NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1198 of 2025

[Arising out of the Impugned Order dated 30.05.2025 passed by the Adjudicating Authority, National Company Law Tribunal, Mumbai Bench – IV in CP (IB) No. 4175/MB/2018 (Now RCP(IB) No. 2/MB/2025)]

IN THE MATTER OF:

RAMA TRADERS
Through its Proprietor – Mr. Raju Mansukhlal Ruparelia, Office No. 10 & 11, 1st Floor Sangam, Commercial Complex, Phase – I, Dr. Ambedkar Road, Near RTO, Pune – 411001
Email id:paresh.rasmimarketing@gmail.com. s **...Appellant(s)**

Versus

ROCKET ENGINEERING CORPORATION PVT. LTD.
Plot No. D-19, MIDC, Shiroli Kolhapur 416 122
Email Id:info@rocket-comet.com

...Respondent(s)

Present:

For Appellant : Mr. Akshay Petkar, Mr. Vishesh Kalra, Ms. Sonia Sharma, Advocates
For Respondents : Mr. Kedar Wagle, Mr. Sagar Wagle, Advocates

J U D G M E N T
(Hybrid Mode)

Per: Barun Mitra, Member (Technical)

The present appeal, filed under Section 61 of the Insolvency and Bankruptcy Code, 2016 ('**IBC**' in short) by the Appellant arises out of the Order dated 30.05.2025 (hereinafter referred to as the **'Impugned Order'**) passed by the Adjudicating Authority (National Company Law Tribunal, Mumbai Bench, Court – VI) in CP (IB) No. 4175/MB/2018 now RCP (IB) No. 2/MB/2025. By the said impugned order, the Adjudicating Authority has rejected the Section 9 application filed by the Appellant – Operational

Creditor. Aggrieved by the impugned order, the present appeal has been preferred by the Appellant.

2. Put briefly, the relevant facts which are required to be noticed for consideration of this case is that the Operational Creditor -Rama Traders was a proprietorship concern which was engaged in business transaction with the Corporate Debtor – Rocket Engineering Corporation Pvt. Ltd. Claiming that payments were outstanding from the Corporate Debtor, the Operational Creditor issued a legal notice to them on 19.01.2018 seeking payment of Rs. 3,45,55824/-. On not receiving any reply thereto or any payment from the Corporate Debtor, the Appellant-Operational Creditor issued Section 8 demand notice in Form-3 on 22.06.2018 which was followed up by another notice dated 26.06.2018 seeking repayment of outstanding dues. The Corporate Debtor sent a consolidated reply on 05.07.2018 denying the debt following which the Operational Creditor filed a Section 9 petition. The said Section 9 application was dismissed by the Adjudicating Authority on the grounds that the demand notice issued under Section 8 of the IBC was defective and that it was hit by limitation. Aggrieved by the impugned order, the Appellant has come in appeal.

3. Making submissions on behalf of the Appellant, Ld. Counsel for the Appellant assailed the impugned order for dismissing the Section 9 application at a time when the Corporate Debtor had admitted the debt and default of Rs. 3.45 Cr. vide their email dated 15.01.2016. The Appellant had placed on record the email of 15.01.2016 which document clearly demonstrated the existence of operational debt and admission of liability by the Corporate Debtor, the requirements of Section 8 stood fully satisfied. It

was contended that the Adjudicating Authority wrongfully did not treat this email to be an acknowledgement of debt by Corporate Debtor on the misconceived ground that the email was addressed to 'Rasmi Marketing' and not to 'Rama Traders'. It was pointed out that there were numerous instances which show that correspondence was exchanged between the Operational Creditor and the Corporate Debtor on both the email ids- *rasmimarketingpunegmail.com/paresh.rasmimarketing@gmail.com.* When both parties had been corresponding through the same email IDs, it was patently wrong on the part of the Adjudicating Authority to hold that the email of 15.01.2016 cannot be viewed as an acknowledgment of liability by the Corporate Debtor to the Operational Creditor. It was emphatically asserted that even if the email was sent by the Corporate Debtor at the email address of Rasmi Marketing and not to the Operational Creditor, the very fact that said email contained an attachment with respect to account statement by way of ledger account in respect of Rama Traders, this clearly indicated that the Corporate Debtor acknowledged its liability to the Operational Creditor. Moreover, when both Rasmi Marketing and Rama Traders were proprietary concerns of Mr. Raju M Ruparelia which were operating through common accounts with common PAN and VAT details, the distinction now sought to be created by the Corporate Debtor between Rama Traders and Rasmi Marketing was a contrived afterthought. Thus, the Corporate Debtor by taking the plea that the email was addressed to another entity was only trying to evade the acknowledgment of liability tendered by them. It was further added that since the Corporate Debtor had clearly acknowledged their liability in the email dated 15.01.2016, the period of limitation stood extended by another

three years from 15.01.2016. Hence, the Section 9 application which had been filed on 26.09.2018 fell within the three years limitation period. However, the Adjudicating Authority erroneously held that since the claim of the Operational Creditor arose in 2014, it was time-barred. It was pointed out that when the acknowledgement of liability basis the email of 15.01.2016 found mention in both the Section 8 demand notice and in Part IV of the Section 9 application, the Adjudicating Authority had erred in holding that in the absence of any specific date of default, the Section 9 application was barred by limitation. It was also contended by the Appellant that the finding returned by the Adjudicating Authority that the Section 8 demand notice was defective was erroneous. The Adjudicating Authority wrongly held the Section 8 demand notice in Form 3 to be invalid on the ground that invoices had not been attached alongwith the demand notice. Submission was pressed that in terms of the judgment of this Tribunal in ***Neeraj Jain Vs Cloudwalker Streaming Technologies Pvt. Ltd. in CA(AT)(Ins) No. 1354 of 2019***, an Operational Creditor can issue a demand notice either in Form 3 or Form 4 and attachment of invoices is not mandatory where the demand notice is issued in Form 3. Hence the finding returned by the Adjudicating Authority was contrary to the settled legal position. The Adjudicating Authority could not have held the Section 8 notice to be invalid as the same was filed in Form 3 which did not require invoices to be attached.

4. Rebutting the arguments raised by the Appellant, it was contended by the Ld. Counsel for the Respondent that the reliance placed by the Appellant on the email dated 15.01.2016 to contend that the said email amounted to acknowledgement of liability was entirely misplaced. It was pressed that the

Adjudicating Authority has correctly held that since the email was addressed to Rasmi Marketing and not to Rama Traders, it could not have been considered as an acknowledgment of debt qua Rama Traders. In any case, the said email did not show any attachment or ledger while the purported attachment being ledger was neither signed nor had any seal of the Corporate Debtor. It was also canvassed that when the Appellant – Operational Creditor in their rejoinder to the reply of the Corporate Debtor in the Section 9 application had themselves pleaded that the Respondent is unnecessarily involving Rasmi Marketing in the present matter, it clearly showed that the Appellant was aware that Rasmi Marketing enjoyed a legal entity independent and separate from Rama Traders. In such circumstances, the Appellant's insistence that the email sent to Rasmi Marketing be treated as an acknowledgement of liability towards Rama Traders tantamount to approbation and reprobation by the Appellant which is not acceptable. The Adjudicating Authority had therefore rightly discarded the contention of the Appellant that the email addressed to Rasmi Marketing can be held as an acknowledgement of liability qua Rama Traders. It was also contended that the Adjudicating Authority has rightly concluded that the Section 8 demand notice of the Appellant was defective as it was not accompanied by invoices. It was contended that when the outstanding debt was claimed on the basis of unpaid invoices, the Appellant could not have chosen to file the demand notice in Form 3 without the invoices. Moreover, the invoices which have been placed on record by the Corporate Debtor are vague in that it is bereft of details such as terms of delivery, buyers order number etc. Submission was pressed that the alleged operational debt was non-existent as there was no contractual

relationship between the Operational Creditor and the Corporate Debtor for supply of goods for the Appellant- Operational Creditor was to only receive commission as a commission agent. It was vehemently asserted that the pre-existing disputes surrounding the operational debt had been articulated both in their reply to the Section 8 Demand notice which had been rightly noticed by the Adjudicating Authority also. It was further added that the Section 9 application was hit by limitation as it was filed on 26.09.2018, while in the Section 8 demand notice, the date of default is shown to have occurred in 2014 which was clearly beyond the three years limitation period. Even the Section 9 application filed on 26.09.2018 was clearly beyond the three years limitation since the Operational Creditor had claimed the date of default to be 06.06.2015 being the last date of payment made by the Corporate Debtor. It was therefore asserted that the Adjudicating Authority had rightly held the Section 9 application to be time barred.

5. We have heard Ld. Counsel for both the parties and perused the records carefully.

6. The first issue before us is the tenability of the finding returned by the Adjudicating Authority that the Section 8 demand notice was not in consonance with Rule 5 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016("**Rules**" in short). For reasons of clarity, it would be useful to notice the finding returned by the Adjudicating Authority on this score which is as excerpted hereunder:

> *"5.3 …….. Further, the OC issued the Section 8 demand notice in Form-3, while its claims are actually based on the invoices issued during the period from January, 2015 to March, 2015. However, the OC failed to attach any of the invoices in the demand notice,*

which was given in Form 3. In fact, the veracity of the demand notice was challenged by the CD in its reply notice dated 05.07.2018. It is clear from the decision of the Hon'ble NCLAT, New Delhi, in Neeraj Jain (supra) that a party cannot arbitrarily issue the demand notice in any form it chooses but has to issue the same on the basis of its claim. The appropriate form to issue the demand notice against the CD under Section 8 of the IBC has already been specified in Form 3 or Form 4 along with attachment of invoices. Since the OC failed to attach the invoices with clear details regarding the details and actual period of default, Section 8 notice does not appear to be in order. When statute requires a particular form to be used for a particular purpose, it is only to be adhered to by the party to the litigation……"

7. When we look at the above extracts of the impugned order, we notice that the Adjudicating Authority has noticed that the default amount claimed by the Appellant is based on the purported failure on the part of the Corporate Debtor to clear the outstanding invoices which had allegedly been issued by the Appellant-Operational Creditor with regard to supply of pump set accessories. The Adjudicating Authority has proceeded to observe that though the claims of the Operational Creditor were based purportedly on the strength of invoices, however, the invoices were not found attached with the Second 8 Demand Notice which was therefore in dissonance with the ratio laid down this Tribunal in ***Neeraj Jain judgment supra***.

8. It is however the case of the Appellant that in terms of the ***Neeraj Jain judgment supra***, a Section 8 demand notice can be issued either in Form 3 or Form 4 and that when Section 8 demand notice is issued in Form 3, attachment of invoices is not mandatory. It was further contended that as long as other documents substantiating the operational debt and the default thereto is placed on record that would fully satisfy the requirement of Section 8 demand notice. Hence, in the present case though invoices were not

attached, furnishing of the email of 05.01.2016 and legal notice of 19.01.2018 was sufficient for the purpose of issuing Section 8 demand notice in Form 3. It was also asserted that only when the Section 8 demand notice is issued in Form 4 that the copy of invoices are required to be attached.

9. Per contra, it is the contention of the Respondent that when the outstanding debt and default thereof has been claimed on the basis of unpaid invoices, it was incumbent upon the Appellant to submit the Section 8 Demand Notice in Form 4 alongwith details of the invoices. It was contended that when the alleged debt was based on invoices, the Appellant could not have issued the Section 8 demand notice sans the invoices.

10. To arrive at our findings, at this stage, it may be useful to have a look at the manner in which the Appellant had submitted the Section 8 demand notice which is found at page 156 of the Appeal Paper Book (‘**APB’** in short) which is as reproduced below:

FORM 3

FORM OF DEMAND NOTICE/ INVOICE DEMANDING PAYMENT UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016 (Under rule 5 of the Insolvency and Bankruptcy Rules, 2016)

Date: - 22.06.2018

1. *…….*
2. *Please find particulars of the unpaid operational debt below:*

Sr. No.	*PARTICULARS OF OPERATIONAL DEBT*	*Amount*
1.	*TOTAL AMOUNT OF DEBT DETAILS OF TRANSACTIONS ON ACCOUNT OF WHICH DEBTFELL DUE, AND THE DATE FROM WHICH SUCH DEBTFELL DUE*	*An amount of Rs. 3,45,55,824/- arising out of series of transaction with respect to dealing in the Pump accessories.*

2.	*AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAUL OCCURRED*	*1. Total Amount claimed - Rs. 3,45,55,824/-* *2. The default first occurred in 2014 & then continued thereafter.* *3. The LIABILITY has been acknowledged as per the email dated 15/1/2016.*
3.	*PARTICLARS OF SECURITY HELD, IF ANY, THE DATE OF ITS CREATION, ITS ESTIMATED VALUE AS PER THE CREDITOR ATTACH A COPY OF A CERTIFICATE OF REGISTRATION OF CHARGE ISSUED BY THE REGISTRAR OF COMPANIES*	*N.A*
4.	*DETAILS OF RETENTION OF TITLE ARRANGEMENT [IF ANY] IN RESPECT OF GOODS TO WHICH THE OPPERATIONAL DEBT REFERS*	*N.A*
5.	*RECORD OF DEFAULT WITH THE INFORMATION UTILITY [IF ANY]*	*N.A*
6.	*PROVISION OF LAW, CONTRACT OR OTHER DOCUMENT UNDER WHICH DEBT HAS BECOME DUE*	*Invoices*
7.	*LIST OF DOCUMENTS ATTACHED TO THIS APPLICATION IN ORDER TO PROVE THE EXISTENCE OF OPERATIONAL DEBT AND THE AMOUNT IN DEFAULT*	*1. Email dated 15/1/2016* *2. Preceding Notice dated 19/1/2018*

11. When we look at the above Section 8 demand notice submitted in Form 3, it is clear from the entries made at serial no. 6 that the Appellant has

claimed that the debt has become due on the basis of "Invoices" but does not indicate details of the invoices. The only documents which have been relied upon to prove the existence of operational debt which appears at serial no. 7 of Form 3 is the email dated 15.01.2016 and the preceding legal notice dated 19.01.2018 with no mention of the relevant invoices. It is further observed by the impugned order that even these two documents mentioned at Serial no. 7 were not attached to the Demand Notice.

12. At this stage, it may be constructive to peruse the relevant paragraphs of the ***Neeraj Jain judgment supra***. In this judgement, we find that this Tribunal had dealt with two questions, firstly, as to whether it is the discretion of the Operational Creditor or the nature of the operational debt that determines the issuance of notice in Form 3 or Form 4 under Section 8(1) of the IBC. Secondly, it also considered the circumstances in which appending copy of the invoices becomes a mandatory requirement for issue of demand notice under Section 8(1) of the IBC. This Tribunal answered the above two questions in following manner at paragraphs 43 to 46 which is as reproduced below:

> *"43. However, it cannot be the discretion of the Operational Creditor to deliver the Demand Notice in Form 3 even if the operational debt involves transactions where corresponding invoices are generated but are not filed in court on the pretext that the Operational Creditor has chosen to send the Notice in Form 3.*
> *44. The use of the phrase, "deliver a demand notice of unpaid operational debt or copy of an invoice demanding payment of the amount involved" in Section 8(1) does not provide the Operational Creditor, with the discretion to send the demand notice in Form 3 or Form 4 as per its convenience. Rather, it depends directly on the*

nature of the operational debt and applicability of Form 3 or Form 4 as per the nature of the transaction.

45. It is important to mention that legislative provisions are made with a larger perspective to deal with all the eventualities that may arise in the implementation of the said provisions. Therefore, the use of the word "OR" in Section 8 cannot be interpreted as such, that the Insolvency and Bankruptcy Code has provided a choice or a discretion to an Operational Creditor, to provide an escape route from submission of the invoice, which can be treated as the most relevant document to prove the debt and amount in default.

46. On perusal of the language of Section 8, it is clear that an Operational Creditor on the occurrence of default has been provided with the option of delivering a demand notice of the unpaid operational debt or raising an invoice demanding payment of the amount involved. The two options available for initiation of Corporate Insolvency Process are provided to deal with all the eventualities that may occur. For example, if an operational debt is in the nature of salary dues, then in that situation, the question of submitting an invoice does not arise. To deal with such a situation, Section 8 contains the provision for issuance of demand notice of the unpaid operational debt. Form 3 of the Adjudicating Authority Rules has only laid down the condition that the applicant has to give the details of the amount of debt, details of the transaction on account of which such debt fell due and the date from which such debt fell due, and as per Column 7 of the said Form 3, applicant has to attach the documents to prove the existence of operational debt and the amount in default. Likewise, where the operational debt involves the generation of the invoice, then in that case, invoice raising the demand may be sent to the Corporate Debtor demanding the invoice amount. In such a situation, the Operational Creditor has to issue the demand notice in Form 4 along with the invoice."

(Emphasis placed)

13. When we apply the ratio of the above judgment, it is amply clear that when the operational debt involves generation of invoices, then in that case, the invoice raising the demand is required to be furnished to the Corporate Debtor with the Section 8 demand notice while demanding the said amount. Merely because Section 8 provides for an option to issue the Section 8 demand

notice in Form 3 or Form 4 cannot be seen to allow the Operational Creditor to take refuge of Form 3 to escape from the requirement of submission of invoices to prove the debt and amount in default. We therefore do not find any infirmity in the finding returned by the Adjudicating Authority that the demand notice served on the Corporate Debtor was not in order as the claim of the Appellant was based on generation of invoices. When the relevant Rules clearly outline that a particular Form is to be used for a particular purpose, compliance to the same cannot be ignored or brushed aside or treated as discretionary. Further what compound the situation further is that even the two documents mentioned in Form 3 of the Section 8 demand notice including the email dated 15.01.2016 were not attached to the said demand notice.

14. This brings us to the email dated 15.01.2016 which has been relied upon by the Appellant to assert that the outstanding liability had been acknowledged by the Corporate Debtor and on having committed default thereto, this was a fit case for admission of Section 9 application. It was vehemently contended that the Corporate Debtor has on hindsight denied that this email was an acknowledgement from them to the Operational Creditor by taking the clever plea that the email was addressed to an entity other than the Operational Creditor. To buttress their argument that email address on which the email of 15.01.2016 was sent was an address which was in regular use by the Corporate Debtor in sending its communications to the Appellant. It was pointed out that material on record shows that a clutch of emails was sent by the Corporate Debtor at the email address of *rasmimarketingpune@gmail.com* and *paresh.rasmimarketing@gmail.com.*

Elaborating further on this aspect, attention was adverted to email dated 16.07.2014 as placed at page 222 of the APB; email dated 16.08.2014 as placed at page 47 of the APB; email dated 19.08.2014 as placed at page 51 of the APB and email dated 06.01.2017 as placed at page 230 of APB wherein both these email addresses had been used interchangeably by the Corporate Debtor while addressing communications to the Operational Creditor. Further, when these communications were dealing with the subject matter of transaction in respect of Rama Traders, it was asserted that use of email address of Rasmi Marketing for exchange of the communication cannot be a ground to claim that the communication cannot be treated as admission of liability of the Corporate Debtor towards Rama Traders.

15. Per contra it was contended by the Respondent that the acknowledgment email of 15.01.2016 having been sent to Rasmi Marketing could not have been treated as an acknowledgement of debt to the Appellant. It is the contention of the Corporate Debtor that Rasmi Marketing was a separate entity from that of the Operational Creditor which was Rama Traders and hence any email sent to Rasmi Marketing cannot be construed as an email sent to Rama Traders. Further when the purported attachment being ledger was neither signed nor had any seal of the Corporate Debtor, it has been rightly held by the Adjudicating Authority that the said email cannot be viewed as an acknowledgement of liability. It was further asserted that they had not only denied having acknowledged the liability, they had disputed doing business with the Appellant in their reply to the Section 8 Demand Notice. It was also submitted that when the Appellant in their rejoinder to the reply of the Respondent to the Section 9 application had on their own vouched

that Rasmi Marketing being a separate business entity cannot be dragged into the transactions between the Appellant and the Corporate Debtor, it is surprising that when it came to the email dated 15.01.2026, the Appellant have been endeavouring to disregard the independent and separate status of these two entities.

16. At this stage, we may have a look at to the reply to the Section 8 demand notice as furnished by the Corporate Debtor to the Operational Creditor on 05.07.2018 which is placed at page 142 of the APB. The Corporate Debtor in its reply has categorically disputed the operational debt and asserted that no goods had been purchased from Rama Traders since 2012 and hence, there was no question of payment of amount of Rs. 3.45 Cr. Even the nature of transaction has been disputed by claiming that the Operational Creditor was a commission agent and not a supplier of goods. The relevant extracts from the notice of dispute are as reproduced below:-

REPLY NOTICE Dated: 5/7/2018

To
M/S. Rama Traders,
Prop: Raju Manasukhlal Rupareliya
Sangam project, Office No. 3 & 4,
46, Dr. Ambedkar road,
Near RTO office, Pune

Sir,
…….
1.Your letter dated 22.06.2018; my client received on 26.06.2018 and whatever allegation, claim, demand and objection made in the said Notice are not agreed and accepted by my client. My client totally denied all the allegations made in the said Notice. Legal Notice sent by your advocate is illegal and erroneous. While sending the said illegal notice by you; you have not disclosed actual facts before your advocate. Hence, it seems that you are cunning and shrewd people. As mentioned in your notice; you are not doing business since

the year 2012 and still and hence, there is no question arisen to purchase your goods since the year 2012. The contents as mentioned in your Notice; we have never purchased the goods from you. Therefore, there is no question arisen to pay an amount of RS. 3,45,55,824/- as mentioned in your Notice in illegal way. Therefore, it is not agreed and accepted by my client as per demand made in your notice. Accordingly, all the allegations and claims made in your notice in paragraph No. 1 to 7 are totally rejected by my client in clear cut manner.

2.In this regard actually fact is as under :-

1…..

2.As mentioned hereinabove, you are commission agent. My client's company's turn over is more than crores. Apart from this, my client's company is very famous and reputed company and getting information of my client's company entirely and you have shown your willingness to do the work of my client's company. As a part of it; you have visited top most officers and directors of the company to get agency of my client's company for sale and supply of my client's diesel machinery within the State of Maharashtra. And you have expressed your willingness to do this job on commission basis. Hence, on my client's company name, you will have to get orders, to do correspondence, to submit the bills and also to collect bill amount on behalf of my client's company and also to pay the amounts on commission basis. After taking in consideration of your request sympathetically and my client have give consent to the same with an intention for convenience and beneficial sake; my clients have appointed you as commission agent and they have consent to the same.

3…… You have not given the details of materials supplied to my client's company as mentioned in your notice. Therefore, notice sent by you is illegal, null and void. Hence, there is no question of 24% interest per annum on the amount mentioned in the notice. The contents mentioned in your advocate's notice in paragraphs No.1 to 7 are totally false and fabricated and baseless allegations made by you. Therefore, my client never agrees and accepts the same and my client clearly rejects the said allegations and claim made in the illegal notice.

……..

6.Therefore, my client should not pay you an amount of Rs.3,45,55,824/- and on this illegal and fake amount; you have sent bogus notice in the form No.3 as per rule 5. In the past, you have sent illegal notice on 19.01.2018 in accordance with rule-5 and my clients have given reply to this notice making clarification accordingly. Hence, there is no need to send reply to your notice again."

(Emphasis supplied)

17. We find that the Corporate Debtor in its reply on 05.07.2018 to the Section 8 notice has denied the claim raised by the Operational Creditor on the grounds that they are not legally due or payable besides disputing the debt amount that has been claimed. The above reply by the Corporate Debtor to the Section 8 demand notice is clearly a notice of dispute. Section 9(5)(ii) of the IBC contemplates rejection of an application when a notice of dispute is received by the Operational Creditor. In the present case, it is an undisputed fact that the Section 8 demand notice issued by the Operational Creditor had been replied to by the Corporate Debtor and this notice of dispute clearly attracted Section 9(5)(ii)(d) of the IBC.

18. It is a well settled legal percept in terms of seminal judgment of Hon'ble Supreme Court in ***Mobilox Innovations Pvt. Ltd. Vs Kirusa Software Pvt. Ltd. (2018) 1 SCC 353*** that as long as a dispute is raised which is not a patently feeble argument or unsupported by evidence, the Adjudicating Authority has to reject the application. The relevant extracts of the judgment is as reproduced as below:

> "*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."

19. It is well settled that in a Section 9 proceeding, there is no need to enter into final adjudication with regard to existence of dispute between the parties regarding operational debt. What has to be looked into is whether the defence raises a dispute which needs further adjudication by a competent court. If we apply the above cited test laid down in ***Mobilox judgement*** to the facts of the present case, it becomes clear that the nature of dispute raised is such that it requires adjudication by the competent court. The present is not a case where there is an undisputed debt for which insolvency can be initiated against the Corporate Debtor.

20. With the aforesaid discussion, we are of the considered view that the Adjudicating Authority did not commit any error in rejecting the Section 9 application filed by the Appellant. There being no merit in the appeal, the same is dismissed. We however make it clear that it will remain open to the Appellant to resort to other remedies in accordance with law. No order as to costs.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Place: New Delhi
Date : 04.05.2026
Sheetal