2026 LiveLaw (SC) 362

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
SANJAY KUMAR; J., R. MAHADEVAN; J.
Civil Appeal No. 4019 of 2025; April 09, 2026
GLS Films Industries Private Limited *versus* **Chemical Suppliers India Private Limited**

Insolvency and Bankruptcy Code, 2016 – Section 9 – Initiation of Corporate Insolvency Resolution Process (CIRP) by Operational Creditor – Pre-existing Dispute – Plausible Contentions – The Supreme Court set aside the NCLAT judgment that had admitted a Section 9 application, holding that the NCLAT erroneously delved into the merits of the dispute rather than merely checking for its existence - Supreme Court found clear evidence of a pre-existing dispute regarding defective supplies and the need for reconciliation of accounts, which dated back to written correspondence from December 2020, long before the demand notice issued in November 2021.

Insolvency and Bankruptcy Code, 2016 – Scope of Adjudicating Authority's Inquiry – Summary Jurisdiction – Reaffirming the legal position, the Court stated that for the purpose of Section 9, the Adjudicating Authority only needs to satisfy itself that a "plausible" dispute exists which is not "spurious, hypothetical or illusory" - It is not required to determine whether the defence is likely to succeed or to examine the merits of the dispute beyond identifying a non-feeble legal argument.

Insolvency and Bankruptcy Code, 2016 – Reconciliation of Accounts – Supreme Court emphasized that when there is a lack of clarity regarding the amount due and parties have called for reconciliation based on losses from defective supplies, such a situation supports the existence of a dispute - Noted that the respondent's own confusion demanding ₹4.60 crore and later "correcting" it to ₹2.92 crore after the demand notice manifested a lack of consensus on the liability. *[Relied on Mobilox Innovations Private Limited vs. Kirusa Software Private Limited (2018) 1 SCC 353; Sabarmati Gas Limited vs. Shah Alloys Limited (2023) 3 SCC 229; Paras 17-21]*

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J U D G M E N T

SANJAY KUMAR, J

1. Initiation of corporate insolvency resolution process was denied by the adjudicating authority but the appellate authority reversed that decision. Aggrieved thereby, the corporate debtor is in appeal. On 28.03.2025, this Court stayed the operation of the judgment under appeal.

2. Company Petition (IB)-792(ND) of 2021 was filed before the National Company Law Tribunal, New Delhi Bench (Court II) (*hereinafter*, 'the NCLT'), by Chemical Suppliers India Private Limited, the respondent herein, under Section 9 of the Insolvency and Bankruptcy Code, 2016[1], against GLS Films Industries Private Limited, the appellant.

[1]For short, 'the Code'

3. The case of the respondent was that it had supplied chemicals to the appellant over a period of time and a sum of ₹2,92,93,223/- was due and payable to it as on 26.05.2021. Demand notice dated 11.11.2021 was issued by it under Section 8 of the Code. In response, the appellant addressed email dated 06.12.2021 disputing the claim. The respondent thereupon filed the subject application under Section 9 of the Code. The appellant contested the proceedings claiming that there was a pre-existing dispute between the parties prior to issuance of the demand notice. According to it, the respondent had supplied two consignments of solvent on 10.04.2021 and 11.04.2021 respectively at its factory premises at Gurugram but the same were found to be defective. This was brought to the notice of the respondent, which promised that it would do better. Basing on the said representation, the appellant claimed to have sourced some more solvent supplies from the respondent on 20.04.2021 and 23.04.2021. However, these supplies were also found to be defective. The respondent assured the appellant that it would compensate it for the losses suffered and supplied another batch of solvent on 21.06.2021. Yet again, upon checking, this batch was also found to be defective and was returned forthwith.

4. According to the appellant the respondent was called upon time and again to come and settle accounts and compensate the appellant for the losses suffered by it. However, no steps were taken in that regard but the authorised representative of the respondent started applying arm-twisting tactics by threatening to commit suicide if payment was not made for the defective supplies. The appellant filed a police complaint in relation thereto. According to the appellant, in view of the losses suffered by it due to such defective supplies, it issued a debit note on 31.12.2021 for ₹2,42,11,648/-. After adjusting the account, *per* the appellant, the respondent was still due and liable to pay it a sum of ₹70,09,430/-.

5. The NCLT took note of the letter dated 10.12.2020 written by the appellant to the respondent detailing the defective supplies made between 16.09.2020 and 24.10.2020, amounting to ₹1,66,89,770/-. The appellant had stated therein that its customer had debited its account by ₹6.50 crore but, owing to its long association with the respondent, the appellant was not planning to debit the said amount from its account. However, the appellant requested the respondent to take note of the debit note raised by it for ₹1.66 crore and arrange a credit note for that sum.

6. The NCLT noted that the respondent replied to this letter dated 10.12.2020 by way of email dated 14.07.2021. Therein, it denied that its supplies of solvent were defective and requested for payment to be made against overdue bills. In turn, by email dated 16.10.2021, the appellant reiterated that the material supplied to it was defective and called upon the respondent to reconcile the accounts and appropriate the losses caused to it due to defective supplies. The appellant asserted that it was only after repeated efforts on its part that the respondent incorporated a credit note for ₹1.66 crore but the original thereof and the tax paid note were never delivered to it. On the other hand, by email dated 10.09.2021, the respondent raised a demand for ₹4,60,05,397/-. The NCLT also noted that the appellant had lodged a police complaint on 27.09.2021, long prior to issuance of the demand notice, raising the issue of the defective quality of the supplies made by the respondent and its pressure tactics in seeking payment therefor under threat of suicide. Therein, the appellant had also referred to the fact that it called upon the respondent to come for reconciliation of accounts but to no avail.

7. On a conspectus of these facts, the NCLT opined that there was a plausible dispute raised by the appellant, which was not disclosed by the respondent upfront in its

application. The NCLT also took note of the counterclaim of the appellant that it was due and payable a sum of ₹70,09,430/-. The NCLT opined that the respondent had approached it to recover its alleged dues and that was not the objective of the process provided under the Code. The NCLT, accordingly, concluded that there existed a dispute between the parties prior to issuance of the demand notice which necessitated a detailed investigation of documents and adducing of evidence by all concerned, which was beyond the scope of its summary jurisdiction under the Code. The respondent's application was accordingly dismissed by the NCLT, *vide* order dated 16.12.2022.

8. Aggrieved thereby, the respondent filed Company Appeal (AT) (Ins) No. 157 of 2023 before the National Company Law Appellate Tribunal, Principal Bench, New Delhi (*hereinafter*, 'the NCLAT'). This appeal was allowed by the impugned judgment dated 11.02.2025. Therein, the NCLAT noted that the respondent had raised eight invoices between the dates 27.03.2021 and 26.07.2021, amounting to ₹1,72,04,137/-, for the material supplied by it to the appellant and as the appellant failed to make payment therefor within time, the respondent charged interest @24% per annum, as per the invoice terms, amounting to ₹1,20,89,086/-. As no payment was made even thereafter, the respondent was stated to have issued demand notice dated 11.11.2021 under Section 8 of the Code for ₹2,92,93,223/-, being the principal and the interest due, and then filed the application under Section 9 of the Code on 21.12.2021.

9. The NCLAT observed that the appellant had addressed letter dated 10.12.2020 to the respondent, complaining about the poor quality of the material supplied by it in September, 2020 and October, 2020 and that this letter found reference in the appellant's email dated 16.10.2021. The NCLAT, however, opined that the respondent had accepted its liability in that regard and issued a credit note to the appellant for ₹1.66 crore. The NCLAT also noted that the appellant had incorporated this credit note in its ledger account on 31.03.2021. According to the NCLAT, this credit note resolved the issue raised by the appellant in its letter dated 10.12.2020, which was again raked up in the email dated 16.10.2021. On this basis, the NCLAT concluded that it could not be treated as a pre-existing dispute. The NCLAT then referred to the appellant's email dated 06.12.2021 in reply to the respondent's demand notice dated 11.11.2021. Therein, the appellant had referred to the credit note dated 31.03.2021 for ₹1,66,89,770/-, the original of which was still awaited by it. The NCLAT opined that the amount covered by the demand notice did not take into account this sum of ₹1.66 crore which was in relation to the defective material supplied from September, 2020 to October, 2020. Further, the NCLAT was of the opinion that the issues raised by the appellant in its reply to the Section 9 application related to developments and events after receipt of the demand notice dated 11.11.2021 and could not be taken into consideration for the purpose of determining whether there was any pre-existing dispute.

10. The NCLAT was also of the opinion that the failure of the appellant to point out the defects in the supplies within seven days from the date of delivery was sufficient to hold that its contentions in that regard were nothing but a moonshine defence. The NCLAT rejected the contention urged by the appellant that levy of interest on the alleged delayed payment would be a disputed issue in itself. The NCLAT noted that the police complaint lodged by the appellant referred to the respondent's demand for ₹4.60 crore as its outstanding dues but accepted the plea of the respondent that it had made a mistake in its email dated 10.09.2021 while making that demand and that it had clarified on 09.12.2021 that it had failed to adjust the sum of ₹1.66 crore. The NCLAT further noted that the respondent's demand notice mentioned ₹2.92 crore as being due and payable to

it and not ₹4.60 crore, which showed that adjustment of ₹1.66 crore had been taken care of.

11. The NCLAT also rejected the plea of the appellant that its recovery suit in Civil Suit No. 37 of 2022, filed in April, 2022, was an indication of the existing dispute between the parties, as the said suit was filed after the respondent's Section 9 application. On that ground, the NCLAT refused to consider the proceedings in that suit which, according to the appellant, supported its plea that there was a pre-existing dispute. Holding so, the NCLAT set aside the order dated 16.12.2022 passed by the NCLT and directed admission of the respondent's application under Section 9 of the Code after one month. During that period, the NCLAT left it open to the appellant to settle the issue with the respondent for discharge of the debt and, in the event of the same fructifying, the NCLAT left it open to the parties to bring it to the notice of the NCLT for passing appropriate orders.

12. At this stage, we deem it apposite to set out the sequence of events. The appellant's letter dated 10.12.2020, informing the respondent of the defective supplies made in September, 2020, and October, 2020, resulting in a loss of ₹6.50 crore and requesting a credit note for ₹1.66 crore was followed up by the respondent's supplies made on 09.04.2021 and 10.04.2021. Notably, the tax invoices in that regard were signed only by the respondent's authorised signatory. Further, it was only on 14.07.2021 that the respondent considered it appropriate to reply to the letter dated 10.12.2020, denying that the supplies made by it were of inferior quality. It was only after this date that the respondent started raising debit notes on account of interest @24% on the alleged delayed payments made from April, 2016 onwards. Debit notes dated 25.08.2021, five in number, and debit notes dated 15.09.2021, three in number, and the debit note dated 12.10.2021, bear out the fact that interest demands from April, 2016, to October, 2021, were raised only after the respondent's reply email dated 14.07.2021. As to whether such interest could have been claimed in August, 2021, on the strength of unilaterally signed invoices quoting an interest rate of 24% per annum, in relation to alleged delayed payments dating back to 2016-17 and 2018 is itself a moot point.

13. Further, the respondent's ledger account from 01.03.2021 to 13.11.2021, filed by the respondent with its counter, reflects that the credit entry of ₹1,66,89,770/- was made therein only on 31.07.2021 as a 'sale discount' without reference to the appellant's letter dated 10.12.2020. The credit entry of ₹35,59,982/- marked 'sale return' was made on 01.07.2021 in relation to the supplies rejected by the appellant on 21.06.2021. The ledger account also discloses that debit notes were raised for interest on delayed payments only from 25.08.2021. The ledger account of the appellant for the FYs 2020-21 and 2021-22, which was also filed by the respondent along with said counter, disclose that the debit entry for ₹1,66,89,770/- was made on 31.03.2021, with the endorsement that the account had been debited due to 'stringent smell and impurity in solvents'. The ledger account also discloses that a debit was raised on 21.06.2021 for ₹35,59,982/-, in relation to the material that was rejected and returned on that day. That apart, debit entries were made on 22.06.2020 and twice on 31.03.2021 due to 'short quantity received'. The discrepancies between the ledger accounts are, therefore, quite patent. Further, the respondent's eight invoices that were relied upon by the NCLAT added up to a sum of ₹1,72,13,065/- and not the sum of ₹1,72,04,137/-, which was mentioned in the demand notice.

14. Significantly, had the respondent actually given effect to the credit entry of ₹1,66,89,770/- on 31.07.2021, there is no explanation forthcoming as to why it had sent the email dated 10.09.2021, raising a demand for ₹4,60,05,397/-, which admittedly

included the sum of ₹1,66,89,770/- also. The belated email dated 09.12.2021 issued by it, professing to correct the mistake made in including ₹1,66,89,770/-, speaks for itself.

15. Further, the irrefutable fact also remains that the appellant lodged a police complaint on 27.09.2021, long before the respondent's demand notice dated 11.11.2021. The appellant mentioned therein that it had called upon the respondent to come for reconciliation of accounts, clearly indicating that there were issues to be settled between them. Even in its email dated 16.10.2021, issued prior to the respondent's demand notice, the appellant had called upon the respondent to reconcile the accounts pursuant to the losses caused by supply of defective materials.

16. The respondent's debit notes raising exorbitant demands for interest on delayed payments dating back to periods, in defiance of limitation, manifest that such claims are open to question. Further, though the NCLAT was not inclined to consider the proceedings in the appellant's civil suit on the ground that the same were post-initiation of the corporate insolvency resolution process (CIRP), the same assume importance as what was stated therein by Ankur Aggarwal, the Director of the respondent, has relevance. In his cross examination in the said suit, speaking as PW1, he stated that he used to interact only telephonically with the appellant's personnel and that there were no written correspondence or emails between them. He admitted that written/email correspondence started only when disputes arose regarding payment. He also admitted that there was no written protest of delayed payments by him from 2016-17 till 2021. He conceded that supply of material was made on 10.04.2021 and 11.04.2021 by the respondent from the stock at Delhi, which was kept in drums, and was supplied as it was, in drums, and not in tankers as it used to be in other transactions. He admitted that the drums had been purchased from vendors, other than the vendors of chemical products, locally from Delhi and there was no cleaning certificate for them. These admissions of the Director did not relate to post-CIRP events but had reference to pre-CIRP issues relevant to this case. The NCLAT, therefore, ought not to have eschewed them from consideration.

17. Once the respondent admitted that written correspondence commenced only after disputes arose, and the first such written correspondence dated back to 10.12.2020, long prior to issuance of the demand notice on 11.11.2021, this was sufficient in itself to show that there were pre-existing disputes between the parties. When the appellant sought reconciliation of accounts in that context and the respondent failed to oblige, its demand for a sum of money in excess of ₹1 crore would not be sufficient to meet the threshold for maintaining an application under Section 9 of the Code. More so, when the respondent had raised a demand for ₹4.60 crore just two months prior to issuance of the demand notice and clarified the same only on 09.12.2021, that is almost a month after issuance of the demand notice. This confusion and lack of clarity on the part of the respondent in deciding as to what was the amount allegedly due to it, clearly supports the case of the appellant that the accounts required reconciliation.

18. Further, the delay on the part of the respondent in replying to the letter dated 10.12.2020 is another factor which strengthens the premise that the respondent's belated reply followed by its multiple debit notes for interest in quick succession were just afterthoughts to build up a case so as to file an application under Section 9 of the Code.

19. In this regard, useful reference may be made to ***Mobilox Innovations Private Limited vs. Kirusa Software Private Limited***[2], wherein this Court had observed as under: -

'51. It is clear, therefore, that once the operational creditor has filed an application, which is otherwise complete, the adjudicating authority must reject the application under Section 9(5)(i)(d) if notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility. It is clear that such notice must bring to the notice of the operational creditor the "existence" of a dispute or the fact that a suit or arbitration proceeding relating to a dispute is pending 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.'

Thereafter, in ***S.S. Engineers vs. Hindustan Petroleum Corporation Limited and others***[3], this Court noted that when examining an application under Section 9 of the Code, the adjudicating authority has to examine (i) whether there was an operational debt exceeding ₹1 lakh (after 24th March, 2020, ₹1 crore); (ii) whether the evidence furnished with the application showed that the debt was due and payable and had not till then been paid; and (iii) whether there was in existence any dispute between the parties or the record of pendency of a suit or arbitration proceedings filed before the receipt of demand notice in relation to such dispute and in the event, any of the aforestated conditions was not fulfilled, the application of the operational creditor would have to be rejected.

20. In ***Sabarmati Gas Limited vs. Shah Alloys Limited***[4], this Court considered the scope of the word 'reconciliation' and applying the definition in *Black's Law Dictionary*, 10th edition, this Court opined that the apt meaning suitable to the situation in relation to accounting would mean an adjustment of amounts so that they agree, especially by allowing for outstanding items. This Court referred to the observations in ***Mobilox*** (*supra*) that it is not necessary that the Court should be satisfied that the defence of a pre-existing dispute is likely to succeed and it is enough if such a dispute exists between the parties. *Per* this Court, what is to be seen is whether there is a plausible contention requiring investigation for the purpose of adjudication for it to satisfy the requirement of a pre-existing dispute.

21. Given the obtaining facts and the afore-stated settled legal position, it was not for the NCLAT to delve into the appellant's dispute to decide whether it had actual merit. All that is required is for the adjudicating authority to satisfy itself as to the existence of a plausible pre-existing dispute, which was not spurious, hypothetical or illusory. Whether the party raising that dispute would succeed on the strength thereof is not within the ken of such inquiry. That being so, we are of the opinion that the NCLT was correct in concluding that the application filed by the respondent under Section 9 of the Code did not merit consideration, owing to pre-existing disputes. The NCLAT was not justified in reversing the said decision. There was clearly no consensus between the parties as to who was liable to pay to the other and the amount that was payable.

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[2](2018) 1 SCC 353
[3](2022) 234 COMP CAS 95
[4](2023) 3 SCC 229

22. The appeal is accordingly allowed, setting aside the judgement dated 11.02.2025 passed by the National Company Law Appellate Tribunal, Principal Bench, New Delhi, in Company Appeal (AT) (Ins) No. 157 of 2023 and restoring the order dated 16.12.2022 passed by the National Company Law Tribunal, New Delhi Bench (Court II), in Company Petition (IB)-792(ND) of 2021.

Parties shall bear their respective costs.