NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 1704 of 2025

[Arising out of the Impugned Order dated 12.09.2025 passed by the Adjudicating Authority, National Company Law Tribunal, Court No. IV, New Delhi Bench in C.P. (IB) No. 599/ND/2023]

IN THE MATTER OF:

Rashtriya Mill Mazdoor Sangh, Bombay
Mazdoor Manzil, G.D. Ambedkar Road,
Parel, Mumbai – 400012.

...Appellant(s)

Versus

National Textile Corporation Limited
Scope Complex, Core-IV,
7 Lodhi Road, New Delhi – 110003. **...Respondent(s)**

Present:

For Appellant : Mr. Krishnendu Datta, Sr. Advocate with Ms. Eshna Kumar, Ms. Niharika Sharma and Ms. Astha Agrawal, Advocates

For Respondents : Ms. Shiva Lakshmi and Mr. Madhav Bajaj, Advocates for R1.

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

Per: Barun Mitra, Member (Technical)

The present appeal, preferred under Section 61 of the Insolvency and Bankruptcy Code, 2016 ('**IBC**' in short), arises from the order dated 12.09.2025 (hereinafter referred to as the '**Impugned Order'**) passed by the Adjudicating Authority (National Company Law Tribunal, New Delhi Bench, Court-IV) in C.P. (IB) No. 599/ND/2023. By the said Impugned Order, the Adjudicating Authority dismissed the Section 9 application of IBC filed by the Appellant-Rashtriya Mill Mazdoor Sangh seeking initiation of the Corporate Insolvency Resolution Process ('**CIRP**' in short) against the

Respondent/Corporate Debtor-National Textile Corporation Ltd. Aggrieved by the impugned order, the Appellant has preferred the present appeal.

2. Coming to the salient facts of the case which are relevant to be noticed for consideration of the matter at hand, we find that Section 9 application has been filed by the Appellant-Rashtriya Mill Mazdoor Sangh, Bombay (**'RMMS'** in short), in its capacity as a registered trade union. The Appellant is the recognised representative union of the workmen employed in three mills of the Corporate Debtor- National Textile Corporation Limited ('**NTC**' in short), which has a total of 26 mills under its fold. The Corporate Debtor is a government company within the definition of "Corporate Person" under Section 3(7) of the IBC. Due to shutdown of operations, from 18.05.2020 the Corporate Debtor had reduced wages payable to workmen to 50% of the normal till resumption of operations, which arrangement was conditionally accepted by the workmen in expectation of reopening of mills. However, due to continued non-payment of full wages, Complaint No. 160 of 2020 was initiated by RMSS before the Industrial Court, Mumbai *inter alia* for unfair labour practices besides seeking directions for payment of full wages and resumption of operations. However, on being denied the initial interim relief sought in the matter, a Review Application was filed which led to a Writ Petition No. 252 of 2022 filed by RMSS before the Hon'ble Bombay High Court. However, the Bombay High Court did not decide the merits of interim relief issue and instead observed on 13.11.2025 that the Industrial Court may decide Complaint No. 160 of 2020 expeditiously. Against an accumulation of arrears towards wages, gratuity and other dues to falling Rs 66.88 Cr. which was payable by the Corporate Debtor to the workers against which only part

payment of about Rs 20 Cr. had been received, the Appellant-Operational Creditor issued a Demand Notice under Section 8 of IBC on 31.07.2023 claiming Rs 44.96 Cr. as outstanding dues. The Section 8 Demand Notice was never replied to by the Corporate Debtor. Upon failure of Corporate Debtor to discharge its liability, a Section 9 application was filed on 25.08.2023 before the Adjudicating Authority seeking initiation of CIRP against the Corporate Debtor. Taking notice of partial payments having been made towards the outstanding debt and pre-existing dispute, the Section 9 application was dismissed by the Adjudicating Authority on 12.09.2025. Assailing the impugned order, the Appellant has come up in appeal.

3. Making submissions on behalf of the Appellant, Shri Krishnendu Datta, Ld. Sr. Counsel contended that the Adjudicating Authority committed a grave error in rejecting the application filed under Section 9 on the ground of existence of pre-existing dispute. It was submitted that the proceedings before the Industrial Court, Mumbai and the Hon'ble Bombay High Court pertained to issues of unfair labour practices, closure of mills and other issues divorced from non-payment of outstanding operational debt in terms of arrears of wages, gratuity, bonus and other statutory dues payable to the workmen. When the Corporate Debtor had repeatedly and unequivocally admitted its liability in respect of the outstanding dues exceeding threshold limit as is evident from various material on record, the Adjudicating Authority could not have treated the collateral proceedings before the other courts to constitute pre-existing dispute. It was emphatically asserted that for any dispute to qualify as pre-existing dispute as per the statutory requirements of IBC, the dispute must exist prior to issuance of the demand notice and must relate to

the existence of the debt itself. However, in this case when the admitted liability stood above the threshold limit of Rs 1 Cr. and no dispute was even raised after issue of Section 8 Demand Notice, there was no foundational basis for the Adjudicating Authority to reject the Section 9 application on the ground of pre-existing dispute. Reliance was also placed on the judgment of the Hon'ble Supreme Court in ***Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd. (2018) 1 SCC 353*** to contend that for any dispute to be a ground for rejection of Section 9 application, the dispute must be real, substantial and bona fide and not spurious, hypothetical or illusory. The Adjudicating Authority however misapplied the time-tested principles laid down by the ***Mobilox judgment supra*** in holding partial payments and related reconciliation endeavors and pending proceedings before other fora of law as pre-existing dispute between the two parties. When the outstanding liability was never denied by the Respondent, the issue of reconciliation could not have been construed as a ground demonstrating pre-existing dispute. In any case, partial payments do not stand to extinguish liability where default continues. The Adjudicating Authority therefore exceeded its jurisdiction by examining discrepancies in the quantum of debt, since at the stage of admission of an application under Section 9 of IBC, the scope of inquiry is confined to the existence of operational debt and occurrence of default, and determination of the exact quantum is beyond the limited jurisdiction of the Adjudicating Authority. The default in the present case is continuing in nature and the Respondent had admittedly failed to pay wages even subsequent to June 2023. Further, the Respondent on his own has admitted its inability to discharge its outstanding obligations due to its financial distress and

resultant inability to generate funds to meet mounting liabilities which hardship was further aggravated due to withdrawal of government support. In these circumstances, it was contended that the impugned order suffers from grave infirmity on account of failure on the part of Adjudicating Authority's to appreciate that Corporate Debtor had admitted its debt beyond the threshold limit and the said default continued to subsist and instead relying on irrelevant considerations, it misapplied the law laid down in the ***Mobilox judgment supra*** to dismiss the Section 9 application. Aggrieved by the impugned order, it was vehemently contended that the impugned order therefore liable to be set aside.

4. Refuting the contentions advanced by the Appellant, Ms. Shiva Lakshmi, Ld. Counsel for the Respondent–Corporate Debtor submitted that the appeal is devoid of merit and founded on suppression of material facts, as the Appellant selectively relied on documents while omitting subsequent pleadings and affidavits placed on record by them which clearly demonstrated that substantial payments had already been made by the Corporate Debtor towards wages and bonus leaving only a disputed differential amount of Rs 4.25 Cr requiring reconciliation which remained unpaid. It was contended that the Demand Notice dated 31.07.2023 lacked complete employee-wise particulars, making verification impossible, and that upon receipt of the above demand notice, the Respondent undertook mill-wise verification and also disbursed payments accordingly. It was also asserted that the Corporate Debtor on their part had consistently disclosed all payments made by them before the Adjudicating Authority and clarified that discrepancies arose due to inclusion of already paid employees, category mismatches, unverified

beneficiaries and inconsistencies in wage data, thereby rendering the remaining claim as disputed. While admitting that the Respondent on the instructions of the Adjudicating Authority had submitted on record an affidavit dated 29.01.2025 reflecting payment made by them, it was misconceived on the part of the Appellant to hold this compliance document to be an admission of liability particularly when they have consistently sought for reconciliation by sending repeat communications to the Appellant in this regard but the Appellant had failed to cooperate. Accordingly, it was submitted that the appeal deserved to be dismissed as the claim stood substantially discharged and the remaining amount is disputed and a subject matter of reconciliation. The existence of discrepancies in the wage payment data and pending requests for reconciliation when seen cumulatively with parallel proceedings going on before other forums like the Industrial Court and Bombay High Court clearly established a bonafide pre-existing dispute. It was argued that when the Appellant had agitated its grievances before the appropriate labour forum and also the Bombay High Court and the matter is still pending consideration of the Industrial Court, the Adjudicating Authority has not committed any error in not entertaining the Section 9 petition. Thus, the essential requirement of existence of an undisputed operational debt under Section 9 of IBC was absent in this case and the Adjudicating Authority had rightly rejected the Section 9 application. It was vehemently contended that the Appellant is misusing the insolvency process as a debt recovery mechanism, which is impermissible under the scheme of IBC.

5. We have duly considered the arguments advanced by the Learned Counsel for the parties and perused the records carefully.

6. The principal issue that arises for our consideration is whether there existed a genuine pre-existing dispute between the parties which justified the rejection of the application filed by the Appellant under Section 9.

7. It is the case of the Appellant that the crystalized wage and statutory due arrears which constituted operational debt had crossed the threshold limit of Rs 1 Cr. and hence the Section 9 application filed by a registered trade union which was agitating the rights of workmen for unpaid wages and statutory dues ought to have been admitted. It was contended that the Corporate Debtor had all along acknowledged the outstanding operational debt owed to the Appellant. On 18.05.2023, the Corporate Debtor had in writing admitted a default of Rs 66.88 Cr. and the Corporate Debtor having paid about Rs 20 Cr. to the Appellant before the issue of Section 8 Demand Notice, this payment had been taken into account while filing the Section 9 petition for the balance outstanding operational debt of Rs 44.96 Cr. It was asserted that even if partial payments were made by the Corporate Debtor, such payments cannot extinguish a default and as long as the default crosses the Rs 1 Cr. threshold limit under Section 4 of the IBC, Section 9 application cannot be rejected. However, merely because the Corporate Debtor had claimed to have made substantial payments and subsequently much after the issue of the Section 8 Demand Notice had raised some reconciliation issue, the Adjudicating Authority erroneously held that there was a pre-existing dispute surrounding the operational debt. Argument was canvassed that

reconciliation of accounts is merely an exercise for quantification of the outstanding debt which in itself implicitly presupposes an admitted liability. In such circumstances, there is no foundational basis for the Adjudicating Authority to hold reconciliation of accounts as a ground for pre-existing dispute. The issue of reconciliation having been raised after the Section 9 application was filed also shows that this defence was an afterthought. Reliance was placed on the judgment of this Tribunal in ***Narayan Singh Pathania Vs Valuelabs LLP in CA(AT)(Ins) No. 1415 of 2019*** in which it has been held that mere pendency of reconciliation without denial of the amount due and payable fails the test of pre-existing dispute. It was also pointed out that the default of the Corporate Debtor is a continuing default within the meaning of Section 3(12) of IBC. The admitted unreconciled balance of Rs 4.25 Cr. was the Corporate Debtor's liability as on June 2023 which has since aggregated into a much higher figure. The Corporate Debtor had never denied the fact that outstanding dues were required to be cleared by them. Rather, they had repeatedly admitted that they were not able to clear the outstanding liability due to their poor financial plight and inability to generate funds for discharging their debt obligations. Thus, when the Corporate Debtor had on their own acknowledged the arrears qua the Operational Creditor, the Adjudicating Authority could not have treated the ruse of reconciliation and partial payments subsequent to issue of Section 8 Demand Notice and filing of Section 9 application as grounds of genuine pre-existing dispute.

8. Per contra, it is the contention of the Respondent that the findings returned by the Adjudicating Authority was in order as it had correctly based

its findings upon a cumulative appreciation of all relevant material on record including their Reply Affidavit dated 09.12.2023; short affidavits dated 29.01.2025 and 22.07.2025; and written submissions dated 10.06.2025 all of which have consistently established that claim of payments raised in the Appellant's demand notice had not crystallized being subject to reconciliation. Moreover, right from the very inception, when the Appellant had filed the Section 9 petition alleging outstanding operational debt of approximately Rs. 44.96 crores, the Respondent has been consistent and categorical in asserting that they had paid substantial amounts and the residual differential amount was a subject matter for reconciliation which demonstrated the existence of a genuine dispute. The figures which had been relied upon by the Appellant to claim outstanding liabilities payable to the workmen were incorrect, inflated, and suffered from factual discrepancies as there were multiple mismatches in the employee data and classifications relied upon by RMMS. The remaining amount, if any, required reconciliation on the basis of actual mill and payment records. The same wage issue was also subject matter of labour proceedings before the Industrial Court, Mumbai and Bombay High Court and hence the Appellant's portrayal of the claim as undisputed and enforceable through insolvency proceeding is not tenable. Furthermore, when the Appellant had agitated its grievances including payment of wages and statutory dues by approaching the appropriate labour forum and even knocked at the doors of the Bombay High Court which in turn had sent back the matter to the labour forum *inter alia* for determination and recovery of dues and the matter is pending consideration of the Industrial Court, the Adjudicating Authority has not committed any error in not entertaining the Section 9 petition as

proceedings under the IBC are not recovery proceedings and that too for the recovery of an amount which is disputed. Reliance was placed on the judgment of the Hon'ble Supreme Court in ***Mobilox judgement supra***, wherein it has been held that where there exists a plausible dispute, a petition under Section 9 must be rejected. Attention was also adverted to the judgment of Hon'ble Supreme Court in ***M/s S.S. Engineers vs Hindustan Petroleum Corporation Ltd. And Ors. in Civil Appeal No. 4583 OF 2022*** wherein it has been emphasised that insolvency proceedings cannot be used as a substitute for recovery of disputed claims and that IBC is not intended to be invoked where the claim itself is disputed or requires adjudication. It was pressed that the impugned order of the Adjudicating Authority is in line with the approach which ensures that the IBC mechanism must remain true to its primary goal of aiding in the resolution of genuine insolvency situations rather than facilitating recoveries. It was also added that the Appellant was also trying to expand the scope of the entire lis by trying to bring the entire Corporate Debtor with all its 26 mills into CIRP while the Section 9 application was confined to specific claims in respect of workmen of only 3 mills.

9. Before we proceed any further, we may draw our attention to the relevant findings of the Adjudicating Authority basis which the Section 9 application of the Appellant has been rejected. The relevant excerpts are as reproduced hereunder:

> *"11. The record shows that the Corporate Debtor has made substantial payments amounting to over 90% of the claimed sum, and the balance amount of Rs. 4.25 crores under reconciliation. Moreover, proceeding with respect to the very same wage issues are pending before statutory labour forum and before the Hon'ble Bombay High Court. This indicates*

the existence of a pre-existing dispute regarding the quantum of dues and entitlement.

12. The Hon'ble Supreme Court in ***Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd. (2018) 1 SCC 353****, held that if there is a real dispute prior to the issuance of a Section 8 notice, the Adjudicating Authority must reject the application under Section 9. The threshold for determining a dispute is whether there is a plausible contention requiring investigation and not a sham defense.*

13. In the present case, the Corporate Debtor has produced material showing substantial payments, reconciliation pending and litigation in industrial forums. These constitute plausible disputes, not illusory or spurious."

10. Having noted the rival contentions of both parties, it would also be relevant to notice as to when the issue of reconciliation was taken up by the Corporate Debtor for the first time. In the present factual matrix, records clearly show that Corporate Debtor that had raised the issue of disputes surrounding the payment of wages and statutory dues before the Adjudicating Authority only in their reply affidavit to the Section 9 application. It is also an undisputed fact that the Corporate Debtor had not replied to the Section 8 Demand Notice. The question before us is whether the Adjudicating Authority could have taken cognisance of reconciliation issue brought to its notice at the stage of filing of reply affidavit by the Corporate Debtor and treat the reconciliation issue as pre-existing dispute. This issue has been well settled by judicial precedent laid down by this Tribunal in ***M/s Brand Realty Services Ltd. Vs M/s Sir John Bakeries India Pvt. Ltd. in CA(AT)(Ins) No. 958 of 2020*** wherein it was held that even if the Corporate Debtor for whatever reasons does not reply to the Section 8 Demand Notice, it can still bring to the notice of the Adjudicating Authority of pre-existing dispute

thereafter. The relevant excerpts from the said judgment are as reproduced below:

> *"12.... Section 8(2) when read with Section 9(1), it is clear that Section 9(1) enables the Operational Creditor to file Section 9 application if no payment has been received by the Operational Creditor form Corporate Debtor or no notice of the dispute under sub-section (2) of section 8 has been received. The statutory scheme under Section 8 and 9 does not indicate that in an event Reply to Notice is not filed within 10 days by Corporate Debtor or no Reply to Notice under Section 8(1) have been given, the Corporate Debtor is precluded from raising the question of dispute.*
>
> *13..... . Further in Reply to Section 9 Corporate Debtor can bring the material to indicate that there are pre-existing disputes in existence prior to issuance of demand notice under Section 8. We thus are of the considered opinion that mere fact that Reply to notice under Section 8 (1) having not been given within 10 days or no reply to demand notice having been filed by the Corporate Debtor does not preclude the Corporate Debtor to bring relevant materials before the Adjudicating Authority to establish that there are pre-existing dispute which may lead to the rejection of Section 9 application....."*

11. Applying the ratio of the above judgment to the facts of the present case, we are therefore of the considered view that even though the Corporate Debtor had failed to reply to the Demand Notice, it did not extinguish the rights of the Corporate Debtor to bring forth relevant material even thereafter to substantiate pre-existing dispute.

12. Since we have come to the conclusion that there is judicial precedent supporting the legal proposition that dispute can be brought to the notice of the Adjudicating Authority even at the stage of filing reply to Section 9 application by the Corporate Debtor, it would be constructive to advert our attention to the relevant paragraphs of the Section 9 reply affidavit of the Corporate Debtor which is reproduced below:

"10. It is hereby submitted that as per the order of BIFR the 03 mills namely India United Mill No. 5, TATA Mills and Podar Mills located at Mumbai was slated as viable mills. Accordingly there 03 mills have been modernized in the year 2008/2009 and since then the operation / production activities of these 03 mills was continuously running regularly till the 24.03.2020. The Operation/Production activities of all the NTC mills had completely stopped from 25-03-2020 due to Covid-19 pandemic and lockdowns were declared by the Government from time to time.

11. It is submitted that however, in this period work was provided to the workers whose services are required for the essential services in the mills. It is submitted that the workers who attended the duties for the essential services have been paid 100% wages and the remaining employees/workers to whom employment were not given have been paid 50% wages from 18.05.2020, without any work being done by them. It is also submitted that even though there is no generation of funds due to non-working of the mills the management is still paying 50% to the workers till now.

14. It is also submitted that in the month of June 2020 the matter was discussed with the Rashtriya Mill Mazdoor Sangh (RMMS) letter dated 24.06.2020 from NTC and the RMMS vide letter dated 25.06.2020 agreed for the 50 % wages, The copy of the letters are enclosed as ***Annexure B.***

15. It is submitted that Rashtriya Mill Mazdoor Sangh, Mumbai has previously sought similar relief from the Industrial Court, Mumbai. In a ruling dated 30.10.2021, the Court granted relief, directing the respondents (i.e the corporate debtor) herein to compensate the workers based on settlements in force and ensuring payment before the 7th day of each month. The order dated 30.10.2021 from the Industrial Court Mumbai is herein enclosed and annexed as ***Annexure - C.***

16. It is submitted that the dispute herein pertains to an Industrial Dispute and is distinct from IBC proceedings which has been initiated by RMMS. Moreover, it is emphasized that Rashtriya Mill Mazdoor Sangh, Mumbai is engaging in Forum shopping as it has already agitated the same issue by approaching the Industrial Court, Mumbai.

17. It is further submitted that the Rashtriya Mill Mazdoor Sangh, Mumbai has also filed the W.P No. 252 of 2022 before Hon'ble High court Mumbai for the outstanding 50 % wages of the employees of the NTC Mills in Mumbai and the matter in regard to demand made by the

RMMS before NCLT is subjudice and since the matter is pending in the Hon'ble High Court, Mumbai, the RMMS cannot refer the same issue/ matter to another legal forum. The True Copy of the order dated 26.06.2023 is hereto marked as ***Annexure D****. It is submitted that as already stated in the para-above that to those employees whose services are being taken are being paid 100% of their wages and to those employees whose services are not being taken due to non-functioning of the Mills are being paid 50% of their wages. It is pertinent to note that the assets of the company are worth more than 1000 crore and any such initiation of insolvency proceedings is premature and in this case specifically it is forum shopping.*

....

20. Further it is submitted that as the RMMS have already filed a case in the High Court Bombay which subjudiced and NTC is releasing the dues which is being duly accepted by the employees hence they cannot agitated the dispute before this Hon'ble Tribunal. They are only doing the forum shopping and using this avenues as arm twisting."

(Emphasis supp;ied)

13. When we look at para 11 of the above Section 9 reply affidavit filed by the Respondent dated 09.12.2023, we find that the Respondent has categorically submitted that workers engaged in essential services had been paid 100% wages, whereas workers who were not working had nevertheless been paid 50% wages without work being taken and that wages had continued to be disbursed despite closure of operations in certain mills. We also find that at paras 15 and 17 of the reply affidavit, it was also pointed out that identical issues of wage dues had already been raised by the Appellant before the Industrial Court, Mumbai and the Bombay High Court, thereby demonstrating that the subject matter of Section 9 proceeding formed part of ongoing labour proceedings which was already sub-judice. The pendency of labour proceedings was therefore specifically pleaded before the Adjudicating Authority with the assertion that the outstanding wage dues was part of the

ongoing labour proceedings evidencing pre-existing dispute. The averments made in the reply to the Section 9 application clearly reflects that there were differences between the Appellant and the Respondent on calculation of wages and statutory dues and that the same had also been the basis for negotiations between the two parties as can be seen at paras 14 and 16 of the reply affidavit. In such circumstances, we are also of the view that the Adjudicating Authority did not commit any infirmity in holding that the wage related disputes between the parties is apparent from the reply to the Section 9 notice.

14. The Appellant has however contested the above finding returned by the Adjudicating Authority that proceedings pending before the Industrial Court and the Bombay High Court constituted pre-existing dispute. It was contended that the Adjudicating Authority had wrongly applied the ***Mobilox judgment*** by treating pendency of collateral proceedings as a ground of pre-existing dispute. It is the case of the Appellant that these proceedings before the Industrial Court could not bar initiation of CIRP of the Corporate Debtor since Section 238 of the IBC being of overriding nature, it prevailed over other remedies provided by labour legislations. Moreover, the Labour Court proceedings dealt with the subject of unfair labour practices and revival of the operations of the Corporate Debtor. It was added that even in these parallel proceedings, there is no denial of the admission of crystallized arrear of wages and bonus payable by the Corporate Debtor. Hence, once debt and default stood established, the Section 9 application deserved to have been admitted. and not with denial of crystallized arrears of admitted wages and statutory dues.

15. When we cursorily look at the order of 30.10.2021 in respect of Complaint (ULP) No. 160 of 2020 Appeal Paper Book (**"APB"** in short), we have no doubts that the labour proceedings initiated by the Appellant before the Industrial Court dealt not only with the extent and quantum of wages that were payable to the workmen but also the basis on which wages were paid to them during and after the lockdown period besides dealing with their claim for full wages as against 50% wages actually paid to them and other rights of the workmen. This order in (ULP) No. 160 of 2020 further led to filing of a review Application vide (ULP) No. 11 of 2021 as placed at page 173 of the APB which was further agitated before the Bombay High Court in Writ Petition No. 252 of 2022 in which the latter had also requested the Industrial Court to hear and decide Complaint (ULP) No.160 of 2020 as expeditiously as possible, preferably within one year. Thus, wage related issues of workmen had been raised before the specialized labour forum well before the issue of Section 8 demand notice, which therefore clearly shows that the dispute over quantum and entitlement of wage dues was not only pre-existing but the dispute had not yet attained finality. While we agree that mere pendency of a labour case, by itself, does not bar a Section 9 proceeding, be that as it may, when the labour proceedings themselves show that the very basis of the claim , in terms of extent and quantification, remained disputed, the Adjudicating Authority did not commit any error in holding that the requirements of an undisputed operational debt and default above the threshold limit does not stand satisfied in the present case. The Appellant having invoked the insolvency jurisdiction, while the labour court proceedings were still sub-judice, the Adjudicating Authority cannot be faulted for holding that the Section 9 did not deserve

admission as there was pre-existing dispute regarding the quantum of dues and entitlement.

16. It is sufficiently clear from the pleadings made by the Respondent in their reply affidavit that it had notified the Adjudicating Authority about the pre-existing dispute. When we apply the ratio of the ***Mobilox judgment supra***, it does not lie in the scope of the Adjudicating Authority to decide as to whether the defence taken is ultimately going to succeed. The correctness or truthfulness of any such pre-existing dispute is a matter of evidence and cannot be examined by the Adjudicating Authority which only enjoys summary jurisdiction. All that Adjudicating Authority is required to look into is whether there is a plausible contention which has been raised to show a dispute. In the facts of the present case, we find that plausible contention was raised by the Corporate Debtor in the reply to the Section 9 application of there being pre-existing dispute between the parties. When the Respondent has already raised a dispute in the reply to the Section 9 application, the impugned order by rejecting the Section 9 application on the ground of pre-existing dispute cannot be faulted. The dispute raised not being hypothetical, illusory or spurious defence, the Section 9 application deserved to be rejected.

17. The impugned order by reinforcing these principles, has safeguarded the avowed objectives of the IBC and helped maintain the integrity of the insolvency framework. The scope of Section 9 of IBC cannot be bent to use it as an instrument for debt recovery as the focus of IBC is on ensuring the revival and continuation of the corporate debtor rather than facilitating recovery of the debt owed by the corporate debtor to its creditors. In ***Swiss***

Ribbons Pvt. Ltd. vs. Union of India & Ors. in (2019) 4 SCC 17 the Hon'ble Apex Court has held that IBC was not a mere recovery legislation for the creditors but rather a beneficial legislation intended to revive and rehabilitate the corporate debtor. The relevant observations read as under:

> *"28. It can thus be seen that the primary focus of the legislation is to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation. The Code is thus a beneficial legislation which puts the corporate debtor back on its feet, not being a mere recovery legislation for creditors. The interests of the corporate debtor have, therefore, been bifurcated and separated from that of its promoters/those who are in management. Thus, the resolution process is not adversarial to the corporate debtor but, in fact, protective of its interests. The moratorium imposed by Section 14 is in the interest of the corporate debtor itself, thereby preserving the assets of the corporate debtor during the resolution process. The timelines within which the resolution process is to take place again protects the corporate debtor's assets from further dilution, and also protects all its creditors and workers by seeing that the resolution process goes through as fast as possible so that another management can, through its entrepreneurial skills, resuscitate the corporate debtor to achieve all these ends."*

18. In yet another decision of the Hon'ble Supreme Court in ***Hindustan Construction Company Ltd. v. Union of India reported in (2020) 17 SCC 324***, it was held that IBC is not meant to be a recovery mechanism as it is an economic legislation meant for the resolution of stressed assets. The relevant observations read as under: -

> *"79. ..... As has been held by our judgment in Pioneer Urban Land & Infrastructure Ltd. v. Union of India, IBC is not meant to be a recovery mechanism (see para 41 thereof)—the idea of the Insolvency Code being a mechanism which is triggered in order that resolution of stressed assets then takes place. For this purpose, the definitions of "dispute" under Section 5(6), "claim" under Section 3(6), "debt" under Section 3(11), and "default" under Section 3(12), have all to be read together. Also, IBC, belonging to the realm of economic legislation,*

raises a higher threshold of challenge, leaving Parliament a free play in the joints, as has been held in Swiss Ribbons (P) Ltd. v. Union of India [...]"

19. What can be discerned from aforesaid two decisions is that insolvency proceedings are fundamentally different from proceedings for recovery of debt. What sets apart IBC insolvency proceedings from other ordinary recovery proceedings is that though both proceeding does contemplate the prospect of debt recovery, but such recovery is only a consequence of the resolution of the corporate debtor and not the main relief in insolvency proceedings. Although both proceedings envisage an aspect of recovery of debt, yet in insolvency, the recovery is a mere consequence and not the ultimate relief. In the present case too, the Adjudicating Authority after relying on the judgment of the Hon'ble Apex Court in ***M/s S.S. Engineers vs Hindustan Petroleum Corporation Ltd. and ors. in Civil Appeal No. 4583 of 2022*** has rightly held that Section 9 proceedings cannot be used as recovery proceedings particularly so when the wage-based claims are disputed.

20. Hence, for the reasons discussed above, we do not find the Impugned Order to suffer from any error in rejecting the Section 9 application. The Appeal is devoid of merit and is dismissed. No costs.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Place: New Delhi

Date: 17.04.2026

Abdul