



IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI

COURT-IV

C.P. (IB) 319/ND/2026

Under Section 9 of the Insolvency & Bankruptcy Code, 2016 and Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016

IN THE MATTER OF:

M/s Impresario

...Operational Creditor/Applicant

Versus

Colorbar Cosmetics Private Limited

...Corporate Debtor/Respondent

CORAM:

SHRI MAHENDRA KHANDELWAL

HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI

HON'BLE MEMBER (TECHNICAL)

Order delivered on: 30.09.2026

PRESENT:

For the Applicant : Sr. Adv. Mr. Virendra Ganda, Mr. Vishal Ganda, Ms. Riya Palnitkar, Ms. Gargi Patel, Advocates

For the Respondent : Mr. Ankur Gupta, Advocate



ORDER

PER: MAHENDRA KHANDELWAL, MEMBER (JUDICIAL)

1. The present application C.P. (IB) No. 319/ND/2026 is filed under section 9 of the Insolvency and Bankruptcy Code, 2016 (“Code/IBC”) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016 by M/s Impresario (“Applicant/Operational Creditor”) to initiate Corporate Insolvency Resolution Process (“CIRP”) against Colorbar Cosmetics Pvt. Ltd. (“Respondent/Corporate Debtor”) for alleged default of Rs. 4,39,21,807/- (Rupees Four Crores Thirty-Nine Lakhs, Twenty-One Thousand Eight Hundred and Seven Only) (which includes Rs. 3,70,63,027/- as principal and Rs. 68,58,780/- as interest till 30.05.2026 @ 18% per annum from the default date).
2. The Corporate Debtor having CIN: U24246DL2004PTC125599 was incorporated on 02.04.2004 under the provisions of the Companies Act, 1956, having its registered office at 4, Community Centre, New Friends Colony, New Delhi-110065. Since the registered office of the Respondent/Corporate Debtor is in New Delhi, this Adjudicating Authority having territorial jurisdiction over the NCT of Delhi is the Adjudicating Authority in relation to the prayer for initiation of Corporate Insolvency Resolution Process in respect of Respondent Corporate Debtor under sub-section (1) of Section 60 of the Code.



3. The present application is filed before this Adjudicating Authority by Mr. Sharad Kamal Jain, Partner of the Operational Creditor, duly authorized vide General Power of Attorney to institute the present application.

CONTENTIONS OF THE APPLICANT

4. Brief facts of the case and contentions of the applicant as mentioned in the instant application are as follows:

- i. The Applicant/Operational Creditor is a registered partnership firm with the Registrar of Firms, New Delhi, registered on 04.02.2026 and is engaged in the business of promotional activities, which includes end-to-end supply chain control actions.
- ii. Around June 2015, the Corporate Debtor approached the Operational Creditor, and it was agreed and finalised between the parties that the Operational Creditor would supply articles to the Corporate Debtor as per their need and requirements.
- iii. For this arrangement, the Operational Creditor would issue quotation(s) [i.e., Estimate/Proforma Invoices] to the Corporate Debtor offering details of articles and prices. The Corporate Debtor would then place purchase order(s) specifying the details of articles and prices as per their need along with terms and conditions.



- iv. Thereafter, the Operational Creditor raised invoices and supplied requisite articles to the Corporate Debtor on a credit period of 60 (sixty) days. In consideration thereof, the Corporate Debtor used to make on-account running payments to the Operational Creditor.
- v. This arrangement continued and regular payment were made by the Corporate Debtor to the Operational Creditor.
- vi. Thereafter, during the period between 28.09.2024 and 08.05.2025, the Operational Creditor issued 10 (ten) Estimate/Proforma Invoices to the Corporate Debtor. Pursuant to the receipt of the same, the Corporate Debtor placed 10 (ten) corresponding Purchase Orders in favour of the Operational Creditor between 01.10.2024 and 20.05.2025. Accordingly, the Operational Creditor supplied requisite articles to the Corporate Debtor on credit basis through 16 (sixteen) Tax Invoices, from 28.12.2024 to 11.08.2025, along with 16 (sixteen) e-way bills.
- vii. The Corporate Debtor had duly received said articles from the Operational Creditor and the articles provided by the Operational Creditor were satisfactory.



- viii. The following is the summary of the outstanding amounts with respect to the invoices:

Invoice No.	Invoice Date	Default Amount (Rs.)
GST/363/2024-25	28.12.2024	6,34,939*
GST/368/2024-25	31.12.2024	42,98,858
GST/369/2024-25	31.12.2024	17,86,048
GST/370/2024-25	01.01.2025	71,94,602
GST/373/2024-25	16.01.2025	2,95,000
GST/377/2024-25	24.01.2025	94,400
GST/396/2024-25	24.02.2025	71,46,080
GST/002/2025-26	03.04.2025	45,13,500
GST/007/2025-26	25.04.2025	18,880
GST/008/2025-26	26.04.2025	19,824
GST/014/2025-26	14.05.2025	1,97,296
GST/024/2025-26	27.06.2025	5,09,760
GST/023/2025-26	27.06.2025	33,45,300
GST/025/2025-26	08.07.2025	23,04,540
GST/026/2025-26	08.07.2025	14,11,200
GST/056/2025-26	11.08.2025	32,92,800
TOTAL		3,70,63,027
<i>*Tax Invoice dated 28.12.2024 was for INR 68,16,978, but the Corporate Debtor made on account payments to the Operational Creditor. Accordingly, after adjusting the said amount in the last invoice, there is the default liability of INR 6,34,939 from such an invoice.</i>		

- ix. The Operational Creditor deposited IGST @ 18%, as mentioned in the said Tax Invoices, in the GST account of the Corporate Debtor. The Corporate Debtor also availed Input Tax Credit of the said GST amount i.e., Rs. 63,83,145.60 (Rupees Sixty-Three Lakhs Eighty-Three Thousand One Hundred Forty-Five and Sixty Paise) against the said 16 (sixteen) Tax Invoices.



- x. As per the arrangement between the parties, payment was to be made within 60 days from the date of the invoice. As per the ledger account statement maintained by the Operational Creditor, a sum of Rs. 3,70,63,027/- (Rupees Three Crores Seventy Lakhs Sixty-Three Thousand and Twenty-Seven Only) is lying due and payable by the Corporate Debtor to the Operational Creditor, being the principal outstanding amount. The Operational Creditor has, as per standard accounting practice, followed the 'First In First Out' (FIFO) method for adjustment of payments received.
- xi. The Corporate Debtor, while admitting its liability, has failed to pay the outstanding amount to the Operational Creditor despite repeated follow-ups and demands. A sum of Rs. 4,39,21,807/- (Rupees Four Crores Thirty-Nine Lakhs, Twenty-One Thousand Eight Hundred and Seven Only) (which includes Rs. 3,70,63,027/- as principal and Rs. 68,58,780/- as interest @ 18% per annum from 26.02.2025 till 30.05.2026) remains due and payable by the Corporate Debtor.
- xii. Corporate Debtor had issued an accounts payable balance confirmation letter in favour of the Operational Creditor dated 15.05.2026 which records Rs. 3,72,19,650/- as payable to the Operational Creditor. The balance owed by the Corporate Debtor



to the Operational Creditor is also confirmed by M S K A & Associates LLP appointed by the Operational Creditor.

- xiii. The Operational Creditor issued a demand notice dated June 2, 2026 to the Corporate Debtor, under Section 8 of the Code read with Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, and the same was duly served.
- xiv. The Corporate Debtor issued a reply dated June 9, 2026 against the Demand Notice raising vague and baseless averments consisting of certain internal irregularities and complaints against its own employees, only to avoid payment of the debt which is admittedly due and payable.
- xv. The first unpaid Tax Invoice was raised on 28.12.2024. In accordance with the agreed payment terms between the parties, the debt became due and payable by the Corporate Debtor upon expiry of the period of 60 (sixty) days from the date of the Tax Invoice, i.e., on 26.02.2025. The said amount continues to remain due and payable to the Operational Creditor till date. Thereafter, several Tax Invoices remained unpaid by the Corporate Debtor. The last unpaid Tax Invoice was dated 11.08.2025 and, upon expiry of the agreed credit period of 60



(sixty) days, the amount covered under the said invoice became due and payable on 09.10.2025.

CONTENTIONS OF THE RESPONDENT

5. The averments of the Respondent as contained in the reply on behalf of the Respondent are as follows:

- i. The application is not maintainable and is liable to be dismissed in view of the law laid down by Hon'ble Apex Court in ***Surguja Transport Service vs. State Transport Appellate Tribunal, MP, Gwalior & Ors. [(1987) 1 SCC 5]***, wherein, it was held that a fresh writ petition is not maintainable before the High Court in respect of the same subject matter when the earlier Petition was withdrawn without permission to file a fresh Petition.

The Applicant had filed Application C.P. (IB) 86/ND/2026 before this Adjudicating Authority on the same cause of action and sought similar reliefs, as prayed for in the present Application. The Applicant was given an option to either to invite an order of dismissal of the Application or to withdraw the same to enable the Applicant to settle the matter with the Respondent qua the amount of debt allegedly defaulted to be paid by CD. The Adjudicating Authority specifically rejected the oral submissions of the counsel for the Applicant to grant liberty to approach the Adjudicating Authority in case the settlement talks between the



parties fails. However, since, the matter was permitted to be withdrawn after hearing of detailed oral submissions of the parties, this Adjudicating Authority was pleased not to grant any such liberty to the Applicant. The present Application therefore is not maintainable.

- ii. There is already a pre-existing dispute between the parties which was notified to the Applicant vide email dated 05.12.2025, i.e., prior to the issuance of the first demand notice dated 18.12.2025. Through the said email, the Respondent had categorically informed the Applicant regarding the pendency of an investigation into fraudulent activities committed by the erstwhile employees of the Respondent in connivance with various vendors, inter alia, including the Applicant, M/s Impresario. The Respondent, vide email dated 30.12.2025, had duly responded to the demand notice dated 18.12.2025 issued by the Applicant, wherein it was categorically stated that the erstwhile employees of the Respondent, in collusion with the vendors, including the Applicant, had caused huge financial losses to the Respondent and had committed acts of serious fraud, criminal breach of trust, criminal misappropriation of property, etc. Hence the Application is liable to be rejected.



- iii. A criminal investigation has been initiated by the Respondent on 06.02.2026 before the SHO, New Friends Colony Police Station, South-East District, New Delhi. The complaint makes it evident that several employees of the Respondent, named in the complaint, had colluded with the Applicant by helping the Applicant in procuring purchase orders from the Respondent at a substantially higher price, causing wrongful loss to the Respondent. These employees had also received commissions/kick-backs for granting orders to the Applicant. The Respondent had appointed a reputed external agency E&Y which submitted its report in January 2026 affirming various acts of illegalities committed by the erstwhile employees and various vendors including the Applicant.
- iv. The Respondent hasn't been able to fetch all the acts of cheating, fraud and breach of trust by Applicant as neither the Respondent nor the external agency E&Y can investigate beyond the information available in the official data and systems of the erstwhile employees.
- v. Demand for payment of interest of Rs. 68,58,780/- @18% p.a. is legally inadmissible, since, there was no agreement between the parties for payment of any interest amount in the event of any delay in release of the alleged invoices. The Respondent also



denies any amount of Rs. 3,70,63,027/- as lying due and payable as per the ledger account because the sum reflected in the ledger also bears inflated prices resulting from the collusion of the employees of the Respondent with the Applicant.

- vi. The Respondent denies that any debt is payable to the Applicant. In fact, it is the Respondent who has to recover substantial amount of money unlawfully earned or gained by Applicant through illegal/fraudulent means in collusion with the erstwhile employees of the Respondent. However, the exact amount recoverable by the Respondent shall only be ascertained after completion of the investigation by the Police authorities.
- vii. Reliance on letter dated 15.05.2026 & e-mail dated 11.06.2026, is legally inadmissible, as concerned auditor was not provided with case records of instant proceedings or records of Application No. C.P.(IB) 86/ND/2026, wherein, claims have been categorically disputed by Respondent. The aforesaid letters had been inadvertently issued by the auditor as would evidence by email dated 21.07.2026 issued by the said auditors.

6. **Averments of Applicant by way of Rejoinder**

The Applicant has made the following submissions in the Rejoinder to the Reply of the Respondent:



- i. The present Section 9 Application is maintainable, and the erstwhile application filed under Section 9 of the Code in C.P.(IB) 86/ND/2026, which was subsequently “dismissed as withdrawn” has no bearing whatsoever on the maintainability of the current Section 9 Application. The present case does not involve re-agitation of the same cause of action as the Previous Section 9 Application was dismissed as withdrawn vide order dated May 20, 2026, in the following terms: *“As prayed by the Ld. Counsel for the Petitioner, the petition is dismissed as withdrawn to enable the Petitioner to enter into settlement qua the amount of debt allegedly defaulted to be paid by the Debtor.”* The withdrawal was thus expressly and solely to enable settlement talks which did not fructify, and the Corporate Debtor has continued to default even thereafter. This subsequent failure of settlement, along with the Corporate Debtor’s continuing as well as fresh default, constitutes an independent and fresh cause of action by issuing a fresh demand notice under Section 8 of the Code.
- ii. The right to initiate the corporate insolvency resolution process is a statutory right which accrues upon the occurrence of a default and continues so long as the default subsists.
- iii. Order XXIII Rule 1(4) of the CPC precludes the institution of a “fresh suit”. An application under Section 9 of the Code is not a suit, this



Adjudicating Authority is not a civil court, as laid down by Hon'ble Supreme Court in ***Embassy Property Developments (Private) Limited v. State of Karnataka [(2020) 13 SCC 308]***, and by virtue of Section 424 of the Companies Act, 2013, this Hon'ble Adjudicating Authority is not bound by the procedure laid down in the CPC and is guided by the principles of natural justice.

- iv. The defence of a pre-existing dispute set up by the Corporate Debtor is nothing but a moonshine defence and is thus, liable to be rejected. The police complaint dated February 6, 2026 relied upon by the Corporate Debtor, shows that the allegations of fraud, kickbacks, and criminal breach of trust are levelled exclusively against the Corporate Debtor's own erstwhile/serving employees and not against the Operational Creditor. It is well settled law that where a police complaint is relied on to prove a pre-existing dispute, the dispute should be between the parties inter-se, and not against unknown or third persons, and that an unadjudicated, unilateral allegation cannot be elevated into a "pre-existing dispute" so as to defeat an otherwise admitted and undisputed operational debt.
- v. Till date, no substantive step or action pursuant to the said complaint has been brought on record by the Corporate Debtor. No FIR has been registered against the Operational Creditor, no summons or notice has been issued to the Operational Creditor by



any investigating agency, and no charge-sheet has been filed. The mere filing of a police complaint, without any consequential action, investigation or proceedings, being a unilateral act, cannot by itself establish the existence of a genuine pre-existing dispute, particularly when the said complaint contains no allegation against the Operational Creditor or the products supplied by the Operational Creditor. The complaint neither disputes a single invoice nor identifies a single purchase order. It does not question the quantity, quality, specification, delivery or acceptance of any goods or services supplied by the Operational Creditor, nor does it dispute the running ledger account maintained between the parties. It also raises no claim in the nature of a set-off. A communication or unilateral act of such nature does not satisfy the description of a “dispute” under Section 5(6) of the Code, which is confined to disputes relating to the existence of the debt, the quality of goods or services, or the breach of a representation or warranty.

- vi. The alleged investigation by the external agency, was a unilateral exercise conducted by an agency in the pay of the Corporate Debtor, behind the back of the Operational Creditor. The Operational Creditor was never put on notice, was never furnished with any material, and was never afforded an opportunity of being heard. A report arrived at in such circumstances has no evidentiary value as



against the Operational Creditor and cannot be constituted as a bona fide dispute. The Applicant has relied on ***Mobilox Innovations Private Limited v. Kirusa Software Private Limited, [(2018) 1 SCC 353]*** to assert that to defeat an application under Section 9, the dispute must be a real dispute, truly existing in fact prior to the receipt of the demand notice, and must not be spurious, hypothetical, illusory or a mere moonshine defence raised for the purpose of resisting admission.

- vii. The letter dated May 15, 2026, is on the Corporate Debtor's letter head, and signed by the Chief Financial Officer, and not issued by an auditor. It is also categorically stated that they have appointed M S K A & Associates LLP to confirm the balance of Rs. 3,72,19,650 (as on April 30, 2026) owed to the Operational Creditor by the Corporate Debtor.

FINDINGS AND ANALYSIS

7. We have perused the documents filed and heard the arguments made by the Ld. Counsel for the Operational Creditor and the Respondent.
8. The present Application has been filed by M/s Impresario, a registered partnership firm with the Registrar of Firms, New Delhi, registered on 04.02.2026 against Colorbar Cosmetics Pvt. Ltd. having CIN: U24246DL2004PTC125599 incorporated on 02.04.2004 under the



provisions of the Companies Act, 1956 for initiation of CIRP of Colorbar Cosmetics Pvt. Ltd. – Corporate Debtor for an alleged default of Rs. 4,39,21,807/- (Rupees Four Crores Thirty-Nine Lakhs, Twenty-One Thousand Eight Hundred and Seven Only) (which includes Rs. 3,70,63,027/- as principal and Rs. 68,58,780/- as interest till 30.05.2026 @ 18% per annum from the default date).

9. Prior to the current Application under section 9 of IBC bearing C.P. (IB) No. 319/ND/2026 a separate Application under section 9 was filed by the Operational Creditor bearing C.P. (IB) 86/ND/2026 which was withdrawn by the Applicant to enter into settlement with the Corporate Debtor qua the amount of debt allegedly defaulted to be paid by the Corporate Debtor as evidenced from order dated 20.05.2026. The demand notice under Section 8 for this Application was sent to the Corporate Debtor on 18.12.2025 and the reply dated 30.12.2025 was received by the Applicant.
10. The Applicant submits that the settlement between the parties could not fructify as the matter was withdrawn. The Corporate Debtor continued to default in making payments to the Operational Creditor and hence this fresh Application bearing C.P. (IB) 319/ND/2026 was again filed against the Corporate Debtor.
11. The earlier application bearing C.P. (IB) 86/ND/2026 was not considered on merits. Therefore, the principle of *Res judicata* will not apply in the present case.



12. Reliance by the Corporate Debtor on the judgment of Hon'ble Apex Court ***Surguja Transport Service vs. State Transport Appellate Tribunal, MP, Gwalior & Ors. [(1987) 1 SCC 5]***, is misplaced as the said case in respect of the Writ jurisdiction of the High Court. It is noteworthy to elucidate that the jurisdiction of Hon'ble High Court in relation to admission of Writ Petitions is entirely different from the jurisdiction of this Adjudicating Authority in examination of Section 9 Applications under the IBC. We are now considering and examining the present C.P. (IB) bearing 319/ND/2026 on merits.
13. On perusal of records, it is observed that the Applicant had served a fresh demand notice under Section 8 of IBC on 02.06.2026 to the Corporate Debtor after dismissal of earlier section 9 application and before filing the present application demanding payment of outstanding dues amounting to Rs. 4,39,21,807/- (Rupees Four Crores Thirty-Nine Lakhs, Twenty-One Thousand Eight Hundred and Seven Only).
14. The Corporate Debtor had replied to the notice dated 09.06.2026 stating that there are ongoing complaints and investigations against various vendors of the Corporate Debtor including the Applicant. It is further stated that the Applicant has colluded with the erstwhile employees of the Corporate Debtor and was involved in misconduct of giving commissions/kick-backs in lieu of Purchase Orders, that too at inflated price.



15. For admission of a Section 9 application, one of the principal requirements is that there should not be any pre-existing dispute between the Operational Creditor and the Corporate Debtor before issuance of the Section 8(1) notice. It is the mandate of law that if there is a pre-existing dispute between the parties the Adjudicating Authority has to reject the application under section 9(5)(ii)(d). Reliance can be placed on the landmark precedent of Hon'ble Supreme Court in ***Mobilox Innovations Pvt. Ltd. Vs. Kirusa Software Private Limited [(2018) 1 SCC 353]*** where it was held:

“We have also seen that one of the objects of the Code qua operational debts is to ensure that the amount of such debts, which is usually smaller than that of financial debts, does not enable operational creditors to put the corporate debtor into the insolvency resolution process prematurely or initiate the process for extraneous considerations. It is for this reason that it is enough that a dispute exists between the parties.”

.....

Therefore, all that the adjudicating authority is to see at this stage is whether there is a plausible contention which requires further investigation and that the “dispute” is not a patently feeble legal argument or an assertion of fact unsupported by evidence. It is important to separate the grain from the chaff and to reject a spurious defence, which is mere bluster. However, in doing so, the Court does not need to be satisfied that the defence is likely to succeed. The Court does not at this stage examine the merits of the dispute except to the extent indicated above. So long as a dispute truly exists in fact and is not spurious, hypothetical or illusory, the adjudicating authority has to reject the application.”



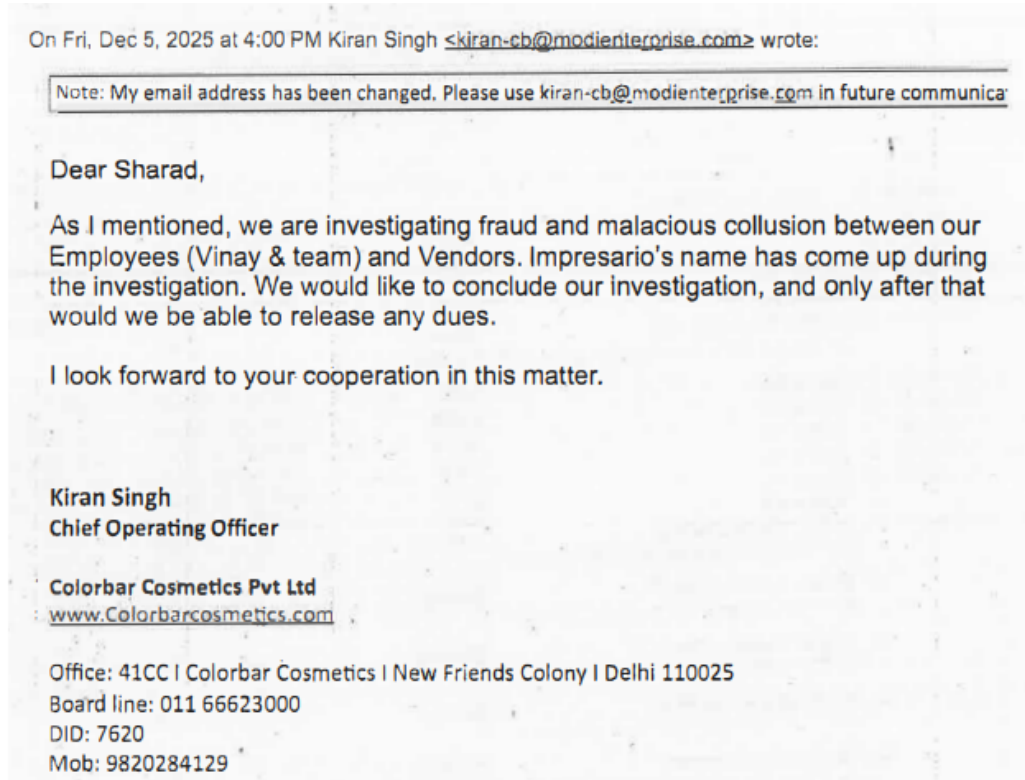
16. The abovementioned judgment has again been reiterated by the Hon'ble Supreme Court in its judgement delivered on January 04, 2023 in the case of **Sabarmati Gas Limited vs. Shah Alloys Limited [(2023) 3 SCC 229]** where it has been held:

"It is enough that a dispute exists between the parties and in other words, what is to be seen is whether there was a plausible contention requiring investigation for the purpose of adjudication. Taking note of the nature of the dispute of the respondent as referred hereinbefore in respect of the claim made by the appellant, we do not find any reason to disagree with the concurrent findings of the Tribunals that there existed a 'pre-existing dispute' between the parties before the receipt of demand notice under Section 8, IBC. In other words, the dismissal of the application under Section 9, IBC on the ground of 'pre-existing dispute' cannot be held to be patently illegal or perverse. We also do not find any reason, in the facts and circumstances, to hold that the case set up by the respondent was a patently feeble legal argument. At any rate, we are not inclined to brush aside the case of the respondent as spurious. We may hasten to add here that we shall not be understood to have held that the dispute set by the respondent regarding the dues is ultimately to be upheld. Certainly, when the expression 'pre-existing dispute' is used it will only indicate the existence of a dispute prior to the receipt of a demand notice under Section 8, IBC, and the correctness or its truthfulness is a matter of evidence. In short, the respondent has succeeded in raising a dispute describable as 'pre-existing dispute'. In that view of the matter once we find that the Tribunals have rightfully held that there existed a 'pre-existing dispute' between the parties there cannot be an order of remand of the matter to the Tribunal for reconsideration of Section 9 application under IBC."

17. In order to ascertain the existence of a dispute prior to the Section 8 notice, if any, we examine the various communications and documents on record submitted by the parties.



18. On perusal of case records, it is evident that prior to the issuance of demand notice under section 8 of IBC by the Applicant, the Corporate Debtor had intimated the Applicant via email dated 05.12.25 relating to an ongoing investigation against various vendors of the Corporate Debtor including the present Applicant.



19. Further, it is also observed that much before Demand Notice dated 02.06.2026, served by the Applicant upon the Respondent, the CD had lodged a complaint dated 06.02.2026 against its erstwhile employees before S.H.O, New Friends Colony, Police Station, South-East District, New Delhi. The Complaint filed contains contentions against the Applicant as a vendor of the Corporate Debtor acting in collusion with the erstwhile



employees of the Corporate Debtor for bid-rigging/commissions/kick-backs. Hence, we are not inclined to accept the contention of the Applicant that the police complaint is against unknown third persons and so it cannot be relied upon.

The relevant portion of the said complaint is as follows:

15. In another procurement irregularity, the Complainant company issued a tender for procurement of 1,00,000 (one lakh) portable wet towels. An existing vendor, Impressario, quoted ₹102 per unit, while Essence Trading Company quoted ₹94 per unit. Consequently, the order was awarded to Essence Trading Company. Subsequent the internal review revealed that Essence Trading Company is owned by Nidhi Chaudhary, who is a partner with the accused Richa Kansal's husband, Ankit Malhotra, in another firm. Investigation further uncovered a document was found in the official laptop of Accused No.1 Vinay Kumar, evidencing Essence Trading Company has procured 1,00,000 towels from Impressario at ₹84 per unit. This establishes a pre-planned conspiracy among accused Vinay Kumar, Richa Kansal, Ankit Malhotra and Essence Trading Company, whereby the complainant company was induced to procure at an inflated rate of ₹94 per unit, occasioning wrongful loss to the company and corresponding wrongful gain to the accused. A copy of procurement order to Essence Trading and invoice issued by Impressario is annexed as **ANNEXURE-M**.

16. It is pertinent to note that in order to favour Impressario in other procurements, accused Vinay Kumar, in collusion with proxy vendor AEI



Technologies, and procured quotations at marginally higher prices from genuine vendors. This enabled Impressario to secure orders. Notably, AEI Technologies, not being engaged in the packaging business, submitted multiple fictitious quotations for packaging pouches, makeup bags, and similar items solely to benefit accused Vinay Kumar, Gautam Arora, and others. It was also revealed that the owners of Impressario and AEI Technologies are old associates/friends of Accused Vinay Kumar. Mr. Vinay Kumar along with his team member, Gautam Arora were involved in manipulation of vendors & quotations during the process of procurement and were found to be accepting potential financial & other favours from the vendors. Copies of competing quotations shared by Impressario and AEI Technologies are annexed herewith as **ANNEXURE-N**.

20. Moreover, the reply dated 09.06.2026 to the demand notice categorically mentions about these prior issues between the parties. In para 2 to 5 of the reply to the demand notice, the respondent mentions about the investigation conducted by it against the acts of collusion of various of its vendors with its erstwhile employees and that the same had been intimated to the Applicant through email dated 05.12.2025, prior to the issuance of demand notices. The Corporate Debtor also mentions an approximate amount of Rs. 4,11,54,123/- as loss suffered by the Corporate Debtor due to the acts of the Applicant. Paras 2 to 4 of the reply to Demand Notice reads:

2. Without Prejudice, your Client has failed to disclose true facts and events in the notice under reply and have raised false and baseless claims against my Client

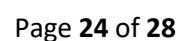
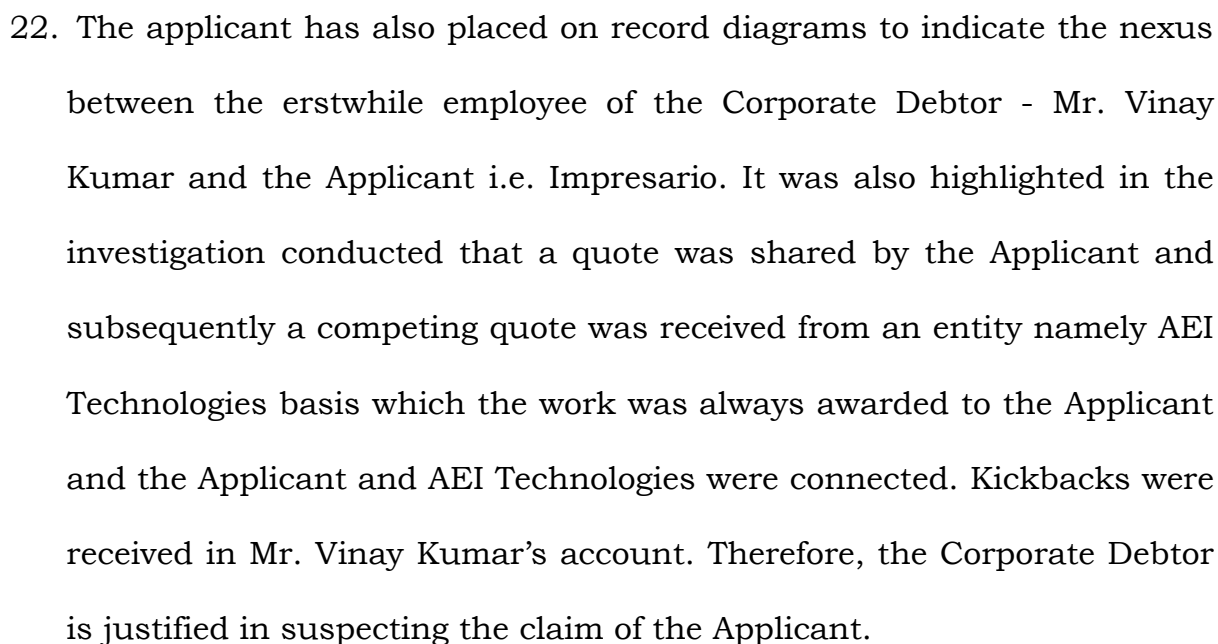


and no amount of debt. of Rs.4,39,21,807/- is due and payable by my Client to your client, as alleged. From 15.04.2016 - till date, your Client was paid a total sum of Rs. 41,15,41,238.50/- (Rupees Forty-One crore fifteen lakhs forty-one thousand two hundred thirty-eight and paisa fifty) and considering the sample commission/loss in the fraudulent transactions identified by E&Y, my Client has suffered an approximate loss of Rs. 4,11,54,123/-. My Client further reserves its right to revise the aforesaid losses suffered due to your Client's unlawful conduct once the investigation by the police authorities gets concluded.

Your Client in collusion with erstwhile employees of my Client procured purchase orders from my Client at substantially higher price, which has caused wrongful loss to my Client. The internal investigation by my Client, has further revealed that your Client was involved in serious mis-conduct of giving commissions/kick-backs to the erstwhile employees of my Client in lieu of Purchase Orders, that too at an inflated price.

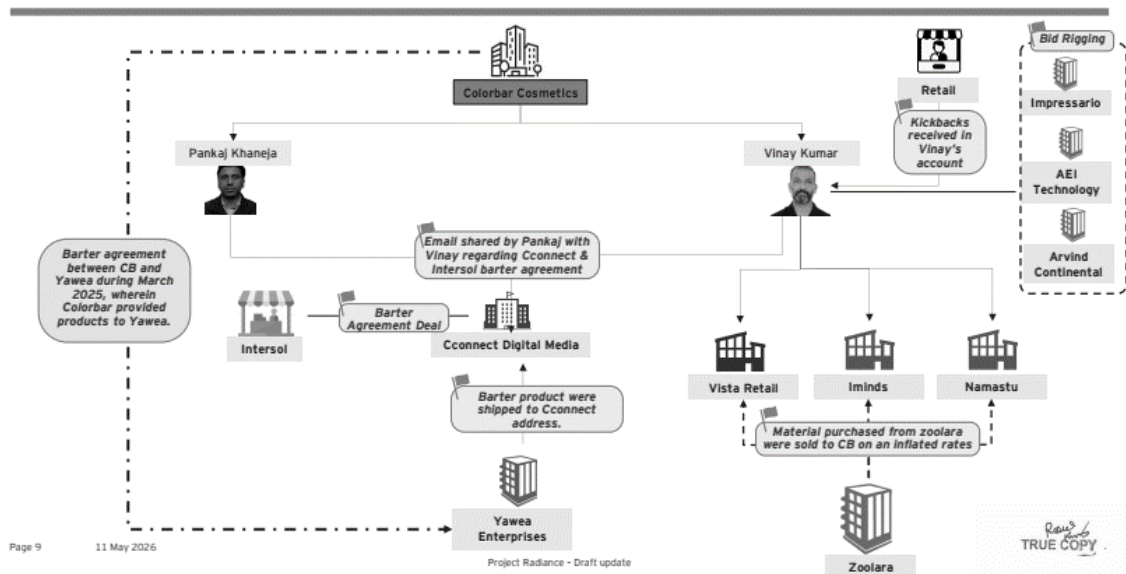
3. You may note that factum of ongoing investigations regarding your Client's alleged involvement in bid-rigging process was intimated to you vide e-mail's dated 05.12.2025 (**Annexure-1**) & 30.12.2025 (**Annexure-2**) issued to your Client, wherein, factum of termination of nos. of employees of my Client on being found to have been in collusion with various vendors inter-alia including your Client, was intimated. Further, any financial liability was specifically disputed by my Client.
4. Pursuant to the internal investigations, my Client had appointed a reputed external agency i.e. Ernst & Young (**E&Y**), for carrying out audits and investigate into transactions of fraud within the organization. E&Y in its report dated 16.01.2026 (**Annexure-3**) & 11.05.2026 (**Annexure-4**) affirmed various acts of illegalities committed by erstwhile employees and various vendors including your Client. It was also found that quotations of lesser amount was obtained from your Client by Mr. Vinay Kumar and after a few hours, a new quotation of higher amount was received from a third party, to enable your Client to procure the purchase orders from my Client. It was also found that 1 lakh towels were procured by my Client from one M/s Essence Trading @ INR 94 and M/s Essence had procured the same from your Client @ INR 84 each while upon confirmation from the market, selling price of such towel is INR 55.

21. We also take note that the earlier settlement attempts between the parties did not fructify for which the prior C.P. (IB) 86/ND/2026 was withdrawn by the Applicant.





Nexus between employees and vendors (3 of 3)



23. Moreover, a similar application under section 9 IBC bearing C.P. (IB) 228/ND/2026 against the same Corporate Debtor was considered by Court-II, NCLT, New Delhi Bench, where all the facts relating to the dispute of the Corporate Debtor with its vendors and the investigation surrounding it was considered and the said application was dismissed on the ground of pre-existing dispute between the parties vide order dated 21.07.2026. The relevant paragraphs of the order read as follows:

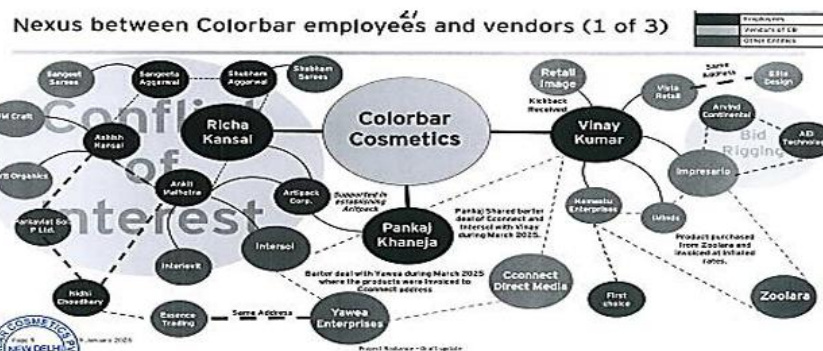
5. It is seen from the complaint dated 06.02.2026 made to SHO, New Friends Colony Police Station, South East District, New Delhi allegations were made against Mr. Vinay Kumar for entering into malpractices in conduct of



business by the CD and extending unethical benefits to a group company of an applicant. Para 17 of the complaint reads thus:-

“17. In a separate instance, a contract was awarded to Retail Image, whose proprietor transferred an amount of Rs. 95000/- to Mr. Vinay Kumar as kickbacks. Additionally, the complainant company's vendor, Vista Retail, provided Mr. Vinay Kumar with a Ford Endeavour (registration number [redacted]) for his unrestricted personal use over an extended period. Such arrangements underscore Mr. Vinay Kumar's practice of conferring unethical benefits on favoured vendors. It is also establish that with said unethical/corrupt practices Accused Vinay kumar has cumulated huge disproportionate assets and wealth.”

6. When the employee of CD created its false liability in favour of a group company of applicant, the CD is not unjustified in suspecting the claim of the applicant, particularly, when its invoices mention the name of Mr. Vinay Kumar. Annexure R-2 to the reply indicate the nexus of employees of CD with vendors. The applicant has also placed on record a diagram to indicate the nexus between applicant and Vista Retail. We may also not ignore the fact that the applicant and vista retail is operate from same office. The diagram/chart placed on record reads thus:-





7. On perusal of the record, we are satisfied that the pre-existing dispute alleged by the CD is not a moon shine defense but is based on substantial material.

8. In view of the fact that the applicant has questioned the supply of the goods and has raised a dispute in this regard. As also regarding the liability of the CD viz. amount of debt, a due deference to the provisions of Section 5(6) r/w Section 9(5)(2) of IBC, 2016, **we reject the application and dispose of the same.**

24. In the light of the positions thus settled in ***Mobilox Innovations (P) Ltd. (supra) and Sabarmati Gas Limited (supra)***, we have examined the question whether there was a 'pre-existing dispute' between the parties, warranting dismissal of the application for initiation of CIRP filed by the Applicant. In view of the discussions in the foregoing paragraphs and the material on record, we are of the opinion that the defence of pre-existing dispute in the instant case is not a moonshine defence. In the case before us, the material on record clearly establishes the existence of substantial disputes between the parties. The Corporate Debtor has questioned the supply of goods, investigated and time and again clarified the existence of such disputes in communications to the Applicant prior to the issuance of notice under section 8 IBC. The nature of these disputes is neither illusory nor contrived. They go to the root of the claim and cast doubt upon the entitlement of the Applicant to invoke the provisions of the Code. The Corporate Debtor cannot be subjected to the rigours of the Corporate



Insolvency Resolution Process when the foundational requirement of a clear, undisputed operational debt is not met.

25. However, we have not, in any manner, expressed an opinion on the correctness or truthfulness of the dispute in any way. An application under section 9 of IBC only warrants consideration on the matter of existence of dispute prior to section 8 notice.

26. Therefore, in view of existence of dispute prior to section 8 IBC notice and sections 5(6) r/w Section 9(5)(ii) of IBC, 2016, the present application bearing **C.P. (IB) No. 319/ND/2026** filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 is **dismissed**.

Sd/-

(ATUL CHATURVEDI)

MEMBER (TECHNICAL)

Sd/-

(MAHENDRA KHANDELWAL)

MEMBER (JUDICIAL)