IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH, (COURT NO.-II)

KOLKATA.

C.P.(I.B.) No. 278/KB/2025
Date of Hearing: 07.07.2026
Date of Order:10.08.2026

In the Matter of:

INGRAM MICRO INDIA PRIVATE LIMITED, registered office at Fifth Floor, Empire Plaza, Building A, LBS Marg, Vikhroli West, Mumbai, Maharashtra – 400083.

APPLICANT/OPERATIONAL CREDITOR

Versus

PLANET INFRASTRUCTURE MANAGEMENT PRIVATE LIMITED, registered office at 1803, 18th Floor, Martin Burn Business Park, BP – 3, Salt Lake, Sector – V, Kolkata – 700091.

RESPONDENT/CORPORATE DEBTOR

CORAM:
Shri. Labh Singh, Hon'ble Member (Judicial)
Ms. Rekha Kantilal Shah, Hon'ble Member (Technical)

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, (COURT NO.-II)
KOLKATA.

C.P.(I.B.) No. 278/KB/2025

Present:

For the Applicant. : Mr. Kedar Wagle, Ld. Advocate.
Mr. Sujit Kumar Keshari, Ld. Advocate.

For the Respondent.: Mr. Debangshu Dinda, Ld. Advocate.
Ms. Vanshikha Newar, Ld. Advocate.

O R D E R

Labh Singh Member(Judicial)

1. This Company Petition has been filed by Ingram Micro India Limited, (hereinafter being referred to as "applicant/Operational Creditor") seeking initiation of CIRP against M/s Planet Infrastructure Private Limited, the Respondent Company/Corporate Debtor (hereinafter to be referred as "Corporate Debtor") under Section 9 of Insolvency and Bankruptcy Code, 2016 (for short 'the Code') for the alleged default on the part of the Corporate Debtor having an outstanding balance of Rs. 6,74,66,955.99/- on account of supply of products of Original Equipment Manufacturer (OEM's) and provided by the OEM to the Corporate Debtor.

2. Briefly stated that facts of the applicant case is that the applicant is a leading distributor of IT hardware and

software products including all telecommunication equipment and also provides training, warehousing and other allied services.

2.1. The applicant, for supply of products, raised invoices upon the Corporate Debtor from time to time which are as follows, the copies of the invoices are annexed as **Annexures 3, 4, 5 and 6**:

Invoice No.	Date	Due Date	Amount.
10593-09	04.03.2024	02.06.2024	1630949.11
10595-69	26.03.2024	24.06.2024	17844133.51
11699-27	30.03.2024	28.06.2024	10284831.36
10543-66	04.06.2024	04.07.2024	19822315.01
		Total	**49582228.99**

2.2. The applicant had repeatedly followed up with for the payment whereupon the Corporate Debtor had assured that the funds were expected from the clients by June 2024 and as and when received, the due payment would be disbursed within a period of one week, by July 2024. A copy of the email dated 28.05.2024 is annexed as **Annexure – 7.**

2.3. It is submitted that against the outstanding amount of Rs. 14.17 crores as on 15.04.2024, the payment was made time to time, leaving a balance of Rs. 4,95,82,228.99. Further, vide an email dated 16.04.2025, the Corporate Debtor acknowledged the balance due amount to the extent of Rs. 5,35,82,228.99 as on 08.04.2025 and assured that the dues will be settled. A copy of the email dated 16.04.2025 is annexed as **Annexure – 8**.

2.4. It is submitted that vide the email dated 15.07.2025, the Corporate Debtor confirmed the due balance amount of Rs. 4,95,82,228.99 whereas the balance amount as reflected on the ledger was Rs. 4,95,69,764.03.

2.5. The applicant received a cheque, bearing No. 008304 dated 04.08.2025 for an amount of Rs. 4,95,82,228/- which was deposited in Axis Bank Ltd., Vikhroli Branch, Mumbai – 400083; however, the said cheque returned dishonoured on 19.08.2025 with an imitation that the account was closed. Subsequently, the applicant sent a demand notice dated 20.08.2025 as per Section 138 of the Negotiable Instruments Act, 1881. A copy of the demand notice is annexed as **Annexure – 11**.

2.6. The applicant issued Demand Notice, in Form – 4, under Section 8 of the Code on 07.10.2025, duly served at the registered office of the Corporate Debtor on 22.10.2025 and to other known addresses of the Corporate Debtor. It is further submitted that no payment was made for the default within 10 days. The applicant has filed an affidavit under Section 9(3)(b) and (e) stating that no payment or notice of dispute has been received by the applicant after service of Demand Notice. A copy of the Demand Notice under Section 4 is annexed as **Annexure – B**. A copy of the affidavit stating that no payment or demand notice received is annexed as **Pages 75 – 81.**

3. The Corporate Debtor appeared in pursuance of notice issued by this Tribunal and filed its reply raising preliminary objection that the present company petition is not maintainable in law or facts as the applicant has failed to disclose any default and some material facts of the case.

3.1. On merits, it has been replied that the applicant and the Corporate Debtor have been engaged in a long-standing commercial relationship and in the usual course of business, the accounts were open, running and continuous in nature. The accounts were always subjected to verification, reconciliation and mutual adjustment and have never attained finality or crystallisation and thus, never became due and payable in law. The statements relied on by the applicant does not seem to be completed and finalised as it records a discrepancy of Rs. 2,465.

3.2. The Corporate Debtor also raised objections regarding a pre-existing dispute between the parties. The respondent has relied upon the already initiated arbitration proceedings against Mr. Balbinder Singh Chhabra and Mrs. Rubi Balinder Chhabra, the Directors of the Corporate Debtor, vide a petition no. 942/2025 under Section 9 of the Arbitration and Conciliation Act, 1996 before the Hon’ble High Court of Bombay. Hon’ble High Court of Bombay, vide an order dated 30.03.2026, directed the petition be converted to a petition under Section 17 and be placed before the Sole Arbitrator appointed by the Hon’ble Court. A copy of the order dated 30.03.2026 is annexed as **Annexure – B**.

3.3. It is submitted that these proceedings should be considered as a pre-existing dispute as per section 8(2)(a) of the Code with respect to the operational debt claimed, which would bar an admission of a Section 9 petition. It is further submitted that the date of filling of Section 9 application is 29.10.2025, which is prior to the instant petition's filing date. A copy of the 'Case Status' portal of the Hon'ble High Court of Bombay is annexed as **Annexure – D.**

3.4. The Corporate Debtor raised an objection regarding the Demand Notice under Section 8 of the Code that it is based on a unilateral and incomplete computation of the alleged dues and does not reflect the correct or updated position between the parties.

3.5. It is further replied that on 12.12.2025, a payment of Rs. 40,00,000/- was made with respect to the default claimed and was received by the applicant. It is further contended that the interest of 24% per annum is unjustifiable as it has no contractual basis and has been unilaterally included. A copy of the bank statement for payment is annexed as **Annexure – E.**

4. The applicant has filed rejoinder to the reply of the Corporate Debtor and submitted that after the hearing before this Tribunal on 17.02.2026, several meetings took place between the parties and the Corporate Debtor offered to liquidate the default. In furtherance to this decision, four cheques of varying amounts were submitted and accepted by

the applicant. The copies of the cheques are annexed as **Annexure – B.**

4.1. It is submitted that the first cheque, bearing No. 364646, of Rs. 20,00,000, dated 23.03.2026, was dishonoured. Thus, vide an email dated 05.03.2026, the applicant withdrew any and all concessions of interest and payment of the principal amount in installments which were agreed upon. The repeated dishonour of cheques demonstrates clearly that they Corporate Debtor does not have the ability to pay its debts. A copy of the email dated 05.03.2026 is annexed as **Annexture – C.**

4.2. The applicant further stated that the arbitration proceedings initiated before the Hon'ble High Court of Bombay cannot be included as it was initiated against the Personal Guarantors and the Corporate Debtor is a separate entity. It is further submitted that the amount claimed from the Guarantors is far lesser than the amount claimed in this Petition in view of the limit of guarantee.

4.3. The applicant also submitted that with respect to the payment dated 12.12.2025 of Rs. 40,00,000/- and another payment made between 12.12.2025 and 11.06.2026, amounting to an aggregate of Rs. 55,00,00, still there is default in payment of Rs. 6,19,66,955/- which is over the threshold limit of Rs. 1 crore for admission of the Corporate Debtor in CIRP.

4.4. It is further submitted that the Corporate Debtor had confirmed the balance twice wherein it has been admitted that an interest of 2% per month, amounting to 24% per annum, would be applicable. It is further stated that the discrepancy of Rs.2,465 is immaterial as the default is in excess of the statutory threshold.

5. From pleading of the parties, the following question arise for consideration and decision by this Tribunal:

   i. Whether there is debt and default to invoke provision of Section 9 of the Code 2016?

   ii. Whether there is a pre-existing dispute between the parties as defined in Section 5(6) of the IBC Code 2016?

   iii. Relief, if any, to which the applicants are entitled?

6. We have gone through the case file carefully and perused the pleadings of the parties and documents placed on record by the parties and heard the arguments put forth by Ld. Advocate appearing for the applicant and Ld. Advocate appearing for the Corporate Debtor; and after hearing the

learned counsels for the parties, we shall now proceed to consider the present petition on its merits, specifically within the ambit of points involved in the instant application.

Issue No. (i)

7. The first question is whether there is any operational debt as defined in Section 5(21) of the Code and default in repayment of operational debt to invoke the provision of Section 9 of the Code. The operational debt has been defined as 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.

8. The applicant, in order to prove the existence of operational debt and default in payment thereof, has specifically pleaded that the applicant raised invoices upon the Corporate Debtor from time to time and the invoice no. 10593-09 dated 04.03.2024 with due date 02.06.2024 for an amount of Rs. 1630949.11 (Annexure-3), the invoice no. 10595-69 dated 26.03.2024 with due date 24.06.2024 for an amount of Rs. 178441133.51 (Annexure-4), the invoice no.

11699-27 dated 30.03.2024 with due date 28.06.2024 for an amount of Rs. 10284831.36 (Annexure-5) and the invoice no. 10543-66 dated 04.06.2024 with due date 04.07.2024 for an amount of Rs. 19822315.01 (Annexure-6) aggregating to Rs. 4,95,82,228.99 remained unpaid. Thus, the outstanding amount claim is Rs. 4,95,82,228.99(Rupees Four Crore Ninety Five Lakh Eighty Two Thousands Two Hundred Twenty Eight and Paisa Ninety Nine Only) as on 05.04.2025. The Corporate Debtor had confirmed the balance amount of Rs. 5,35,82,228.99 as on 08.04.2025 as is evident from email dated 16.04.2025(Annexure-8). The Corporate Debtor further admitted balance amount of Rs. 4,95,79764.03 as on 30.06.2025 per own ledge of the Corporate Debtor.

9. It is observed by this Tribunal that in spite of the payments made after the initiation of this petition, the default amount still is in excess of the statutory limit of Rs. 1 crore. Even in the case the interest is not accepted, the default still remains in excess of the threshold.

10. We also take note of the fact on record that the continuous dishonouring of cheques issued by the Corporate Debtor indicates the financial health of the Corporate Debtor. Though the applicant did not deposit the rest of the cheques

after the first one dated 23.03.2026 of Rs. 20,00,000, it is pertinent to mention that this cheque was of the lowest value out of the four issued.

11. Therefore, there is existence of operational debt as defined in Section 5(21) of the Code and default in making payment thereon despite issuance of demand notice under Section 8 of the Code.

Issue No. (ii)

12. Insofar as this question is concerned, before entering upon merit of this issue, it is relevant to refer the provision of Section 9 of the Code 2016 which read as under:

> "(1) After the expiry of the period of ten days from the date of delivery of the notice or invoice demanding payment under sub-section (1) of section 8, if the operational creditor does not receive payment from the corporate debtor or notice of the dispute under sub-section (2) of section 8, the operational creditor may file an application before the Adjudicating Authority for initiating a corporate insolvency resolution process.
>
> (2) The application under sub-section (1) shall be filed in such form and manner and accompanied with such fee as may be prescribed.
>
> (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 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 an 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 sub-clause (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.

13. It is also relevant to refer the provision of Section 8 of the IBC Code 2016 which provides for issuance of demand notice and manner in which the demand notice for unpaid operation debt and the same is as under:

*"**8.** (1) An Operational Creditor may, on the occurrence of a default, deliver a demand notice of unpaid operational debt or copy of an invoice demanding payment of the amount involved in the default to the corporate debtor in such form and manner as may be prescribed.*

(2) The corporate debtor shall, within a period of ten days of the receipt of the demand notice or copy of the invoice mentioned in sub-section (1) bring to the notice of the operational creditor—

a) existence of a dispute, if any or record of the pendency of the suit or arbitration proceedings filed before the receipt of such notice or invoice in relation to such dispute;

(b) the payment of unpaid operational debt—

(i) by sending an attested copy of the record of electronic transfer of the unpaid amount from the bank account of the corporate debtor; or

(ii) by sending an attested copy of record that the operational creditor has encashed a cheque issued by the corporate debtor.

Explanation.—For the purposes of this section, a "demand notice" means a notice served by an operational creditor to the corporate debtor demanding payment of the operational debt in respect of which the default has occurred.

14. Thus, as per sub section (1) of Section 9 of the Code, an application under Section 9 of the Code is acceptable once the demand by way of delivery of notice or invoice demanding payment at least an amount of Rs. One crore is made by the operational creditor under Sub Section (1) of Section 8 of the IBC Code 2016 and neither payment is made nor notice of dispute is raised by the Corporate Debtor as defined in Sub Section (6) of Section 5 of the IBC Code 2016. The moment default is of rupees one crore or more, and there is no pre-existing dispute between the parties, the application to trigger Corporate Insolvency Resolution Process under Section 9 of the IBC Code is maintainable.

15. In the instant case, the applicant issued a Demand Notice dated 10.07.2025 under Section 8 of the Code at the

registered office of the Corporate Debtor on 22.10.2025 and other known addresses of the Corporate Debtor. The applicant has filed an affidavit under Section 9(3)(b) and (e) stating that no payment or notice of dispute has been received by the applicant despite receipt of Demand Notice which is annexed with the company petition at **Pages 75 – 81**.

16. The Corporate Debtor has submitted that it had raised an objection regarding a pre-existing dispute between the parties. The Corporate Debtor has relied upon the already initiated arbitration proceedings against Mr. Balbinder Singh Chhabra and Mrs. Rubi Balinder Chhabra, the Directors of the Corporate Debtor, vide a petition no. 942/2025 filed under Section 9 of the Arbitration and Conciliation Act, 1996 before the Hon’ble High Court of Bombay. Hon’ble High Court of Bombay, vide an order dated 30.03.2026, directed the petition be converted to a petition under Section 17 and be placed before the Sole Arbitrator appointed by the Hon’ble Court. The Corporate Debtor has relied upon a copy of the order dated 30.03.2026 **Annexure – B**.

17. It is submitted that these proceedings should be considered as a pre-existing dispute as per section 8(2)(a) of the Code with respect to the operational debt claimed, which would

bar an admission of a Section 9 petition. It is further submitted that the date of filling of Section 9 application is 29.10.2025, which is prior to the instant petition’s filing date. The Corporate Debtor has relied upon copy of the ‘Case Status’ portal of the Hon’ble High Court of Bombay **Annexure – D**

18. The question arises what is dispute as referred in sub-clause (d) of clause (ii) of Sub-Section (5) of Section 9 and Section 8 of the IBC Code 2016. The provision of Section 5(6) IBC Code 2016 defines dispute which *includes a suit or arbitration proceedings relating to (a) the existence of the amount of debt; (b)the quality of goods or service; or (c) the breach of a representation or warranty*. Thus, the definition of dispute as defined in Section 5(6) of the IBC Code 2016 is an inclusive definition which includes dispute with regards to the existence of amount of debt, quality of goods and services and the breach of representation or warranty.

19. The word ‘dispute’ has been defined in Black’s Law Dictionary in the following manner:-

> "Dispute. A conflict or controversy; a conflict of claims or rights; an assertion of a right, claim, or demand on one side, met by contrary claims or

allegations on the other. The subject of litigation; the matter for which a relation to which jurors are called and witnesses examined. See Cause of action; Controversy; Justiciable controversy; Labour dispute."

20. The question arises whether pendency of arbitration proceedings between the Operational Creditor and Directors of the Corporate Debtor amounts to pre-existing dispute as defined in Section 5(6) of the IBC Code 2016 before service of demand notice upon the Corporate Debtor.

21. In this regard, it is pertinent to refer to the order dated 30.03.2026 passed by Hon'ble High Court of Bombay in Commercial Arbitration Petition No. 942/2025. A perusal of order dated 30.03.2025 passed by Hon'ble High Court reveals that the dispute which has referred to Learned Arbitrator pertains to Deed of Guarantee. Thus, the dispute does not pertain to the Corporate Debtor.

Issue No. (iii)

22. In view of the above said discussion, this Tribunal is of affirm view that this Company Petition, **C.P. (I.B.) No. 278/KB/2025** is complete and deserves to be allowed under Section 9 of the Code and accordingly, we admit the Corporate Debtor in the CIRP process.

23. The applicant has not proposed the name of any Resolution Professional. Thus, this Tribunal appoints, Mr. Sanjay Kumar Poddar, Resolution Professional having Registration No. IBBI/IPA-001/IP-P-01802/2019-2020/12759 and email id. poddar.sanjay@gmail.com. Mr. Sanjay Kumar Poddar is directed to give his written consent in required Form 2 in three days from the date of receipt of this order.

24. We direct the applicant to deposit a sum of Rs. 3 lacs with the Interim Resolution Professional, namely Mr. Sanjay Kumar Poddar to meet out the expense to perform the functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Operational Creditor. The amount however be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Operational Creditor.

25. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14(1), shall follow in relation to

the corporate debtor, prohibiting as per proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in force.

26. A copy of the order shall be communicated to the applicant, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Applicant is also directed to provide a copy of the complete paper book to the IRP. A copy of this order is also sent to the ROC for updating the Master Data. ROC shall send compliance reports to the Registrar, NCLT.

Rekha Kantilal Shah
Member(Technical)

Labh Singh
Member(Judicial)