

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: MS. REETA KOHLI,
HON'BLE JUDICIAL MEMBER

MS. KAVITA BHATNAGAR
HON'BLE TECHNICAL MEMBER

CP No. (IB)-68/9/JPR/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:

EPICROP ORGANICS LIMITED

...Operational Creditor/ Petitioner

VERSUS

CROPBERRY FOODS PRIVATE LIMITED

...Corporate Debtor/ Respondent

MEMO OF PARTIES

Epicrop Organics Limited,
Plot No. 57-A / R, R.K. Puram,
Kota-324010, Rajasthan

...Operational Creditor/ Petitioner

VERSUS

Cropberry Foods Private Limited,
Front of Indu Motors,
Govindpura, Jhotwara,
Jaipur, Rajasthan-302012

...Corporate Debtor/ Respondent

Sd/-

CP No. (IB)- 68/9/JPR/2025

Sd/-



For the Operational Creditors : Tirth Nayak, Adv.
Kartik Agarwal, Adv.
For the Corporate Debtor : Aditya Khandelwal, Adv.

Order Pronounced On 03.02.2026

ORDER

Per: Ms. Kavita Bhatnagar Technical Member

1. The instant petition having *CP No. (IB)-68/9/JPR/2025* has been filed by *Epicrop Organics Limited* ('Petitioner'/ 'Operational Creditor') against *Cropberry Foods Private Limited* ('Respondent'/ 'Corporate Debtor') under Section 9 of the Insolvency and Bankruptcy Code, 2016 (the 'IBC'/ 'Code') seeking initiation of the Corporate Insolvency Resolution Process ('CIRP') against *Cropberry Foods Private Limited* ('Corporate Debtor'/ 'Respondent') alleging a default of Rs. 1,67,44,116.22 (One Crore Sixty-Seven Lakhs Forty-Four Thousand One Hundred and Sixteen Rupees and Twenty-Two Paise Only) including the principal amount of Rs. 1,60,93,000.00/- (One Crore Sixty Lakhs Ninety-Three Thousand Rupees Only) and Interest amount of Rs. 6,51,116.22 (Six Lakhs Fifty-One Thousand and One Hundred and Sixteen Rupees and Twenty-Two Paise Only) charged @ 18% per annum.
2. The Respondent / Corporate Debtor is a private company limited by shares having CIN No. U01110RJ2020PTC070211, incorporated under the Companies Act, 2013 on 10.08.2020, duly registered with the Registrar of

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Companies, Jaipur. The Registered Office of the Company is situated at *Front of Indu Motors, Govindpura, Jhotwara, Jaipur, Rajasthan-302012.*

The Authorized Share Capital of the Respondent Company is Rs. 1,00,000/- (Rupees One Lakh Only) and the Paid-Up Share Capital is Rs. 1,00,000/- (Rupees One Lakh Only). As the company is registered in Rajasthan, hence, it comes under the jurisdiction of NCLT, Jaipur Bench.

3. The Applicant is engaged in the business of trading of varieties of Basmati Rice, Wheat and Pulses. The applicant had made supply of Basmati Rice to the Corporate Debtor. The Applicant is in a business relationship with the Respondent since long time. But since last more than 2 months, the respondent has failed to make the payment. The Operational Creditor has already given sufficient time to pay the dues.
4. As per the transactions with the Corporate Debtor, the applicant has supplied goods which is governed by the provisions of the Indian Contract Act, 1872, the Sales of Goods Act, 1930 and other applicable laws for the time being in force. The Applicant has annexed the copies of all the documents in support of the transactions with the Respondent.
5. It is apparent that the respondent company has been delaying the payment which has been due and payable by Corporate Debtor to the applicant hence, is not in a position to discharge the operational debt obligation of the said outstanding amount.

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6. Thereafter, the Applicant had issued a Demand Notice at the registered address of the Respondent Company via Form-4 dated 07.08.2024 under the IBC, 2016 to the Respondent and demanding unpaid operational debt along with interest. In spite of receipt of Demand Notice, the Respondent Company, *Cropberry Foods Private Limited* has not paid the outstanding amount.
7. It is submitted that present Applicant is not liable for registration under Section 23(i)(a) of the Central Goods and Services Tax Act 2017, therefore Applicant has not attached Form GSTR-1 and GSTR-3B.
8. Hence, the Corporate Debtor has committed default in making the payment of unpaid operational debt as stated above. Therefore, the present petitioner of the Applicant be admitted for initiating the Corporate Insolvency Resolution Process (CIRP) under the provisions of the Code.
9. The details of the operational debt by the Corporate Debtor to the Petitioner / Operational Creditor as reflected in Part-IV of the application as under: -

Part-IV

Sr. No.	Particulars of Operational Debt	
1	Total Amount of debt, details of transactions on account of which debt fell due, and the date from which such debt fell due.	Rs. 1,67,44,116.22 (One Crore Sixty-Seven Lakhs Forty-Four Thousand One Hundred and Sixteen Rupees and Twenty-Two Paise Only) including the principal amount of Rs. 1,60,93,000.00/- (One Crore Sixty Lakhs Ninety-Three Thousand Rupees Only) and Interest amount of Rs. 6,51,116.22 (Six Lakhs Fifty-One Thousand and One Hundred and Sixteen Rupees and Twenty-Two Paise Only) charged @ 18% per annum



10. An affidavit in reply filed by the Respondent / Corporate Debtor through Authorized Representative (Mr. Surendra Kumar Yadav) vide Dairy No. 2686/2025 dated 05.12.2025 wherein stated as under: -

10.1 He has denied all the statements, averments, claims, submissions and allegations raised by the applicant herein in the present application and the affidavit produced along with it, except those which are specifically admitted by him hereinafter.


10.2 It is submitted that on account of continuous financial losses and severe liquidity constraints, the Corporate Debtor has been facing extreme financial hardship, rendering it temporarily unable to discharge its outstanding liabilities towards the Operational Creditor. The Corporate Debtor unequivocally acknowledges the existence of the said debt.

10.3 It is further submitted that the Corporate Debtor had made several bona fide requests to the Operational Creditor seeking reasonable time to regularize and clear the outstanding dues. However, despite such genuine requests, the initiation of the present proceedings by the Operational Creditor appears to be an arm-twisting measure intended to exert undue pressure upon the Corporate Debtor.

10.4 It is further submitted that the Corporate Debtor had on several occasions, raised oral grievances before the Operational Creditor regarding the substandard and inferior quality of goods supplied.

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Despite such complaints and objections, the Operational Creditor has failed to provide any response or clarification thereto till date.

10.5 In view of the same, a genuine and pre-existing dispute exists between the parties with respect to the quality of goods supplied and the consequent computation and quantification of the alleged operational debt still exists.


10.6 It is also stated that the Corporate Debtor has, on multiple occasions, demonstrated its *bona fide* readiness and willingness to discharge the outstanding dues payable to the Operational Creditor. However, owing to prevailing financial constraints and temporary liquidity issues, the Corporate Debtor humbly seeks a period of at least six months to regularize and make payment towards the said outstanding operational debt.

10.7 It is further submitted that the present financial distress is merely temporary in nature, arising out of unforeseen business disruptions, which has consequently affected the operations and cash flow of the Corporate Debtor.

10.8 It is stated that the Corporate Debtor respectfully acknowledges the existence of the operational debt as claimed by the Operational Creditor. However, it is submitted that there exists an oral pre-existing

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dispute between the parties in respect of the quality and quantification of the goods / services supplied.

Findings and analysis

11. Under Section 9, the Adjudicating Authority is required to see, inter alia, whether: -
- (a) *The application is complete;*
 - (b) *The operational debt is due and payable and has not been paid;*
 - (c) *The demand notice was delivered; and*
 - (d) *Whether notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility.*
12. The Hon'ble Supreme Court in **Mobilox Innovations Private Limited Vs Kirusa Software Private Limited** has settled that the Adjudicating Authority does not examine the merits of the dispute but must see whether there is a plausible contention requiring further investigation and that the dispute is not a patently feeble legal argument or an assertion of fact unsupported by evidence. **If such a “real dispute” pre-exists the demand notice, Section 9 cannot be used as a substitute for debt enforcement.**
13. It is equally well-settled that mere financial difficulty or a request for time does not constitute a dispute under Section 8 & 9 of the Code is not to be diluted on such pleas where default is otherwise established.

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14. The Operational Creditor has pleaded supply of goods (agro-commodities, including Basmati rice) to the Corporate Debtor under invoices placed on record, with corresponding ledger/statement and supporting transport and delivery documents, and further relies upon confirmation of accounts.
15. The amount claimed in default is Rs. 1,67,44,116.22, with principal Rs. 1,60,93,000/-. The petition specifies the date of default as 04.05.2024 and also pleads that payment was to be made in 30 days.
16. On the face of the pleadings, the claim relates to invoices for the period 04.04.2024 to 02.05.2024, and the default date stated is in May 2024. The petition (filed in 2025) is therefore within the period of limitation prescribed under Article 137 of the Limitation Act, 1963 as applicable to IBC proceedings.
17. The Corporate Debtor, in its reply, does not deny the existence of the operational debt; rather, it acknowledges the debt and seeks time to pay. Such acknowledgment is a significant circumstance reinforcing the Operational Creditor's assertion that the debt is due and payable.
18. Accordingly, we are satisfied *prima facie* on the record that: -
 - (a) *There exists an operational debt;*
 - (b) *Default has occurred; and*
 - (c) *The debt amount is well above the threshold under Section 4 of the IBC.*

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19. The Operational Creditor has pleaded issuance of demand notice dated 07.08.2024 in statutory Form and delivered at the registered address of the Corporate Debtor and has relied upon tracking/service documents.
20. The Corporate Debtor's reply does not set up a specific defence of non-service of demand notice; rather, the Corporate Debtor contests on merits and seeks time. In these circumstances, there is of due issuance and delivery of demand notice in terms of Section 8.
21. The Corporate Debtor's principal defence is that there was an "oral" dispute regarding substandard/inferior quality of goods, and therefore the petition is not maintainable. Applying the Mobilox Innovations Private Limited Vs. Kirusa Software Private Limited test, the dispute must be shown to be pre-existing, i.e., it must have existed prior to receipt of the Section 8 demand notice, and it must be supported by some material showing a genuine dispute requiring investigation. A bald assertion particularly raised for the first time in reply to a Section 9 Petition cannot by itself constitute "existence of dispute" so as to non-suit the Operational Creditor.
22. In the present case, the following observations are important: -
 - (i) The Corporate Debtor acknowledges the operational debt and prays for time to pay; this is inconsistent with a stand of bona fide repudiation of liability on account of defective goods.

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- (ii) The reply refers to “oral” complaints and objections but does not place on record contemporaneous written complaints, emails, notices, debit notes, inspection reports, test reports, or proof of rejection/return of goods.
- (iii) No material is shown of any pending suit/arbitration or any prior proceedings initiated by the Corporate Debtor in relation to alleged inferior quality, prior to issuance of demand notice.
- (iv) The Operational Creditor’s petition, on the other hand, relies upon invoices, transport/delivery documents and confirmation of accounts as part of the annexures.

23. The defence raised by the Corporate Debtor, as it stands, is therefore in the nature of a generalised and unsubstantiated assertion, without supporting evidence. In the absence of any credible material showing a genuine pre-existing dispute, we are unable to hold that the petition is barred under Sections 8 and 9.

24. We also observe that the plea of “financial hardship” and “liquidity constraints” is not a legally recognised ground to reject an otherwise maintainable petition under Section 9 once default is established. The Code proceeds on the objective criterion of default, and the Adjudicating Authority cannot rewrite the commercial bargain by granting instalments or

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time in place of the statutory consequence of admission, except in situations contemplated by law.

25. Consequently, issue (ii) is answered against the Corporate Debtor: no pre-existing dispute, meeting the Mobilox Innovations Private Limited Vs Kirusa Software Private Limited threshold, is made out on the basis of the reply as filed.
26. The Operational Creditor has filed the petition in Form-5 and has stated/annexed the documents as required, including demand notice, invoices and supporting documents, bank statement, and the written communication/consent (Form-2) of the proposed IRP, CA Kailash Shah with his IBBI registration details.
27. On the basis of the record placed, we are satisfied that the application is complete and fulfills the requirements of Section 9(3) and the Rules.

Conclusions

28. For the reasons recorded above, we are of the opinion that in the instant case, all the ingredients laid out under Section 9 are fulfilled. Therefore, we are inclined to initiate Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor i.e., Cropberry Foods Private Limited.
29. Under sub-section (4) of Section 9 of the Code, the Operational Creditor may propose the name of a Resolution Professional to be appointed as Interim Resolution Professional ('IRP'). In the instant case, the Operational

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Creditor has proposed the name of Mr. Kailash Shah, bearing Registration No. IBBI/IPA-001/IP-P00267/2017-18/10511 with the address *505, 21st Century Business Centre, Near World Trade Centre, Ring Road, Surat-395002* as the IRP in the present matter. The said IRP has filed his written consent to act as an interim resolution professional in Form-2 provided under Rule 9 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016.

30. We hereby appoint Mr. Kailash Shah having registration No. No. IBBI/IPA-001/IP-P00267/2017-18/10511 as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the Code, subject to there being no disciplinary proceedings pending against him and subject to all compliances under the IBC and IBBI regulations.
31. The IRP is directed to take all such steps as are required under the statute, inter-alia in terms of Sections 15, 17, 18, 19, 20 and 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, and Rules and Regulations thereunder. The Interim Resolution Professional to check the genuineness of the claim while admitting the operational dues of the Applicant.
32. Consequences of initiation of CIRP shall be inter-alia as follows: -

32.1 The IRP appointed by the Adjudicating Authority is directed to take over the affairs of the Corporate Debtor and duties as required to be

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performed by him under the provisions of Code including issue of publication in widely circulated Newspapers as contemplated under the provisions of the Code and calling for claims from the creditors of the Corporate Debtor; and collation of the same.

32.2 Further, as a sequel of admission, moratorium as envisaged under Section 14 of the Code is invoked in relation to the Corporate Debtor which will be in vogue during the CIRP of the Corporate to Debtor. The IRP shall carry out CIRP strictly as per the timelines specified and as envisaged under the provisions of the Code in relation to the Corporate Debtor.

32.3 The said IRP shall act strictly in accordance with the provisions of the Code. This Bench also directs for an advance payment of Rs. **1,00,000/-** (Rupees One Lakh only) to be paid by the Petitioner to the Interim Resolution Professional immediately to initiate the process which shall be adjusted towards the expenses payable to the Resolution Professional. In terms of Section 17 and 19 of the Code all personnel of the Corporate Debtor including promoters and Board of Directors, whose powers shall stand suspended, shall extend all cooperation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP.

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32.4 In terms of Section 9 of the Code, this order shall be communicated at the earliest, not exceeding one week from today, to the Applicant, the Corporate Debtor as well as the IRP appointed by this Adjudicating Authority to carry out CIRP. A copy of this order shall also be communicated to IBBI for its records.

33. Accordingly, *CP No. (IB)-68/9/JPR/2025 is admitted*. The Registry is directed immediately to send a soft copy of the instant Application along with this order to the parties along with the IRP appointed herein.

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**REETA KOHLI
JUDICIAL MEMBER**

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**KAVITA BHATNAGAR
TECHNICAL MEMBER**

M.S.