IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT-V NEW DELHI BENCH

IN

Company Petition IB NO. 309/(ND)/2022

An Application under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

IN THE MATTER OF:

M/s Redpro Construction Pvt. Ltd.
8233, Rani Jhansi Road,
Near Filmistan Cinema,
Delhi – 110006

...Applicant /Operational Creditor

Versus

M/s Skyline Infratech Pvt. Ltd.
Sh. Anil Kumar Vaswani (Director),
A-14, Basement, Kailash Colony,
New Delhi-110048

...Respondent/Corporate Debtor

Order Delivered on: 01.10.2026

CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)

MS. REENA SINHA PURI,
HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the Applicant : Ms. Kanika Singhal, Ms. Deepshikha, Advs.

For the Respondent: Adv. Lokesh Garg

ORDER

1. This Application is filed, by M/s Redpro Construction Pvt Ltd (Applicant/RPC) against M/s Skyline Infratech Pvt Ltd (Respondent/SIPL), seeking initiation of CIRP[1] under Section 9 of the IBC[2]. The Applicant claims Rs. 1,40,96,295 as outstanding operational debt, together with interest at 18% per annum.

2. The Applicant is engaged in the business of construction and civil works. It states that three separate word orders[3] dated 25.08.2017 were issued by the Respondent/SIPL for execution of civil & structural works, internal electrical works and plumbing & firefighting works on a back-to-back basis corresponding to works awarded SIPL by M/s Jaiprakash Associates Limited (JAL). Reference is made to three separate agreements dated 17.07.2017 entered into between SIPL with JAL for execution of the aforesaid works at JAL's Kensington Boulevard Project, Noida, in respect of Towers Nos. 7, 12, 14, 19, 20, 21 and 22. The terms specified are:

   "1. (RPC) shall execute all works as per the BOQ signed between 'SIPL' and 'JAL'.
   2. (RPC) shall raise/submit all bills to 'JAL' on behalf of 'SIPL
   3. (RPC) shall be responsible for all works at site.
   4. (RPC) shall adhere to all the terms and conditions and guidelines."

3. The said work orders, issued by SIPL under the signature of its Managing Director, Mr Anil Vaswani, also contain a hand written stipulation that the works would be transferred to a new company, in which 50 % of the shareholding would be held equally by Mr Rajan Gupta, Director of RPC, the

[1] Corporate Insolvency Resolution Process.
[2] The Insolvency and Bankruptcy Code, 2016.
[3] Annexure 4 of the Application, pages 80-82

Applicant Company, and Mr Anil Vaswani, Managing Director of SIPL, the Respondent Company.

4. It is submitted that the Applicant/ RPC executed the works, raised bills after approval by JAL and maintained a running and recurring account in the name of the Respondent/ SIPL. Payments received were adjusted against earlier unpaid invoices. The last payment amounting to Rs. 9,16,000 is stated to have been received from SIPL on 15.10.2019.

5. According to the Applicant, the Respondent committed default in payment of invoices from the financial year 2017-18. Despite repeated requests for reconciliation and payment, the Respondent failed to do so. Consequently, a demand notice dated 16.09.2021 was issued under Section 8 of the IBC. Thereafter, since the Respondent did not reply or dispute the Demand Notice, transmitted through email dated 27.09.2021, and also failed to pay the outstanding amount, the Applicant filed the present Petition under section 9 of the IBC on 21.02.2022.

6. By order dated 16.10.2023, this Tribunal dismissed the petition on the ground that the claim included invoice RA-E-06 dated 10.05.2020, which was hit by Section 10A. However, in Company Appeal (AT) (Insolvency) No.1630 of 2023, the Hon'ble NCLAT, by judgment dated 21.11.2025, set aside that order and restored CP (IB) No.309/ND/2022 for decision in accordance with law. Following restoration, the parties were heard.

7. It is the plea of the Applicant that the invoices, bank statements and ledger establish debt and default. It is submitted that it made repeated follow-ups with the Respondent through emails, WhatsApp messages, physical meetings

and telephonic conversations during 2017-2020. It is further alleged that the Respondent acknowledged the outstanding liability, both orally and in writing, but failed to make payment on one pretext or another. After adjusting all amounts received from the Respondent against the past dues in the running account, a sum of Rs. 1,40,96,295 is stated to be outstanding as on 16.09.2021, which is the subject-matter of the present Application.

8. The Respondent/SIPL disputes this liability. It is submitted that the said work orders communications dated 25.08.2017, issued under the signature of its Managing Director, Mr Anil Vaswani, also contained a hand written sentence stating that the works would be transferred to a new company, in which 50% of the shareholding would be held equally by Mr Rajan Gupta, Director of RPC, the Applicant Company, and Mr Anil Vaswani, Managing Director of SIPL, the Respondent Company. According to the Respondent, the arrangement contemplated common execution of the JAL project by SIPL and RPC. It is further contended that the Applicant subsequently executed the tender in its own name, thereby excluding the Respondent from the profit-sharing arrangement contemplated between the parties.

9. It is further alleged that Mr Parmod Vatsa, Senior Vice President of RPC and authorised signatory of the Applicant Company, caused losses to the venture by certain “uncalled for” and “unjustified acts”. The Respondent further asserts that, contrary to the Applicant’s claim of amounts due from SIPL, an amount of approximately Rs. 5.57 crore is in fact recoverable from RPC towards profit-sharing, escalation claims, and materials, tools and plant belonging to SIPL allegedly remaining in RPC’s possession.



). The Respondent further alleges that the bills relied upon by the Applicant contain false claims and contends that the Applicant is therefore liable to be proceeded against under Section 65 of the Code.

11. It is also contended that disputes had arisen on account of the Applicant's alleged unsatisfactory performance, billing-related issues and subsequent direct dealings with JAL. In support of these contentions, the Respondent relies upon contemporaneous email correspondence issued by JAL on 22.01.2018, 29.01.2018, 16.07.2018, 13.08.2018, 21.08.2018, 28.03.2019, 02.04.2019, 28.05.2019, 10.06.2019, 21.06.2019, 18.07.2019, 25.07.2019 and 08.08.2019.

12. The Respondent also disputes service of the Demand Notice. It is contended that the notice could not have been served at its office by speed post, as the premises had been sealed by the NDMC in 2018. It is further stated that no email communication relating to the Demand Notice could be traced, there being no technical staff available to monitor the regular email account. The Respondent also alleges that the Demand Notice was not sent to the email address reflected on the letterhead of the work orders.

13. The Respondent further contends that pre-existing disputes existed between the parties prior to issuance of the Demand Notice. In support of its submissions, reliance is placed upon *Swiss Ribbons (P) Ltd. v. Union of India*[4], *Beacon Trusteeship Ltd. v. Earthcon Infracon (P) Ltd. & Anr* [5], and *Embassy*

[4] Swiss Ribbons (P) Ltd. vs.Union of India, (2019) 4 SCC 17
[5] Beacon Trusteeship Ltd vs. Earthcon Infracon P Ltd & Anr,.Civil Appeal No.(S). 7641/2019

Property Developments (P) Ltd. v. State of Karnataka & Ors[6]. On these grounds, the Respondent seeks dismissal of the present Application.

14. In rejoinder, the Applicant denies that any dispute existed regarding its performance of the works. It is stated that, under the working arrangement between the parties, upon completion of the works by the Applicant, the Respondent would submit the corresponding bills to JAL and, only after approval by JAL, would the Applicant raise its bills upon the Respondent. The Applicant further submits that the Respondent availed GST input tax credit in respect of all invoices raised upon it. As regards service of the notice under Section 8 of the Code, it is contended that the Demand Notice was sent to the email address of the Respondent as reflected in the records of the RoC. The Applicant also states that the proposal to form a separate company did not materialise because the Respondent was unwilling to make an equal investment in the proposed entity.

Analysis and Finding

15. We have heard the Learned Counsels for the Applicant and the Respondent, and further perused the averments made in the petition, reply and the rejoinder besides the written submissions presented by both parties.

16. We note that the present application was dismissed by this Adjudicating Authority vide order dated 16.10.2023 on the ground that the Demand Notice issued under Section 8(1) of the Code was based upon an invoice raised during the period excluded under Section 10A of the Code and, therefore, the

[6] Embassy Property Development Pvt Ltd. vs. State of Karnataka & Ors., Civil Appeal No. 9170 of 2019

application under Section 9 was not maintainable. Aggrieved by the said order, the Applicant preferred Company Appeal (AT) (Insolvency) No. 1630 of 2023 before the Hon'ble NCLAT. The Hon'ble NCLAT, vide judgment dated 21.11.2025, allowed the appeal and set aside the order dated 16.10.2023 after holding that even after excluding the invoice dated 10.05.2020 covered by Section 10A, the cumulative default claimed in the Application remained above Rs. 1 Crore. It was further observed that out of 17 invoices, 16 related to the period preceding the operation of Section 10A and, therefore, the Demand Notice under Section 8(1) could not be held invalid merely because one invoice related to the excluded period. The matter was accordingly remitted to this Tribunal for consideration in accordance with law.

17. We note from the Application that the three work orders dated 25.08.2017 issued by the Respondent/SIPL for execution of works on a back-to-back basis refer to three separate work orders/agreements awarded by JAL dated 17.07.2017. However, the invoices relied upon by the Applicant as evidence of the alleged debt refer to a different agreement with JAL dated 29.09.2017 in respect of civil and structural works[7] and another agreement with JAL dated 11.11.2017 in respect of internal electrical works[8].

18. Significantly, the agreements dated 29.09.2017 and 11.11.2017, to which the invoices themselves refer, have not been placed on record. Instead, the Applicant relies upon the work orders dated 25.08.2017, which are stated to have been issued on a back-to-back basis with the JAL agreements/work

[7] Annexure 6, Pages134- 163 of the Application
[8] Annexure 6, Pages 164-165 of the Application

orders dated 17.07.2017. There is, therefore, no material on record establishing the contractual linkage between the invoices relied upon and the work orders dated 25.08.2017. The invoices forming the basis of the alleged debt are consequently neither supported by nor traceable to the contractual documents placed before us. In the absence of the agreements referred to in the invoices, or any other material establishing the basis upon which liability under those invoices arose against the Respondent, the alleged debt remains unsubstantiated.

19. We further note the terms and conditions contained in the three work orders dated 25.08.2017. These work orders contemplate execution of the work awarded to the Respondent by the Applicant on a back-to-back basis. The Applicant was required to execute the work in accordance with the BOQ agreed between the Respondent and JAL, undertake responsibility for the site works, and adhere to the applicable terms, conditions and guidelines. Significantly, the work orders further provide that the Applicant would raise or submit all bills to JAL on behalf of the Respondent. The Applicant has not disputed that the work was undertaken pursuant to these terms. However, the invoices relied upon in the present Application have been raised directly upon the Respondent/SIPL. This apparent departure from the billing mechanism contemplated under the work orders has not been satisfactorily explained. The inconsistency between the contractual terms and the invoices relied upon creates material uncertainty as to the precise nature of the arrangement among the parties, the basis on which the invoices were raised, and, consequently, the identity of the person against whom the corresponding debt obligation arose.



). Another significant condition appearing in each of the three work orders dated 25.08.2017 is the handwritten stipulation that the works would be transferred to a new company, in which 50% of the shareholding would be held equally by Mr Rajan Gupta, Director of RPC, the Applicant Company, and Mr Anil Vaswani, Managing Director of SIPL, the Respondent Company. Thus, the work orders relied upon by the Applicant itself as forming the basis of the debt claimed in the present Application contemplate not merely execution of specified works by the Applicant for the Respondent, but a broader arrangement for jointly undertaking and executing the works awarded by JAL. Read with the back-to-back nature of the work orders and the contemplated transfer of the works to a jointly held company, these terms are indicative of a work-sharing commercial arrangement for execution of the JAL works, rather than an independent provision of services by the Applicant to the Respondent giving rise, by itself, to an operational debt.

21. Moreover, the Agreement does not disclose any independent contractual obligation on the part of the Respondent to pay the amounts claimed under the invoices relied upon by the Applicant and raised in relation to the JAL works. No contractual basis has been demonstrated to show how, or under what term, the amounts reflected in those invoices became payable by the Respondent to the Applicant. In the absence of such a contractual nexus, the invoices, by themselves, cannot establish a debt due and payable by the Respondent. The material on record, at best, indicates a common commercial arrangement between the parties for execution of the works awarded by JAL; it does not establish a crystallised and enforceable payment obligation owed

by the Respondent to the Applicant. Consequently, the essential requirement of an operational debt due and payable by the Respondent remains unproved.

22. The correspondence placed on record further indicates that JAL was communicating with personnel associated with both the Applicant and the Respondent in relation to execution of the same project. The emails concern common aspects of project execution, deployment of resources, billing and payments, and reflect inter se coordination between personnel of both entities. Significantly, certain communications were sent by Mr Parmod Vatsa from an RPC email address while identifying himself as an authorised signatory of SIPL. These contemporaneous communications are relevant in appreciating the manner in which the project was actually conducted and lend support to the existence of a common work-sharing commercial arrangement, rather than a clearly demarcated relationship in which the Applicant independently rendered services to the Respondent against a distinct and ascertainable debt obligation.

23. The email dated 28.03.2019 is also significant. In that communication, JAL informed Mr Rajan Gupta and Mr Anil Vaswani that the work had stopped and that labour was not available at site. Mr Anil Vaswani thereafter forwarded the communication to Mr Parmod Vatsa and Mr Rajan Gupta, seeking a response highlighting the payment shortfalls and non-payments attributable to JAL. The exchange reflects a coordinated response by the parties to issues concerning execution and funding of the project and is consistent with the existence of a common commercial arrangement for

carrying out the JAL works, rather than two parties operating at arm's length under a distinct service-provider and debtor relationship.

24. In the email dated 02.04.2019, Mr Parmod Vatsa, on behalf of the Respondent Company, informed Mr A.K. Rana of JAL that payment against the 14th RA Bills of both the Applicant Company and the Respondent Company remained outstanding. He further stated that, on account of such non-payment, they were unable to procure material and make payments to their respective workforces, and requested JAL to release the pending amounts so that the work could be expedited in accordance with JAL's instructions[9]. The Applicant was also included in this correspondence. The communication is significant as it reflects both entities jointly raising with JAL the issue of pending payments affecting execution of the same project, and further supports the existence of a coordinated commercial arrangement in relation to the JAL works.

25. More directly, by email dated 19.06.2019, Mr. Parmod Vatsa wrote from his RPC email address to JAL, while identifying himself in the signature block as the authorised signatory for SIPL's Kensington Boulevard project. Mr Anil Vaswani and personnel of RPC were copied on the communication. The email recorded that running bills up to RA-13 for civil and electrical works aggregated to Rs. 8,49,70,196, whereas JAL had certified only Rs. 4,14,43,170, leaving a difference of Rs. 4,35,27,026. The communication questioned the deductions, sought bill-wise particulars and requested release of the certified amounts so as to improve progress at site. In its reply dated

[9] Annexure R-5, Reply of the CD.

20.06.2019, JAL disputed the contention that the deductions were unjustified and called upon the parties to complete the pending works.

26. This exchange, annexed as R-10 to the Reply, assumes significance because it evidences a contemporaneous and unresolved dispute concerning certification, deductions and performance, much prior to issuance of the notice under Section 8 of the IBC. The amounts referred to in the correspondence pertain to bills submitted to JAL. The exchange therefore shows that the very process of billing and certification underlying the Applicant's claim was itself under dispute with JAL, with personnel associated with both the Applicant and the Respondent participating in the correspondence. It further reinforces the absence of a clear and independent basis for treating the amounts claimed under such bills as a crystallised operational debt due and payable by the Respondent to the Applicant.

27. The correspondence also records concerns regarding the quality and progress of the works. In the email dated 21.06.2019, Mr Parmod Vatsa, on behalf of the Respondent Company, requested Mr A.K. Rana of JAL to release the payment pertaining to the Applicant Company so that the work could be resumed[10]. Thereafter, by email dated 25.07.2019, JAL addressed both the Applicant and the Respondent jointly and raised concerns regarding the quality of the work and the need for improvement[11]. These contemporaneous communications are significant inasmuch as issues relating to payment, resumption, progress and quality of the works were being dealt with

[10] Page 29, Annexure R-5, Reply of the CD.
[11] Page 31, Annexure R-5, Reply by CD.



collectively amongst JAL and both parties, further reflecting the manner in which the JAL project was being jointly coordinated and executed.

28. The Applicant contends that the earlier issues stood resolved prior to the last payment made on 15.10.2019. While such part payment is relevant to show that commercial dealings between the parties continued, it cannot, by itself, be treated as evidence that all outstanding disputes had been resolved or that the entire balance subsequently claimed stood admitted or acknowledged. Annexure A to the Respondent's additional affidavit includes JAL's termination letter dated 20.09.2019 in respect of the civil and structural work order, which required reconciliation of free-issue materials and joint measurement of the work executed. The subsequent termination letters relating to the electrical and plumbing works, issued in December 2019, similarly contemplated submission of final bills and settlement of accounts. These documents indicate that reconciliation, measurement, final billing and settlement of accounts remained live and material issues around, and even after, the date of the payment relied upon by the Applicant. The payment dated 15.10.2019, therefore, cannot be construed as an unequivocal acknowledgment of the entire debt now claimed.

29. The Applicant has failed to explain the contractual basis on which the specific invoices relied upon became payable by the Respondent, particularly when the contemporaneous correspondence concerning release of payments was addressed to JAL. In the absence of any clear contractual provision or contemporaneous material fastening liability for those invoices upon the

Respondent, the Applicant has not established how the amounts claimed crystallised into a debt due and payable by the Respondent.

30. There are also material inconsistencies within the Applicant's own records regarding the quantum of the alleged debt. The ledgers[12] maintained by the Applicant reflect amounts against RA-07 dated 01.08.2018[13] and RA-13 dated 05.06.2019[14] which differ from the amounts appearing in the corresponding invoices. The Applicant has neither reconciled these differences nor explained which of the competing figures represents the amount allegedly payable by the Respondent.

31. The inconsistency is also reflected in the overall computation of the claim. While the claim schedule states a total balance of Rs. 1,40,96,295, comprising a net balance of Rs. 1,35,85,543 and TDS of Rs 5,10,752, the ledger annexed to the Application at pages 167–168 closes at Rs. 1,18,35,609.40. The ledger also contains separate adjustments towards electricity and power expenses and TDS receivable. These entries have not been satisfactorily reconciled with the amount claimed in the Application.

32. Similar discrepancies are apparent at the level of individual running account bills. Civil RA-07 dated 01.08.2018 records a net payment of Rs. 16,54,065, whereas the claim schedule reflects Rs. 17,50,048; the underlying bill itself records an additional recovery of Rs. 95,983. Likewise, Civil RA-15 dated 23.12.2019 records an amount of Rs. 2,91,242 after release of Rs. 2,00,000 earlier withheld against a safety issue, whereas the claim schedule reflects Rs

[12] Annexure 7, Page No. 167 of the Application.
[13] Annexure 6, Page No. 146 of the Application.
[14] Annexure 6, Page No. 159 of the Application.



91,242. These differences further demonstrate that the computation of the amount claimed has not been presented on a clear, consistent and reconciled basis.

33. In these circumstances, quite apart from the absence of a clear contractual foundation fastening liability upon the Respondent, the Applicant's own records do not establish with certainty the amount allegedly due. The existence and quantum of the purported operational debt therefore remain unproved.

34. Read cumulatively, the work orders, the handwritten stipulation, the contemporaneous and coordinated communications with JAL, and the manner in which the RA bills were raised and processed indicate a common work-sharing commercial arrangement for execution of the JAL project. The Applicant has not demonstrated, for the purposes of admission under Section 9 of the IBC, that the entire amount claimed had crystallised into a distinct, presently due and payable operational debt owed by SIPL, independent of the unresolved issues relating to certification, deductions, measurement and reconciliation. In the absence of such material, the essential requirement of a clear operational debt due and payable by the Corporate Debtor remains unestablished.

35. The contemporaneous material further discloses a pre-existing dispute concerning performance of the works, certification of the RA bills, deductions and the amount, if any, ultimately payable under the arrangement. The defence raised by the Respondent is supported by the Applicant's own contractual documents and by contemporaneous correspondence exchanged

much prior to issuance of the demand notice. These materials disclose plausible contentions requiring investigation and demonstrate that the dispute is neither spurious, hypothetical nor illusory. The defence therefore satisfies the test laid down in *Mobilox Innovations Pvt. Ltd*[15] and cannot be dismissed as a patently feeble legal argument, an unsupported assertion, or a moonshine defence.

36. Thus, the Agreements, the Applicant's own pleadings, the contemporaneous correspondence with JAL, and the inconsistencies between the ledgers and invoices, when read cumulatively, do not establish that the Respondent had independently availed any goods or services from the Applicant giving rise to a distinct payment obligation. The material on record instead indicates a common work-sharing/commercial arrangement between the parties for execution of the works awarded by JAL. In these circumstances, the Applicant has failed to establish the existence of an undisputed operational debt within the meaning of Section 5(21) of the IBC and, consequently, has also failed to establish its status as an Operational Creditor under Section 5(20). The Application under Section 9 is, therefore, not maintainable.

In the light of the above facts and circumstances, **CP (IB) No. 309/ND/2022** is **dismissed.**

Sd/-

(REENA SINHA PURI)
MEMBER (TECHNICAL)

Sd/-

(MANNI SANKARIAH SHANMUGA SUNDARAM)
MEMBER (JUDICIAL)

[15] *Mobilox Innovations Private Limited v. Kirusa Software Private Limited*, (2018) 1 SCC 353