defence of pre-existing dispute raised by the Corporate Debtor cannot be termed as a mere moonshine defence.

12. In light of the above, the present petition bearing **CP (IB) No. 265/Chd/Pb/2024** filed by Operational Creditor is **dismissed** and **disposed of**.

Sd/-

(SHISHIR AGARWAL)
Member (Technical)
Ruhani

Sd/-

(KHETRABASI BISWAL)
Member (Judicial)