

**NATIONAL COMPANY LAW TRIBUNAL**  
**MUMBAI BENCH COURT VI**

Item No. P1.

C.P. (IB)/884(MB)2025

CORAM:

**SHRI SAMEER KAKAR**  
**HON'BLE MEMBER (TECHNICAL)**

**SHRI NILESH SHARMA**  
**HON'BLE MEMBER (JUDICIAL)**

ORDER SHEET OF HEARING (HYBRID) DATED **18.06.2026**

NAME OF THE PARTIES: **ONE 97 COMMUNICATION LIMITED**

**Vs**

**FABZEN TECHNOLOGIES PRIVATE LIMITED**

**Under Section 9 of the IBC.**

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**ORDER**

The case is fixed for pronouncement of the order. The order is pronounced in the open court, *vide* separate order. Detailed order is being uploaded on the NCLT portal today.

**Sd/-**  
**NILESH SHARMA**  
**MEMBER (JUDICIAL)**

//S.DUBEY//

**Sd/-**  
**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI BENCH-VI**

**CP (IB) No.884 /MB/2025**

*[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:

**One 97 Communication Limited**

[CIN: L72200DL2000PLC108985]

First Floor, Devika Tower,

Nehru Place, New Delhi-110019.

**...Operational Creditor/Applicant**

V/s

**Fabzen Technologies Private Limited**

[CIN: U74999PN2017PTC167807]

15A,4th Floor, City Vista, Tower A,

Fountain Road, Kharadi, Pune,

Maharashtra, 411014.

**...Corporate Debtor**

**Pronounced: 18.06.2026**

**CORAM:**

**HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)**

**HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)**

**Appearances: Hybrid**

Operational Creditor: Adv. Ms. Nikita Abhyankar a/w Adv. S. Vatsa, Adv.

Mr. Vijayant i/b G. Legal.

Corporate Debtor: Adv. Mr. Devashish Godbloe a/w Adv. Mr. Aman Pawar.

## ORDER

[PER: BENCH]

### 1. BACKGROUND

- 1.1 This is an Application bearing C.P. (IB) No.884/MB/2025 filed on 29.07.2025 by **One 97 Communications Limited**, the Applicant (Operational Creditor) under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “the Code”) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as “the AAA Rules”) by Mr. Amit Kumar Singh, authorised representative *vide* Authority Letter dated 23.06.2025 for initiating Corporate Insolvency Resolution Process (hereinafter referred to as “CIRP”) in respect of **Fabzen Technologies Private Limited**, the Corporate Debtor.
- 1.2 The Operational Creditor is engaged in the business of providing digital advertising services and payment solutions.
- 1.3 The CD (**Fabzen Technologies Private Limited**), is a Private Limited Company incorporated on 03.01.2017 under the provisions of the Companies Act, 2013 and having CIN U74999PN2017PTC167807, having its Registered Office at 15A, 4<sup>th</sup> Floor, City Vista, Tower A, Fountain Road, Kharadi, Pune, Maharashtra, 411014.
- 1.4 The Applicant has not proposed the name of an IRP and has requested the Tribunal to appoint an IRP.

### 2. AVERMENTS OF THE APPLICANT

- 2.1 As per Part-IV of the Application the total amount claimed to be in default is Rs. 3,41,92,431.50/- (Three Crore Forty-One Lakh Ninety-Two Thousand Four Hundred Thirty-One Rupees and Fifty Paisa).

- 2.2 The date of default is mentioned as 07.01.2025.
- 2.3 The Operational Creditor was incorporated on 22.12.2000 in the name of One97 Communications Private Limited under the provisions of the Companies Act, 1956. However, the name was changed to One97 Communications Limited on 12.05.2010. The Operational Creditor is engaged in the business of providing digital advertising services, payment solutions and access to various financial services. The Corporate Debtor was incorporated on 03.01.2017 under the provisions of the Companies Act, 2013. It is an information technology-based company which focuses on launching/operating gaming applications. In 2019, Corporate Debtor launched Ludo Empire, an RNG and ISO-certified online skill-based Ludo game and in 2021, it launched Callbreak Empire. Thereafter, in 2023, Corporate Debtor launched Skill Patti Empire, a skill-based online card game.
- 2.4 It is stated that with the growing popularity of Ludo Empire, Corporate Debtor collaborated with Mr. Ali Faizal, in order to produce content pieces to be put on social media. In fact, Mr. Ali Faizal was to be considered as the face of the game while simultaneously promoting the brand as well. In relation to Ludo Empire and other products, Corporate Debtor approached the Operational Creditor in 2024 seeking digital (In-App) advertising services for promotion and marketing of the above gaming applications.
- 2.5 Pursuant to discussions held, Operational Creditor agreed to offer 'Icon ads', 'Banner ads', 'Deals' and 'Scratch cards' for promotion and marketing of the relevant gaming applications of the Corporate Debtor. Hence, Corporate Debtor started availing services from the Operational Creditor since May-June 2024 onwards. A copy of the first Purchase Order issued by the Corporate Debtor upon the Operational Creditor as annexed at Exhibit C.

- 2.6 As part of the arrangement agreed between the parties, purchase order for every month was to be raised by the Corporate Debtor for the required services and upon due performance of the agreed services (digital/In-App advertising), Operational Creditor will raise invoices against the same. Notably, due date for the amount payable was as per the agreed terms/invoice/ purchase orders.
- 2.7 It is contended that the various purchase orders ("PO") were raised by the Corporate Debtor against which services were duly provided by the Operational Creditor. However, the following purchase orders raised by the Corporate Debtor resulted in the outstanding dues towards the Operational Creditor:

S. No.	Date of issuance of PO	PO Reference
1.	September 30, 2024	1012
2.	October 30, 2024	1013
3.	November 29, 2024	1014
4.	December 27, 2024	1015
5.	January 14, 2025	1016
6.	January 30, 2025	1017
7.	March 11, 2025	1018

The purchase orders against which payments have been received are not mentioned herein for sake of brevity. Copies of purchase orders as annexed at Exhibit D (Colly) are copies of the Purchase Orders dated 30.09.2024, 30.10.2024, 29.11.2024, 27.12.2024, 14.01.2025, 30.01.2025, and 11.03.2025 issued by the Corporate Debtor upon the Operational Creditor against which services were provided but no payment has been received.

- 2.8 It is stated that the Operational Creditor provided the services as per the terms of the purchase orders and raised corresponding invoices. Initially, Corporate Debtor cleared the invoices, as and when raised by the Operational Creditor. However,

subsequently, the Corporate Debtor started defaulting in payments against the invoices raised by the Operational Creditor for the services provided for October, 2024 and subsequent months.

2.9 In relation to the Purchase Orders raised and upon completion of services for particular month, Operational Creditor had issued Tax Invoices dated 08.11.2024, 06.12.2024, 13.12.2024, 07.01.2025, 14.01.2025, 07.02.2025, 16.03.2025 and 08.04.2025 on the Corporate Debtor, which remains unpaid as on the date of filing of the present company petition. Copies of tax invoices are annexed at Exhibit E (Colly).

2.10 It is stated that the Corporate Debtor was required to clear the outstanding amount as per the agreed terms/invoice/ purchase orders from the date of the issuance of invoice, it started defaulting in payment. For the purposes of clarification, it is stated that as per the mutual understanding between the parties, invoices were to be cleared within a period of 60 days (being the outer limit). However, it still availed continued services by giving repeated assurance that it would clear all the outstanding dues. Notably, the amount due from the Corporate Debtor was never disputed nor any defect in the services was ever raised or highlighted by the Corporate Debtor. In any case, given the nature of services which is In-App advertisement, there does not arise any scope for underperformance or defect in services. Also, upon frequent follow ups by the Operational Creditor (as reflected in various emails mentioned in subsequent paragraphs) for payment of the outstanding amount, the Corporate Debtor has only made promises and sought time to make complete payment. No dispute has been raised at any instance against the outstanding dues from the Corporate Debtor.

2.11 It is submitted that the Corporate Debtor started defaulting in payment, various meeting and discussions were held between the parties. Email dated 27.02.2025 was

issued by the Operational Creditor, which recorded the minutes of meeting held on 26.02.2025. As per the discussions held, it was agreed that the Corporate Debtor would be making payment of INR 1,50,00,000/- (Indian Rupee One Crore Fifty Lakhs) as an immediate measure towards payment of outstanding dues, provide concrete payment plan and post-dated cheques of the entire overdue amount by 15.03.2025. A copy of the email dated 27.02.2025 issued by the Operational Creditor, recording the minutes of meeting held between the parties on 26.02.2025 is annexed as Exhibit F.

2.12 It the further submitted that despite giving repeated assurances that an amount of INR 1,50,00,000 would be paid by the end of March, 2025 and also a concrete repayment plan would be provided, the Corporate Debtor failed to adhere to its own promises. The intent and oblique motive of the Corporate Debtor has only been to devoid the Operational Creditor of its due repayments/ payments which is evident and discernible from the actions of the Corporate Debtor so far. As the Corporate Debtor repeatedly did not act upon any of the assurances given by it, Operational Creditor had to continuously follow up and make requests and pleas for its own monies (that are undisputed, due and payable). The Operational Creditor repeatedly addressed emails to the Corporate Debtor, requesting to clear the outstanding dues. Copies of the emails issued by the Operational Creditor to the Corporate Debtor requesting to clear the outstanding dues as annexed at Exhibit G(Colly).

2.13 The Operational Creditor stated that the Corporate Debtor vide emails dated 19.03.2025, 25.03.2025 and 17.04.2025 has categorically admitted outstanding dues payable to the Operational Creditor. Notably, no dispute in relation to the services provided by the Operational Creditor has been raised at any instance. A copy of emails dated 19.03.2025, 25.03.2025 and 17.04.2025 as annexed at Exhibit H (Colly). Despite the Operational Creditor throughout trying to extend support to the

extent possible and giving extensions to clear the dues, Corporate Debtor did not adhere to repayment schedule, as was assured during calls and various meetings held between the parties. As a result, the Operational Creditor vide email dated 28.03.2025 informed the Corporate Debtor that if the outstanding amount was not cleared within the agreed timelines, interest would be charged in view of late payment. As no payment was received from the Corporate Debtor, Operational Creditor was forced to make good for losses on account of delayed payments by issuing invoice dated 31.03.2025 for a sum of Rs. 3,26,486 (Indian Rupees Three Lakhs Twenty-Six Thousand Four Hundred Eighty-Six) towards Late Fee Charges up till the month of March 2025. A copy of the invoice dated 31.03.2025 issued by the Operational Creditor to the Corporate Debtor towards Late Fee Charges.as annexed at Exhibit I (Colly).

2.14 The Operational Creditor vide email dated March 31, 2025 informed the Corporate Debtor that due to non-receipt of the payment, an interest invoice on the delayed amount has been issued. The same seems to have been admitted and not disputed by the Corporate Debtor. Hereto annexed and marked as Exhibit "J" is copy of the email dated March 31, 2025 issued by the Operational Creditor to the Corporate Debtor, stating that an interest invoice on the delayed amount has been issued. Despite repeated reminders and concessions given by the Operational Creditor to the Corporate Debtor to clear the outstanding dues, no payment was received. As a result, Operational Creditor once again addressed an email dated 02.06.2025 to the Corporate Debtor, requesting to take immediate action to clear the outstanding dues along with late payment interest/charges. It is further contented that the Corporate Debtor vide email dated 05.06,2025 again acknowledged the outstanding dues and

further stated that the same would be paid within a period of 12 months. A copy of mail annexed at Exhibit L.

2.15 In view of substantial delay in clearing the outstanding dues, meeting was held between the parties on 06.06.2025. In fact, an email was also addressed by the Operational Creditor on the same day, which recorded the minutes of meeting. As per the discussions held, it was stated by the Operational Creditor that as more that Rs. 3,00,00,000/- is outstanding, post-dated cheques be issued along with timelines for repayment of the entire debt. While the Corporate Debtor admitted that amount is due and payable, it proposed monthly payment of Rs. 30,00,000/- over a period of 12 months without providing any post-dated cheques. Copy of emails dated 06.06.2025 is annexed at Exhibit M. The Corporate Debtor vide emails dated 09.06.2025 and 18.06.2025 stated that the outstanding dues would be paid within a period of 12 months. It was further stated that in the event the cash flow of the company improves, the same would be paid at the earliest. This itself reflects the financial position of the Corporate Debtor. Copies of emails dated 09.06.2025 and 18.06.2025 issued by the Corporate Debtor to the Operational Creditor, acknowledging the outstanding dues are annexed at Exhibit N.

2.16 In view of failure of the Corporate Debtor to clear the outstanding dues (despite discussions held, repeated requests, concessions and repeated assurance by the Corporate Debtor), Operational Creditor vide email and speed post, issued Demand Notice dated 19.06.2025 under and in terms of Section 8 of IBC to the Corporate Debtor towards the outstanding debt and dues to the tune of Rs. 3,38,65,945.49/- (Rupees Three Crore Thirty-Eight Lakhs Sixty-Five Thousand Nine Hundred Forty-Five and Forty-Nine Paise) which remains payable along with interest for delayed payment.

2.17 The Operational Creditor submits that the no response to the aforesaid Demand Notice under Section 8 of IBC has been received from the Corporate Debtor, nor is there any payment against the admitted outstanding dues from the Corporate Debtor. It is also submitted that the debt being claimed in this petition by the Operational Creditor is within limitation period and as such present petition/application is maintainable and not barred on account of limitation. Further, the total principal amount due from the Corporate Debtor is more than the threshold (of Rs. 1 crore) and interest component is not required to be factored in/added to achieve the threshold.

2.18 It is state that the due date for the amount payable by the Corporate Debtor was as per the agreed terms (within a period 60 days from the date of issuance of the invoice). However, interest component for delayed payment has been agreed subsequently by way of emails and the same has not been disputed or rejected by the Corporate Debtor. It is also submitted that Section 10A of IBC is not applicable in present inasmuch as the debt and default in relation thereto pertains to the period from 07.01.2025 to 07.06.2025.

2.19 The Operational Creditor has relied upon the following documents:

- a) Copy of the Authority Letter authorizing Mr. Amit Kumar Singh to file the present Company Petition.
- b) Copy of the Operational Creditor and Corporate Debtor master data.
- c) Copy of the Purchase Orders.
- d) Copy of the Tax Invoices.
- e) Copies of the emails.
- f) Copy of the Demand Notice dated 19.06.2025 issued by the Operational Creditor to the Corporate Debtor.

- g) Copy of the receipts, tracking reports and email dated 19.06.2025 issued by Operational Creditor to the Corporate Debtor containing the Demand Notice.
- h) Copy of the bank statement.
- i) Copy of Form GSTR-1 and Form GSTR-3, pertaining to the services provided by the Operational Creditor and with respect to the invoices raised against the Corporate Debtor.
- j) Affidavit u/s 9(3)(b) No Dispute.
- k) Copy of Form for serving copy of application for initiation of CIRP to the IBBI [Form 1A (IAAA)].
- l) Copy of Record of Default (RoD) Form D.

### **3. CONTENTIONS OF CORPORATE DEBTOR**

- 3.1 The Corporate Debtor submitted that in the ordinary course of business, sometime around 2024, the parties entered into a commercial arrangement whereby the Operational Creditor was to provide digital advertising and promotional services for the Corporate Debtor gaming application. The said engagement was campaign-specific, limited in duration, and governed by monthly purchase orders and release orders issued by the Corporate Debtor, and accepted by the Operational Creditor, and accepted by the Operational Creditor. Each campaign was distinct, with its own commercial terms, targets, deliverables, and performance expectations.
- 3.2 The Corporate Debtors submits that from October 2024 onwards, serious disputes began to arise regarding the performance, efficiency, and delivery quality of Paytm Ads campaigns. The advertisements were found to be underperforming in terms of user acquisition, click-through rate (CTR), and average revenue per user (ARPU), despite the budgets being fully utilised.

- 3.3 It is stated that on 06.11.2024, the Corporate Debtor, through its Head of Marketing, Mr. Komalpreet Jutla, sent an email to the representatives of Paytm Ads highlighting these deficiencies. He specifically pointed out that despite mutual agreement on placement and budget allocation, the campaign performance had not achieved the expected scale, resulting in severe business impact. The email requested immediate rectification and resolution of the underperformance. A copy of the said email dated 06.11.2024 evidencing the existence of a genuine dispute is annexed at Exhibit A.
- 3.4 It is further stated that on 07.11.2024, Mr. Jutla again wrote to Paytm Ads, expressing dissatisfaction over the continued lack of response to his concerns and the absence of any corrective action from the advertising team. The communication reiterated that business expectations were not being met and called for escalation of the issue. A copy of the said correspondence dated 07.11.2024 as annexed at Exhibit B. It is stated that the problems persisted in later months. During the January 2025 performance campaign, the Corporate Debtor had to instruct Paytm Ads to restrict exposure to select cities and reduce campaign scale due to poor user quality, high customer acquisition cost (CAC), and failure to achieve mutually agreed KPIs. Detailed email chains dated 20.01.2025 to 23.01.2025 document these directions, showing that the Corporate Debtor was continuously monitoring, analysing, and objecting to campaign performance. A copy of the said email chain demonstrating ongoing performance disputes as annexed at Exhibit C.
- 3.5 Due to continued inefficacy and delivery discrepancies the Corporate Debtor explicitly instructed Paytm Ads to pause the ongoing advertising campaign, on 26 March 2025. This direction was acknowledged by the representatives of Paytm Ads. A copy of the said correspondence dated 26 March 2025 evidencing the suspension of campaigns is annexed at Exhibit D.

- 3.6 The Corporate Debtor submitted that the aforesaid correspondence series clearly establishes that serious and bona fide disputes existed between the parties well before any alleged default. These disputes were not afterthoughts but continuous in nature, concerning the very quality, quantity, and efficacy of services rendered by the Operational Creditor. Consequently, the alleged claim cannot be treated as an undisputed “operational debt” within the meaning of the IBC.
- 3.7 It is submitted that the advertising campaigns were integrally linked to the performance and revenue generation from the gaming applications operated by the Corporate Debtor. The entire object and purpose of the engagement with Paytm Ads was to achieve visibility and commercial growth through effective advertisement placements.
- 3.8 Without prejudice to whatever has been stated hereinabove, due to factors beyond the control of the Corporate Debtor, including Government-imposed restrictions and regulatory bans on online gaming applications, the commercial substratum of the arrangement was destroyed. Even where campaigns were partially delivered, their practical value was nullified as the promoted gaming applications could not be monetised or legally operated in several jurisdictions. A copy of the bare text of the “Promotion and Regulation of Online Gaming Act, 2025” which outlawed such online gaming applications is annexed at Exhibit E. As such, the contract stood frustrated under Section 56 of the Indian Contract Act, 1872, as performance had become impracticable and purposeless. It is well settled that impossibility under Section 56 is not confined to physical impossibility but extends to cases where performance becomes impracticable or meaningless due to a fundamental change in circumstances. Applying this principle, the consideration for payment under the

advertising arrangement ceased to exist once the purpose of the campaigns was frustrated.

- 3.9 It is stated that the no enforceable or subsisting liability can arise against the Corporate Debtor for the amounts claimed by the Operational Creditor, particularly when the latter's own performance was deficient and the underlying purpose of the contract had failed. Furthermore, in light of the recent ban on online gaming laws, the said contract is deemed to be frustrated by S. 56 of the Indian Contract Act, 1872.
- 3.10 The Corporate Debtor stated that the despite the above challenges, it acted at all times in good faith and sought to resolve the matter amicably. It repeatedly requested the Operational Creditor to provide complete campaign data, performance reports, and reconciliation statements, so that legitimate dues, if any, could be identified and settled after due verification. The Corporate Debtor reiterated its willingness to reconcile the accounts and make partial payments post verification. The Operational Creditor, however, failed to furnish the requisite reconciliation data or credit notes for under-delivered campaigns and instead rushed to initiate the present insolvency proceedings.
- 3.11 It is submitted that the emails relied upon by the Operational Creditor in the Petition (dated between March and June 2025) are selective, incomplete, and taken out of context. These communications were made during ongoing reconciliation discussions and cannot be treated as admission or acknowledgment of any debt, as they were without prejudice.
- 3.12 On the aforesaid grounds, the Corporate Debtor has prayed for dismissal of the present company petition with costs.

#### 4 REJOINDER

- 4.1 The Operational Creditor stated that the contents of paragraph 8-10 of the reply are admitted to the extent which are a matter of record whereas the remaining contents are denied being incorrect and false. It is also stated that the contents of the proceeding paragraphs are reiterated and reaffirmed in this context and the same are not being repeated herein for the sake of brevity.
- 4.2 It is stated that the contents of paragraph 11 of the reply are denied in entirety for being incorrect and misleading. It is denied that serious disputes began to arise regarding the performance, efficiency and delivery quality of Operational Creditor's campaigns. It is denied that advertisements were found to be underperforming in terms of user acquisition, click-through rate (CTR), and average revenue per user (ARPU). It is submitted that the Corporate Debtor has failed to place on record any correspondences/communications wherein such disputes were alleged and there has been no specific denial or paragraph-wise reply made by the Corporate Debtor in its reply.
- 4.3 Further, the Operational Creditor state that the communications pertaining to underachievement of the required scale were promptly and effectively addressed by the Operational Creditor and resolved to the satisfaction of the Corporate Debtor. In any case, Corporate Debtor had continued to issue purchase orders for services to the Operational Creditor without any protest.
- 4.4 It is submitted that the Operational Creditor promptly responded to the queries and explanations sought and further requested that relevant figures and performance data be shared for better ascertainment and monitoring. Despite such diligence and repeated follow-ups, the Corporate Debtor failed to share the requisite information and did not provide any substantive update thereafter. Furthermore, Corporate

Debtor specifically instructed that ATF and BTF banners are to be executed only for limited cities as part of internal strategy and therefore the same was unrelated to deficiency of services provided by the Operational Creditor.

4.5 It is further stated that the contents of Paragraph 15 of the Reply are denied in entirety for being false, incorrect and misleading. The contents of the preceding paragraphs (Paragraph Nos. 3-9 and 13) are reiterated and reaffirmed in this context and the same are not being repeated herein for the sake of brevity. It is submitted that at no point in time did the Corporate Debtor assert or contend that the campaigns were being halted due to any deficiency in services on the part of the Operational Creditor. On the contrary, the Corporate Debtor decided to halt further services only because the Operational Creditor had repeatedly sought clarity on the outstanding dues, which continued to accumulate month after month. The decision to pause the campaign was, therefore, a consequence of the unpaid dues and not due to any alleged deficiency in service. Furthermore, the Corporate Debtor consistently acknowledged its liability and assured the Operational Creditor that the outstanding dues would be cleared, without ever raising any dispute in relation to the services rendered.

4.6 It is stated that the contents of paragraph 16 of Reply are denied in entirety for being false, incorrect and misleading. It is denied that the correspondence which has been relied upon by the Corporate Debtor establishes serious and bona fide pre-existing disputes between the parties well before any alleged default. It is denied that the disputes were not afterthoughts but continuous in nature, concerning the very quality, quantity and efficacy of services rendered by the Operational Creditor. It is further denied that the alleged claim cannot be treated as an undisputed 'operational debt' within the meaning of IBC.

- 4.7 The Operational Creditor submitted that the Promotion and Regulation of Online Gaming Act, 2025 was passed by the Lok Sabha on 20.08.2025 and received President's assent on 22.08.2025. The Corporate Debtor liability in the present case arises from defaults which commenced on 07.01.2025 (date of default). In the present case, liability of the Corporate Debtor crystallised prior to the enactment of the statute. In any case, Corporate Debtor has admitted that it is unable to perform its business due to the enactment of the said legislation and has sought to portray this as the basis for its alleged inability to make payment. Furthermore, the contention of the Corporate Debtor that the legislative change frustrated the arrangement between the parties in light of Section 56 of the Indian Contract Act, 1872 is wholly unsustainable as the statute operates prospectively and not retrospectively.
- 4.8 The Operational Creditors that the contents of Paragraphs 24-25 of Reply are denied in entirety for being false, incorrect and misleading. The contents of the preceding paragraphs are reiterated and reaffirmed in this context and the same are not being repeated herein for the sake of brevity. It is denied that emails relied upon by the Operational Creditor in the petition are selective, incomplete and taken out of context. It is denied that communications were made during the ongoing reconciliation discussions and cannot be treated as an admission or acknowledgement of any debt. It is further denied that the alleged default is purely commercial in nature, arising out of differing interpretation of contractual obligations and performance outcomes.
- 4.9 It is further submitted that the contents of Prayer of Reply are denied in toto for being incorrect, false and misleading. In view of the facts and circumstances of the present case, the Operational Creditor most respectfully prays that this Hon'ble Tribunal may kindly be pleased to admit the Corporate Debtor into corporate insolvency resolution process under Section 9 of IBC. The contents of the preceding paragraphs are

reiterated and reaffirmed in this context and the same is not being repeated herein for the sake of brevity. It is also stated that the Corporate Debtor remains fully liable to make payment for all services availed. Therefore, it is most respectfully prayed to this Hon'ble Tribunal to admit the instant petition and to initiate the corporate insolvency resolution process against Corporate Debtor and in that behalf, be pleased to pass any other orders in the interest of justice.

#### **5. WRITTEN-SUBMISSIONS OF THE OC**

5.1. The Applicant has also filed brief synopsis/ written statement of its arguments which has been considered while passing this order.

#### **6. WRITTEN-SUBMISSIONS OF THE CD**

6.1. The Corporate Debtor also filed brief synopsis/ written statement of its arguments which has been considered while passing this order.

#### **7. ANALYSIS AND FINDINGS**

7.1 We have heard the Ld. Counsel for the Applicant and have perused the records as placed before us. Our findings in the matter are as under: -

7.2 The present application was affirmed on 29.05.2025.

7.3 The Corporate Debtor admittedly engaged the Operational Creditor for providing digital advertising services for promotion of its gaming applications. Pursuant thereto, various Purchase Orders were issued by the Corporate Debtor and the Operational Creditor executed the advertising campaigns and raised invoices from time to time. The Corporate Debtor has not disputed the issuance of the Purchase Orders or the execution of the advertising campaigns. It has also not disputed that the invoices relied upon by the Operational Creditor were generated pursuant to such Purchase

Orders. Therefore, the existence of a commercial relationship between the parties and rendering of operational services stands established.

- 7.4 The Corporate Debtor has also contended that it instructed the Operational Creditor to restrict campaign exposure, reduce campaign scale and ultimately pause the campaigns due to poor performance. It is further contended that subsequent legislative restrictions governing online gaming frustrated the underlying commercial arrangement attracting the provisions of Section 56 of the Indian Contract Act, 1872.
- 7.5 On the other hand, the Operational Creditor has submitted that the alleged disputes are an afterthought raised only after initiation of insolvency proceedings. It is contended that the communications relied upon by the Corporate Debtor merely relate to campaign optimisation and routine business discussions and never constituted disputes regarding liability or payment of invoices. The Operational Creditor has further submitted that every operational concern raised by the Corporate Debtor was duly addressed and resolved during the course of business and that despite such communications, the Corporate Debtor continued issuing Purchase Orders and continued availing advertising services without protest.
- 7.6 We have carefully examined the email correspondence relied upon by the Corporate Debtor. The communications dated 06.11.2024 and 07.11.2024 undoubtedly indicate concerns regarding campaign scale and expected business outcomes. Similarly, the email chain dated 20.01.2025 to 23.01.2025 reflects discussions relating to campaign optimisation, user quality, ARPU and customer acquisition cost. However, none of the aforesaid communications reject the services rendered by the Operational Creditor or dispute the invoices raised pursuant thereto. The correspondence primarily reflects performance review discussions and requests for optimisation, which are inherent in continuing commercial advertising arrangements.

- 7.7 Significantly, despite the aforesaid concerns, the Corporate Debtor continued to place Purchase Orders upon the Operational Creditor and continued to avail the advertising services. Such conduct is inconsistent with the stand that the services were fundamentally deficient or commercially unacceptable. The Corporate Debtor has also failed to place on record any contemporaneous debit note, claim for damages, notice of termination or legal proceeding alleging breach of contractual obligations or claiming compensation on account of deficient services.
- 7.8 The subsequent correspondence relied upon by the Operational Creditor assumes equal significance. The emails exchanged between 19.03.2025 to 18.06.2025 disclose repeated assurances by the Corporate Debtor that outstanding dues would be cleared and repayment schedules would be furnished.
- 7.9 This Tribunal observe that, if the invoices were genuinely disputed on account of deficient performance, then why did the Corporate Debtor repeatedly sought time for payment and assured clearance of outstanding dues. The conduct of the Corporate Debtor in proposing repayment schedules is inconsistent with its present stand that no liability exists or there is dispute. The contention that such communications were issued "without prejudice" during reconciliation discussions is not supported by any contemporaneous material placed before this Tribunal.
- 7.10 We also find no merit in the contention that the Promotion and Regulation of Online Gaming Act, 2025 frustrated the contract between the parties. The operational debt claimed in the present Petition had already become due and crystallised prior to the enactment of the said legislation. The defaults relied upon by the Operational Creditor commenced from January 2025 whereas the legislation relied upon by the Corporate Debtor was enacted subsequently. i.e. on 22.08.2025.

- 7.11 On perusal of the NeSL report the status of the Authentication of default is “DEEMED TO BE AUTHENTICATED” and the date of default mentioned therein is 07.01.2025
- 7.12 Another circumstance which cannot be ignored is that the Corporate Debtor admittedly received the statutory Demand Notice issued under Section 8 of the Insolvency and Bankruptcy Code, 2016. No reply raising any dispute regarding quality of services, campaign performance or liability under the invoices was issued within the statutory period. Though non-reply to a Demand Notice is not conclusive, it is certainly a relevant circumstance while examining whether a genuine pre-existing dispute existed before initiation of insolvency proceedings.
- 7.13 This Tribunal has relied upon the judgment of Hon'ble Supreme Court in Civil Appeal No. 9405 OF 2017 Mobilox Innovations Private Limited v. Kirusa Software Private Limited. *The relevant para 40 the said order is reproduced below:*

“40 ..... 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.....”

*(Emphasis Supplied)*

- 7.14 Applying the aforesaid test to the facts of the present case, we find that the communications relied upon by the Corporate Debtor merely demonstrate routine commercial discussions concerning campaign performance and optimisation. They do not constitute a genuine dispute regarding the existence of debt or liability under the invoices raised by the Operational Creditor.

- 7.15 On the contrary, the continued issuance of Purchase Orders, continued availing of services, repeated acknowledgements of outstanding dues and assurances regarding repayment establish the case of the Operational Creditor that the liability was never disputed during the subsistence of the business relationship. The Statement of Account, Purchase Orders, invoices and correspondence placed on record collectively establish that operational services were rendered and the consideration payable therefor remains unpaid.
- 7.16 The Corporate Debtor has failed to produce any documentary evidence demonstrating discharge of the outstanding liability or establishing any contemporaneous and bona fide dispute capable of defeating the present proceedings.
- 7.17 We are, therefore, satisfied that the Operational Creditor has successfully established the existence of Operational Debt and occurrence of Default within the meaning of Sections 3(11), 3(12), 5(20) and 5(21) of the Insolvency and Bankruptcy Code, 2016, which state as below:

*“3(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;*

*3(12) “default” means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not 1 [Paid] by the debtor or the corporate debtor, as the case may be; .....*

*5(20) “operational creditor” means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred;*

*5(21) “operational debt” means a claim in respect of the provision of goods or services including employment or a debt in respect of the 1 [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;”*

- 7.18 We are further satisfied that the Petition is complete in all respects, has been filed within the prescribed period of limitation and fulfils all the statutory requirements contemplated under Sections 8 and 9 of the Insolvency and Bankruptcy Code, 2016.
- 7.19 The Applicant has attached the section 9(3)(b) Affidavit stating that there is no dispute raised by the CD with regard to the unpaid operational debt.
- 7.20 In view of the above findings, it is clear that the Applicant has placed on record the necessary evidences and materials to demonstrate the existence of the operational debt exceeding the minimum threshold of Rs.1 Crore prescribed under Section 4 of the Code due and payable by the CD as well as the default in repayment thereof by the CD. The Applicant has served the Demand Notice upon the CD, and that the CD has failed to establish the existence of any pre-existing dispute. The Application is complete as all the relevant documents have been attached by the Applicant along with the Application.
- 7.21 We find that all pre-requisites of Section 9 of the Code are fulfilled and, accordingly, we are satisfied that the instant Application is fit for admission under Section 9 of the Code. The Applicant has attached all the documents as required and therefore the Application is complete and demands admission.

### **ORDER**

In view of the aforesaid findings, Application bearing C.P.(IB) No.884 /MB/2025 filed under Section 9 of the Code by One 97 Communication Limited, the Applicant, for initiating CIRP in respect of **Fabzen Technologies Private Limited**, the Corporate Debtor, is hereby **admitted**.

We further declare moratorium under Section 14 of the Code with consequential direction as mentioned below: -

- I. We prohibit-
  - a) 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;
  - b) transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
  - c) 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
  - d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- II. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- III. That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under Section 31(1) of the Code or passes an order for the liquidation of the Corporate Debtor under Section 33 thereof, as the case may be.
- IV. That the public announcement of the CIRP shall be made in immediately as specified under Section 13 of the Code read with Regulation 6 of the IBBI

(Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other Rules and Regulations made thereunder.

- V. That this Bench hereby appoints **Mr. Manish Lalji Dawda**, a registered Insolvency Professional having Registration Number **IBBI/IPA-001/IP-P-02506/2021-2022/13797** and e-mail address [ip.dawdamanish@gmail.com](mailto:ip.dawdamanish@gmail.com) having valid Authorisation for Assignment up to **30.06.2027** from the panel of RP made by IBBI and given to this Bench, for the period **16.01.2026 to 30.06.2026** as the IRP to carry out the functions under the Code.
- VI. That the fee payable to IRP/RP shall be in accordance with such Regulations/Circulars/ Directions as may be issued by the IBBI.
- VII. That during the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of the Code. The officers and managers of the Corporate Debtor the Corporate Debtor is directed to provide effective assistance to the IRP as and when he takes charge of the assets and management of the Corporate Debtor. 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/RP within a period of one week from the date of receipt of this Order and shall not commit any offence punishable under Chapter VII of Part II of the Code. Coercive steps will follow against them under the provisions of the Code read with Rule 11 of the NCLT Rules for any violation of law.
- VIII. That the IRP/IP shall submit to this Tribunal periodical reports with regard to the progress of the CIRP in respect of the Corporate Debtor.

- IX. In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the Applicant is directed to deposit a sum of Rs.3,00,000/- (Rupees Three Lakh) with the IRP to meet the initial CIRP cost arising out of issuing public notice and inviting claims, etc. The amount so deposited shall be interim finance and paid back to the Applicant on priority upon the funds available with IRP/RP from the Committee of Creditors (CoC). The expenses incurred by IRP out of this fund are subject to approval by the CoC.
- X. A copy of this Order be sent to the Registrar of Companies, Pune, Maharashtra, for updating the Master Data of the Corporate Debtor.
- XI. A copy of the Order shall also be forwarded to the IBBI for record and dissemination on their website.
- XII. The Registry is directed to immediately communicate this Order to the Applicant, the Corporate Debtor and the IRP by way of Speed Post, e-mail and WhatsApp.
- XIII. The IRP is directed to issue notice of admission upon all the statutory authorities of the Corporate Debtor without fail.
- XIV. Compliance report of the order by Designated Registrar is to be submitted today.**

**Sd/-**  
**NILESH SHARMA**  
**MEMBER (JUDICIAL)**  
//S.D.//

**Sd/-**  
**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**