

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH, BENGALURU

[Through Physical hearing/ VC Mode (Hybrid)]

ITEM No.02
C.P. (IB) No.36/BB/2024

IN THE MATTER OF:

M/s. Velvin Packaging Solutions Pvt. Ltd.	...	Petitioner
Vs.		
M/s. Dunzo Digital Pvt. Ltd.	...	Respondent

Order under Section 9 of I & B Code, 2016

Order delivered on: 06.08.2025

CORAM:

SHRI SUNIL KUMAR AGGARWAL
HON'BLE MEMBER (JUDICIAL)

SHRI RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner : Shri Ajinkya Kurdukar with Shri Abhishek D.H.
For the Respondent : Shri Kumar Anurag Singh with Shri Zain A. Khan,
Shri Mohd. Abran Khan

ORDER

1. Vide separate order in the Company Petition, the Respondent Company is admitted to CIRP, and the moratorium is commenced.
2. List the case on **09.10.2025** for awaiting the IRP report.

-Sd-
RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-
SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)

Shruthi

IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

*(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)
(Through Physical Hearing/ VC Mode (Hybrid))*

CP (IB) No. 36/BB/2024

U/s. 9 of the IBC, 2016 read with Rule 6 of the IBC (AAA) Rules, 2016

IN THE MATTER OF:

VELVIN PACKAGING SOLUTIONS

3rd Floor, B-303, Mangalya CHS Ltd., Maroshi

Road, Andheri East, Mumbai, Maharashtra-400059 - Operational Creditor/Petitioner

VERSUS

DUNZO DIGITAL PRIVATE LIMITED

1st Floor, 2 , Saideep Srinidhi, NAL Wind Tunnel Road,

Murugeshapalya, Bangalore, Karnataka- 560017 - Corporate Debtor/Respondent

Last date of Hearing : 22.07.2025

Order delivered on: 06.08.2025

CORAM:

Hon'ble Shri Sunil Kumar Aggarwal , Member (Judicial)

Hon'ble Shri Radhakrishna Sreepada, Member (Technical)

ORDER

1. The Petition has been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("IBC") by VELVIN PACKAGING SOLUTIONS, the Operational Creditor ("OC"), seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against DUNZO DIGITAL PRIVATE LIMITED, the Corporate Debtor ("CD"), for default in payment of operational debt of Rs. 2,29,54,399/-, which includes outstanding principal amount of Rs. 1,91,63,514/- and interest of Rs.37,90,885/- calculated at 19.5% per annum till 21.07.2023 & the date of default being 12.07.2022.
2. The brief facts of the case, as submitted by the OC, are as follows:

- a. The OC had, between 12.07.2022 to 07.04.2023 raised 107 invoices for the Products delivered to CD as per the corresponding Purchase Orders aggregating to Rs. 6,81,24,691/- (Rupees Six Crores Eighty-One Lacs Twenty-Four Thousand Six Hundred Ninety-One only) on the CD.
3. The after adjusting the payments received from the CD from time to time, outstanding amount towards various Invoices raised by OC during the period July, 2022 to April, 2023 is a sum of Rs. 1,91,63,514/- (Rupees One Crore Ninety-One Lacs Sixty Three Thousand Five Hundred Fourteen only) even after a demand notice dated 01.09.2023 which was served on CD through regd./speed post and received on 11.09.2023.
4. On being served with notice of the petition through Speed post on 11.03.2024 and vide email on 12.03.2024, the respondent appeared through Counsel and on request was granted time to file reply/objections to the petition vide order dated 20.02.2024. However, no objections were filed and it was stated that the parties were exploring the possibility of settlement. When no settlement was reported even after five months, vide order dated 31.07.2024, the respondent was directed to file counter/objections within two weeks from 04.09.2024 , failing which their right to file a counter would stand forfeited.
5. On 04.09.2024 neither the settlement was filed/reported nor counter/objections was filed by the respondent, thence the opportunity of respondent to file reply/objections to the petition was closed. The respondent sought recall of the said order by way of IA No.789/2024 but it was rejected on 27.09.2024.
6. Aggrieved by the order, the respondent had filed *Company Appeal (AT) (CH) (Ins) No.432/2024 (IA Nos.1183 & 1184/2024)* before Hon'ble NCLAT, Chennai which was allowed vide order dated 29.11.2024 and two weeks' time was granted to the respondent to file reply/objections by way of a last opportunity. It was observed that failure to file objections within the aforesaid period of two weeks from the date of receipt of the certified copy of the judgment would result in closure of the opportunity to file the counter and Section 9 proceedings would continue ex parte against the respondent.

7. The order dated 29.11.2024 was informed to this Authority only on 02.07.2025 when following docket order was made:

2. Ld. Counsel for Respondent states that in an appeal filed by the respondent, Hon'ble NCLAT vide order dated 29.11.2024, has granted it opportunity of filing reply/objections and the same were filed in December 2024 after forwarding soft copy to the other side.

3. Neither the copy of order dated 29.11.2024 nor Objections of respondent are available on record. Ld. Counsel for petitioner is also surprised and claims not to have received such communication. It transpired that the objections have only been e-filed and hard copies are still to be produced.

4. Although Mr Singh should have made its specific mention on previous dates yet the respondent is called upon to file hard copy within 5 days and forward soft copy to Ld. Counsel for the petitioner and ensure that it clears the office objections, if any.

8. The Respondent had e-filed the Statement of Objections on 18.12.2024, beyond the time granted by Hon'ble NCLAT, while the hard copy has not been submitted till date. In fairness and to take the stance of respondent on board, in furtherance of the sentiments of Hon'ble NCLAT, the belated objections of respondent are taken into account where it is contended that:

- i. The petitioner has no cause of action against the respondent since there is no money owed on any account to the petitioner.
- ii. There existed various disputes between the parties including qua the nature of goods supplied by the Petitioner which the Petitioner has deliberately concealed. The affidavit filed by the applicant on Page 411 of the petition is stated to be false.
- iii. There is a settlement agreement dated 24.06.2024 between the parties wherein it was decided that the Respondent would remit an amount of Rs. 1,50,00,000/- to the Petitioner out of which Rs. 35 Lakhs has already been paid by the Respondent. Thereafter, owing to the disputes with regard to the date of payment, the respondent has not paid the remainder amount.
- iv. According to the settlement agreement all the disputes under the said agreement have to be referred to arbitration and as such pursuant to the

settlement and part payment by the Respondent, not only does the date of default changes but also the amount in default changes and the petitioner is required to make appropriate amendment in its petition.

9. We have heard Shri Ajinkya Kurdukar with Shri Abhishek D.H on behalf of the applicant and Shri Shri Kumar Anurag Singh on behalf of the respondent and carefully perused the file. It has been stated on behalf of respondent that subsequently another sum of Rs.20,00,000/- was paid to the petitioner towards settlement amount effectively bringing the outstanding below threshold, which however is strenuously refuted by Id Counsel for the petitioner. No document viz. receipt, bank statement or correspondence in support of the contention has been produced by the respondent, therefore the plea cannot be accepted.
10. In the objections, CD has attempted to raise vague and general disputes regarding the nature or quality of goods without placing any contemporaneous evidence or communications substantiating the same and giving an inkling of pre-existing dispute. The dispute now sought to be raised is manifestly afterthought and not supported by any credible material predating the issuance of demand notice. The Hon'ble Supreme Court in ***Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd Civil Appeal No. 9405 Of 2017*** has held that for a dispute to exist under Section 8(2)(a) of the IBC, it must be a 'pre-existing dispute' supported by contemporaneous evidence. The Court emphasized that adjudicating authorities must separate 'grain from chaff' and reject spurious defenses which are mere bluster. The test laid down requires that disputes must not be 'patently feeble legal arguments or assertions of fact unsupported by evidence'.
11. The settlement agreement wherein the respondent had undertaken to pay amount to the petitioner falsifies the initial stand of respondent that it owes no amount on any account to the petitioner. Moreover, under the Settlement Agreement dated 24.06.2024 the respondent has only paid a sum of ₹35,00,000/- to the petitioner out of the total settlement amount of ₹1,50,00,000/- and failed to comply with the agreed terms. The respondent has meekly tried to shift the blame for failure to make further payment on the petitioner due to alleged dispute over date of payment without elaborating on it or producing any communication. It is culled that the

petitioner's claim beyond prescribed threshold is still outstanding against the respondent.

12. Significantly, such post-default settlements do not alter the date of default or extinguish the cause of action that had already accrued to the OC under Section 9 of the IBC. The settled position of law is that once the default has occurred and the petition is filed, any subsequent settlement unless fully acted upon does not bar the proceedings under IBC. The settlement agreement can neither constitute novation nor extinguish the original cause of action. Moreover, recent NCLAT precedents in ***Trafigura India Pvt. Ltd. v. TDT Copper Ltd. Company Appeal (AT) (Insolvency) No. 742 of 2020*** establishes that breach of settlement agreements does not constitute 'operational debt' under Section 5(21) of the IBC. Crucially, this principle does not preclude the original operational creditor from pursuing the enforcement of the pre-existing operational debt that remains unpaid, as the settlement breach merely affects the settlement terms and not the underlying operational transaction that gave rise to the original cause of action.
13. The contention of the CD that the disputes are referable to arbitration under the Settlement Agreement does not preclude the maintainability of the present petition. The Hon'ble Supreme Court in ***Vidarbha Industries Power Ltd. vs. Axis Bank Ltd. Civil Appeal No. 4633 Of 2021*** and other cases has clarified that the mere existence of an arbitration clause does not bar admission of a Section 9 petition when the debt and default are otherwise established. The arbitration clause in the settlement agreement cannot override the statutory framework under the IBC for recovery of pre-existing operational debts that have already crystallized into default. The Supreme Court in *Mobilox* has emphasized that the existence of arbitration proceedings does not automatically create a bar under Section 9(5)(ii)(d) unless there is a genuine pre-existing dispute relating to the same transaction.
14. The CD has failed to demonstrate the existence of any *pre-existing dispute* or raise any substantial defense against the claims of the OC. There is no claim of respondent being a solvent and profit making company with supporting documents to resist the petition. The material placed on record by the Petitioner clearly evidences supply of goods, issuance of invoices, and non-payment of substantial amounts which remain unpaid despite repeated follow-up and opportunity. There

is no material irregularity or impediment in admitting the petition as the statutory requirements under Section 9(3)(a), (b), and (c) of the IBC have been duly complied with.

15. For the above reasons **CP (IB) No. 36/BB/2024 is allowed** and respondent DUNZO DIGITAL PRIVATE LIMITED is admitted to undergo Corporate Insolvency Resolution Process. Simultaneously moratorium is declared in terms of Section 14 of the Code imposing following prohibitions to be followed by all and sundry:-
 - a. The institution of suits or continuation of pending suits or proceedings against the Project of CD including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - b. Transferring, encumbering, alienating or disposing of by the CD any of its assets or any legal right or beneficial interest therein;
 - c. Any action to foreclose, recover or enforce any security interest created by the CD in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
 - d. The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the CD;
16. It is further directed that the supply of essential goods or services to the CD as may be specified, shall not be terminated or suspended or interrupted during the moratorium period.
17. The provisions of Section 14(3) shall however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a CD.
18. The order of moratorium shall have effect from the date of this order till completion of the CIRP or until approval of the Resolution Plan under sub-section (1) of Section 31 or passing of an order for liquidation of CD under Section 33 by this Authority as the case may be.
19. In Part-III of Form No.5, **Srinivas Vaidyanath Subramaniam** bearing Registration IBBI/IPA-002/IP-N00991/2020-2021/13162 has been proposed as Interim Resolution Professional (IRP) by the petitioner. Accordingly **Sh. Srinivas**

Vaidyanath Subramaniam having registered address at Villa 14, Chaithanya Ananya , Whitefield Kadugodi Road, Belthur, Whitefield , Near Raheja Sai Gardens ,Bangalore, Karnataka - 560067, *e-mail:srinivas@vriyer.com*, is appointed as Interim Resolution Professional to carry the functions as mentioned under the IBC. The fee payable to IRP/RP shall be in accordance with the IBBI Regulations/ Circulars/Directions issued in this regard. The IRP is directed to take the steps as mandated under the IBC, specially under Sections 15, 17, 18, 20 and 21 of IBC, 2016.

20. The OC shall deposit a sum of **Rs 2,00,000/- (Rupees Two Lakhs Only)** with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors. The IRP shall give individual notices to all the statutory authorities to enable them to submit their claims, if any.
21. The IRP shall after collation of all the claims received against **DUNZO DIGITAL PRIVATE LIMITED** and the determination of the financial position of the CD constitute a CoC and shall file a report, certifying constitution of the Committee to this Authority on or before the expiry of **thirty days** from the date of his appointment and shall convene first meeting of the Committee within **seven days** for filing the report of Constitution of the Committee. The IRP is further directed to send regular **monthly** progress reports of CIRP to this Authority.
22. A copy of the order shall be communicated to both the parties. The learned Counsel for the Petitioner shall deliver a copy of this order to the IRP forthwith. The Registry is directed to forward a copy of this order to the IRP at his email address forthwith.

-Sd-
(RADHAKRISHNA SREEPADA)
MEMBER (TECHNICAL)

-Sd-
(SUNIL KUMAR AGGARWAL)
MEMBER (JUDICIAL)