NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 112 of 2026

[Arising out of the Impugned Order dated 31.10.2025 passed by the Adjudicating Authority, National Company Law Tribunal, Ahmedabad Bench, Court – II, Ahmedabad in CP(IB) No. 250/AHM/2023]

IN THE MATTER OF:

JS STEEL CO LTD.
Registered Office At: #704, LG Twintel 6, Samsung-Ro, 96 Gil, Gangnam-Gu, Seoul, South Korea (PO. 06168)
jscorp@jsstell.kr **...Appellant(s)**

Versus

AMOD STAMPINGS PRIVATE LIMITED
Gujarat Spun Pipe Compound, Padra Road, PO Samiala, Distt. Vadodara, Gujarat, India - 391410
cs@atlantaelectricals.com **...Respondent(s)**

Present:

For Appellant : Mr. Jagvir Singh, Mr. Rupender Sinhmar, Mr. Karan Valecha and Mr. Naman Tandon, Advocates.

For Respondents : Mr. Malak Bhatt, Ms. Neeha Nagpal, Mr. Ravi Pahwa and Mr. Prithviraj Dey, Advocates.

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 31.10.2025 (hereinafter referred to as the **'Impugned Order'**) passed by the Adjudicating Authority (National Company Law Tribunal, Ahmedabad Bench) in CP(IB) No. 250/AHM/2023. By the said impugned order, the Adjudicating Authority dismissed the Section 9 application filed by the

Appellant/Operational Creditor-JS Steel Co. Ltd. seeking initiation of Corporate Insolvency Resolution Process ('**CIRP'** in short) against the Respondent/Corporate Debtor-Amod Stampings Private Limited. Being aggrieved by the dismissal of its Section 9 application and the findings recorded therein, the Appellant has come up in appeal.

2. Coming to the brief factual matrix of the matter at hand, it is relevant to notice that the Appellant-Operational Creditor and the Respondent-Corporate Debtor had entered into a business arrangement since 2021, in pursuance of which the Corporate Debtor had issued a purchase order dated 08.09.2021 to the Operational Creditor for supply of electrical silicon steel sheets. The Operational Creditor thereafter commenced supply of goods which were shipped from abroad and the transactions between the parties were governed by 'CFR INCO TERMS'. Two of these consignments were shipped by the Operational Creditor from China for which supply, payments were also made by the Corporate Debtor. However, the Corporate Debtor defaulted in making payment for the third consignment sent by the Operational Creditor which was covered under invoice dated 16.09.2022 which was for an amount of USD 353,534.50 (approximately Rs. 2.92

Cr.). These goods had been duly shipped from China and had reached Nava Sheva Port in India. In terms of the agreed payment mechanism, the Banker of the Operational Creditor having forwarded the requisite documents to the Banker of the Corporate Debtor, the payment fell due in October, 2022. The Corporate Debtor had filed the Bill of Entry on 03.10.2022 but allegedly neither took steps to get the goods cleared nor released the payment thereof to the Appellant. The non-payment of the dues was taken up by the Appellant with the Corporate Debtor but as the amounts remained unpaid, the Appellant issued a Section 8 Demand Notice on 26.06.2023 for recovery of outstanding operational debt of USD 353,534.50 with interest thereon. The Corporate Debtor sent a Notice of Dispute on 04.07.2023 raising issues pertaining to the quality of goods supplied for not being in conformity of contractual specification. The Appellant thereafter filed an application under Section 9 of the IBC claiming operational debt alongwith interest. However, the Adjudicating Authority dismissed the Section 9 application vide impugned order dated 31.10.2025 on grounds of pre-existing dispute between the parties. Aggrieved by the impugned order, the present appeal has been preferred by the Appellant-Operational Creditor.

3. Making submissions on behalf of the Appellant, Shri Jagvir Singh Ld. Counsel for the Appellant stated that the Adjudicating Authority had erroneously rejected the Section 9 application when there was a clear default on the part of the Corporate Debtor in making payment of the outstanding dues and invoices. It was also submitted that the Adjudicating Authority had failed to take into consideration the fact that the supplies were made by the Appellant in terms of CFR contract which contract clearly imposes an absolute obligation upon the buyer to take delivery of goods upon loading on the ship. In the present case, since the Operational Creditor had loaded the goods in the ship at the port of shipment, the title of the goods and risk stood transferred to the Corporate Debtor. The debt had therefore become due and payable on the expiry of 7 days from the submission of documents to the Bank. It was contended that the Adjudicating Authority had erred in holding that there was an existence of dispute between the Appellant and the Corporate Debtor as it failed to appreciate that the disputes could only be raised in respect of the goods against which the Operational Creditor had raised the invoices which also constituted the subject matter of the Section 8 Demand Notice basis which the Section 9 application had been preferred. In the

present case, the Corporate Debtor had raised an issue of defective consignments linked to old and unrelated consignments which had nothing to do with the present consignment against the third invoice. It was emphatically asserted that the Adjudicating Authority had also erred in clubbing two independent transactions without appreciating the fact that the quality of the previous consignment of goods had no bearing on the use of goods belonging to a future consignment. In support of their contention, reliance was placed on the judgment of this Tribunal in ***R.A.J. Krishna Construction Company Pvt. Ltd. Vs Newera Solutions Pvt. Ltd. in CA(AT)(Ins) No. 83 of 2024*** wherein it was held that disputes can only be qua goods under Demand Notice and Section 9 application. It was further added that similar view has been taken by the Hon'ble Supreme Court in ***Transmission Corporation of Andhra Pradesh Ltd. Vs Equipment Conductors and Cables Ltd. (2019) 12 SCC 697.*** Since, the dispute was unreal and not supported by any credible contemporaneous evidence, it was contrary to the settled principles of law laid down by the Hon'ble Supreme Court in ***Mobilox Innovations Pvt. Ltd. Vs Kirusa Software Pvt. Ltd. (2018) 1 SCC 353.***

4. Refuting the allegations made by the Appellant, Shri Malak Bhatt, Ld. Counsel for the Respondent submitted that the impugned order was a well-reasoned order passed by the Adjudicating Authority which was in consonance with the judicial precedent laid down by ***Mobilox judgement supra.*** Rebutting the argument of the Appellant that all the consignments shipped by the Appellant were stand-alone consignments, it was submitted that this artificial distinction sought to be made by the Appellant was rightly not accepted by the Adjudicating Authority since the Corporate Debtor had issued one single Purchase Order dated 08.09.2021. The Appellant had also acted on the common purchase order by sending the goods in different shipments. Hence all these shipments came under the scope of one common purchase order and had a definite bearing on each other. Since the first two consignments as received contained goods which were of inferior quality, the Corporate Debtor had rejected the delivery of third consignment under the same purchase order. It was also pointed out that the disputes with respect to the goods being defective, rusted and not meeting the contractual specifications had been pointed out by the Corporate Debtor in their communications to the Operational Creditor well before the issue

of Section 8 Demand Notice. It was further added that the very fact that the Appellant had admitted to the defective consignments supplied by them alongwith their willingness to compensate the Corporate Debtor clearly demonstrates admission of defects in the quality of the goods supplied. It was further asserted that the dismissal of the Section 9 application was fully justified since the Adjudicating Authority is only required to see whether there exists a real dispute which is not spurious, hypothetical or illusory and is not required to examine the merits of the disputes as has been held by the Hon'ble Supreme Court in ***Mobilox judgment***.

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

6. The short point for consideration is whether there was any genuine pre-existing dispute surrounding the debt claimed by the Operational Creditor as due and payable to them by the Corporate Debtor warranting the rejection of the Section 9 application.

7. Before dwelling on the facts of the present case, a quick glance at the relevant statutory construct of IBC would be useful. Section 8 of the IBC envisages that the Operational Creditor, on occurrence of a default by the Corporate Debtor, is required to

deliver a Demand Notice in respect of the outstanding Operational Debt. Section 8(2) lays down that the Corporate Debtor within a period of 10 days of the receipt of the Demand Notice would have to bring to the notice of the Operational Creditor, the existence of dispute, if any. Section 8 of the IBC reads as follows:

> *"8. Insolvency resolution by operational creditor- (1) An operational creditor may, on the occurrence of a default, deliver a demand notice of unpaid operational debt or copy of an invoice demanding payment of the amount involved in the default to the corporate debtor in such form and manner as may be prescribed.*
> *(2) The corporate debtor shall, within a period of ten days of the receipt of the demand notice or copy of the invoice mentioned in sub-section (1) bring to the notice of the operational creditor—*
> *(a) existence of a dispute, if any, or record of the pendency of the suit or arbitration proceedings filed before the receipt of such notice or invoice in relation to such dispute;*
> *(b) the payment of unpaid operational debt—*
> *(i) by sending an attested copy of the record of electronic transfer of the unpaid amount from the bank account of the corporate debtor; or*
> *(ii) by sending an attested copy of record that the operational creditor has encashed a cheque issued by the corporate debtor.*
> *Explanation.—For the purposes of this section, a "demand notice" means a notice served by an operational creditor to the corporate debtor demanding payment of the operational debt in respect of which the default has occurred."*

8. This now brings us to the statutory construct of IBC post issue of demand notice by the Operational Creditor as laid down in Section 9 of IBC. Under Section 9(1), if the Operational Creditor does not receive payment from the Corporate Debtor or notice of the dispute under sub-section (2) of Section 8, he may file an application under Section 9(1) of the IBC while Section 9(5)(ii) contemplates action that follows receipt of notice of dispute.

9. For convenience, we reproduce Sections 9(1) and 9(5)(ii) of IBC which is to the following effect:

> *"9. Application for initiation of corporate insolvency resolution process by operational creditor.- (1) After the expiry of the period of ten days from the date of delivery of the notice or invoice demanding payment under sub-section (1) of section 8, if the operational creditor does not receive payment from the corporate debtor or notice of the dispute under sub-section (2) of section 8, the operational creditor may file an application before the Adjudicating Authority for initiating a corporate insolvency resolution process."*

Section 9(5)(ii) is as follows:

> *"(5) The Adjudicating Authority shall, within fourteen days of the receipt of the application under subsection (2), by an order—*
> *(i).....*
> *(ii) reject the application and communicate such decision to the operational creditor and the corporate debtor, if—*
> *(a) the application made under sub-section (2) is incomplete;*
> *(b) there has been payment of the unpaid operational debt;*

(c) the creditor has not delivered the invoice or notice for payment to the corporate debtor;
(d) notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility; or
(e) any disciplinary proceeding is pending against any proposed resolution professional:
Provided that Adjudicating Authority, shall before rejecting an application under sub-clause (a) of clause (ii) give a notice to the applicant to rectify the defect in his application within seven days of the date of receipt of such notice from the adjudicating Authority."

10. From a plain reading of the above provisions, it is clear that the existence of dispute and its communication to the Operational Creditor by the Corporate Debtor is therefore statutorily provided for in Section 8. The statutory scheme also contemplates rejection of Section 9 application when notice of dispute has been received by the operational creditor or there is a record of default in the information utility. In the present case, it is an undisputed fact that the demand notice was issued by the Operational Creditor on 26.06.2023 and notice of dispute raised by the Corporate Debtor on 04.07.2023 thus attracting Section 9(5)(ii)(d) of the IBC.

11. However, the Hon'ble Supreme Court in ***Mobilox judgement supra*** has laid down that a dispute sought to be raised in the notice of dispute cannot be a patently feeble legal argument or an

assertion of fact unsupported by evidence and that the dispute should truly exist in fact and not be spurious, hypothetical or illusory. The Hon'ble Supreme Court in this judgement has laid down the following:-

> "*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."*

12. The Hon'ble Apex Court has thus laid down that all that the Adjudicating Authority is ordained to see at this stage is whether there is a plausible contention which requires further investigation and that the purported dispute is not a patently feeble legal

argument or an assertion of fact unsupported by evidence. It was further clarified that the Court was not required to satisfy itself that the defence is likely to succeed or examine the merits of the dispute. It has been laid down that as long as the dispute truly exists in fact and is not spurious, hypothetical or illusory, the Adjudicating Authority has to reject the application. It is therefore a well settled proposition that for a pre-existing dispute to be a ground to nullify an application under Section 9, the dispute raised must be truly existing at the time of filing a reply to notice of demand as contemplated by Section 8(2) of IBC or at the time of filing the Section 9 application.

13. In the present factual matrix, we notice that inspite of being in receipt of the notice of dispute, the Operational Creditor had proceeded to file an application under Section 9 of IBC as it did not receive any payment from the Corporate Debtor.

14. Given this backdrop, it will be useful to find out how the Adjudicating Authority has considered the spectrum of facts to arrive at the conclusion that there existed pre-existing disputes. The relevant portions of the impugned order is extracted hereunder:

"35. Looking at the facts of the case, at the most, it appears that the applicant is aggrieved by the action of the respondent in not accepting the goods of the 3rd consignment which are lying at the Port of Nhava Sheva, India. The applicant has stated that the liability has transferred as per 'CFR INCOTERMS 2020' the moment the goods are loaded the port of shipment. On the other hand, the respondent has not accepted the goods on account of inferior quality of goods in first two consignments. The respondent has time and again raised disputes about issue of rusting of coils sent in the first two consignments with the applicant which is evident from record. It is noteworthy that the applicant has also agreed to compensate the corporate debtor for the same, this suggests that there was a dispute.

37. The applicant has submitted that the 3rd invoice which is defaulted should be treated independently of the first two invoices. This submission of the applicant cannot be accepted for the very reason that all these invoices paid/unpaid stem out of the same single purchase order and these invoices cannot be segregated in disputes with regard to first two transactions and as a result, has not accepted the 3 consignment for which no payment is made and the documents were returned by the bank of the respondent to the bank of the applicant. The parties have made an attempt to resolve the dispute among themselves by offering compensation however it didn't materialize. The respondent has denied to accept the goods which are lying at the port owing to these disputes. We are satisfied that there is a plausible contention which requires further investigation and that the "dispute" raised is not a patently feeble legal argument or an assertion of fact unsupported by evidence. In our view, the dispute raised by the respondent will be treated as a pre-existing dispute in case of the 3 invoice also. There was a pre-existing dispute and hence such disputes cannot be decided in a summary procedure."

15. It will be instructive at this stage to look at the reply filed by the Corporate Debtor to the Section 8 Demand Notice. The reply dated 04.07.2023 at page 262 of Appeal Paper Book ("**APB**" in short) clearly articulates the ongoing disputes between the two parties as may be seen from the excerpts of the said reply as under:

> *"The Operational Creditor has supplied various goods to the Corporate Debtor from time to time. In respect of the same, the Corporate Debtor has several times made complaint to the Operational Creditor against supply of defective and damaged goods being rusty, water mark, dent on the surface or edge of inside and outside of the coils. Supply of such a goods to the Corporate Debtor did not qualify the technical parameters and also were not as per the requirement of the customers.*
>
> *There are numerous communications made between the Corporate Debtor and the Operational Creditor over the supply of defective goods, wherein the Corporate Debtor has disputed the said supply of goods (coils) made by the Operational Creditor. The Corporate Debtor has suffered huge financial loss on commercial part and also impacting the brand/image resulting into reputational loss because of supply of defective goods by the Operational Creditor.*
>
> *…….*
>
> *There is pre-existing dispute between Corporate Debtor and Operational Creditor. Despite having existence of dispute between the Corporate Debtor and Operational Creditor, the Corporate Debtor has received a demand notice dated 26.06.2023 in Form-3 as per rule-5 of the IBBI (Application to Adjudicating Authority) Rules, 2016, to pay USD 3,99,387.50 to the Operational Creditor. The Corporate Debtor further states that, the unpaid amount of USD 3,99,387.50 as mentioned in the notice is unlawful and*

demand from the Corporate Debtor is not payable. The said demand is therefore unlawful, erroneous, null and void and not tenable in the eyes of the law as per provisions laid down in the IBC, 2016 and applicable rules and regulations."

16. Now coming to the above reply of the Corporate Debtor to the demand notice, we notice that it has been clearly mentioned therein about a series of communications exchanged between the two parties where disputes were raised prior to the demand notice with respect to the damaged and defective goods supplied by the Appellant to Corporate Debtor. The reply notice also highlighted the business and reputational loss suffered by the Corporate Debtor on account of failure to provide goods meeting the contractual specifications. There is also a clear statement made that the demand raised by the Operational Creditor was not payable in view of the pre-existing disputes.

17. It is however the case of the Appellant that these disputes were not genuine but an afterthought. It was also pointed out that the very fact that the Corporate Debtor had never issued any legal notice raising these disputes in the past shows that the disputes were spurious and contrived. The malafide intent of the Corporate Debtor is also evidenced by the fact that they refused to make any

payment against the said consignment even after having consciously filed the Bill of Entry as the owner of the said goods and for not clearing the goods from the customs area. In the present case, the Bill of Entry having been provided for by the Corporate Debtor, the debt became due and payable on the expiry of 7 days. Further in terms of their business engagement with the Corporate Debtor which was governed by the CFR INCOTERMS, the Corporate Debtor could not have raised disputes with respect to quality of goods on their arrival at Nava Sheva port since the risk had already passed on to the Corporate Debtor at the port of shipment in China where the consignment was loaded. The quality inspection of the consignment should have been done by the Corporate Debtor before loading of goods from the port of shipment which is not the case in the present factual matrix. Since, there was no pre-inspection of goods which was done before loading, the dispute relating to defective or non-conforming goods was not sustainable legally. It was also the contention of the Appellant that the filing of Bill of Entry by the Corporate Debtor in itself signified the acceptance of goods without any protest. It was emphatically asserted that the Adjudicating Authority had erred in not appreciating the fact that the quality of goods supplied in the

previous consignments had no bearing on goods belonging to a future consignment. Moreover, this was a case of two different consignments which were independently useable having distinct unit prices which were independently payable. It was also contended that the Corporate Debtor cannot escape their liability to discharge the claim raised in the third invoice by linking it with disputes pertaining to goods supplied against the earlier invoices since any plea of pre-existing dispute must specifically co-relate with the amount claimed by the Operational Creditor. Denouncing the manner in which disputes of two independent transactions had been clubbed together erroneously by the Adjudicating Authority, attention was adverted to the judgement of the Hon'ble Supreme Court in ***Transmission Corporation of Andhra Pradesh Limited Vs Equipment Conductors and Cables Limited (2019) 12 SCC 697*** and of this Tribunal in ***R.A.J. Krishna Construction Company Pvt Ltd Vs Newera Solutions Pvt Ltd in CA(AT)(Ins) No. 83 of 2024*** wherein it was held that disputes can only be qua goods under the relevant Demand Notice and Section 9 application.

18. On the contrary, it is the case of the Corporate Debtor that the third invoice was part of a consolidated, full-fledged purchase

order and therefore these invoices cannot be artificially segregated from each other to claim immunity from having supplied defective goods under the previous invoices. All supplies were made under the umbrella of a single purchase order and invoices stemming out this common purchase order cannot be artificially segregated. The guise taken by the Appellant of the transactions being independent was only a ploy which rightly did not escape the attention of the Adjudicating Authority. It was contended that in their communications dated 12.10.2022 and 14.10.2022 addressed to the Appellant, which clearly pre-dated the issue of Section 8 Demand Notice, they had raised the issue of unsatisfactory quality of goods supplied to them including a non-conformity report alongwith photographs of the defective goods of the first two lots of consignments. Hence, the pre-existing dispute cannot be characterised as an afterthought. In view of non-supply of goods as per specifications in respect of consignment arising from the first two invoices, they had also demanded for replacement of the rejected goods. It was also asserted that the existence of dispute was genuine as the Appellant had admitted to the payment of compensation to the Corporate Debtor. Further, the Corporate Debtor has relied on the decision of the Hon'ble Supreme Court

in ***Rajratan Babulal Agarwal vs. Solartex India Pvt. Ltd. (2023) 1 SCC 115*** to contend that even if goods as supplied are accepted, the purchaser is legally entitled to treat a breach of a condition as a breach of warranty in terms of the relevant provisions of the Sale of Goods Act, 1930 which expressly allows the buyer to retain goods and yet resist payment or claim price reduction due to defective quality.

19. To arrive at our findings, we would like to take notice of the correspondences exchanged between the two parties prior to the Section 8 demand notice as taken note of by the Adjudicating Authority in the impugned order to determine the issue of pre-existing dispute. Two of such communications dated 12.10.2022 and 14.10.2022 sent by the Corporate Debtor to the Operational Creditor which find mention in the impugned order are as reproduced below:

> *From: Darshan Shah <darshanshah@amodstamp.com>*
> *Sent : 12 October 2022 08:22*
> *To : primetrans@gmail.com*
> *Cc : tanmay@amodstamp.com*
> *Subject: FW: NON-CONFIRMITY REPORT CRGO MOTHER COILS*
> *"Dear Mr. Balaji,*
> *Refer to your personal visit to Amod Stampings wherein we briefed you about the rusting and corresponding mail dtd.*

10th Oct. 22 giving brief details about the rusting observed in opening up the coils randomly.
In continuation to the same we attach herewith the non-conformity report of the two consignments supplied by Ms. Kally where in both the entire lots are found rusted.
We are rejecting both the lots as they are rusted and are of no use to us. It is beyond our imagination that such rusted coils has been supplied.
Please take up this matter with Ms Kally and principals and advise what procedure to be followed in returning back the said rejected two lots.
Mr. Balaji you are requested to take up the matter on a serious note and arrange to issue Credit Note of the amount we paid for the said two containers.
For future business we also need a confirmation and assurance on the quality and type of the material you are going to supply to us….”

From: Darshan Shah <darshanshah@amodstamp.com>
Sent: 14 October 2022 23:11
To: primetrans@gmail.com; kally@jssteel.kr
Cc: tanmay@amodstamp.com
Subject: FW: JS Steel Coil Details
Dear Ms. Kaly/Mr. Balaji,

“ As per your request, randomly opened 12 coils from the below mentioned lot and all are found rusted, complete details with photos are attached herewith for your reference.

….If you want the above lots to be witnessed, let Mr. Balaji or any one visit our factory and see the rusted coils, or else can b witnessed on line thru vdo calling.

Please understand by no means we can use such rusted coils.

With this entire rejection of both the lots our commitment of supplying cut lamination have miserably failed spoiling

name, image and reputation of Amod Stampings amongst those customers who are/is associated with Amod Stampings with more than two/three decades.

As we have paid for the Prime Grade CRGO coils, Amod Stampings holds the right of asking JS Steel to supply Prime Grade CRGO "only".

Arrange to replace the rejected lot of 190.322MTs by supplying to us the Prime Grade CRGO coils at an earliest…"

20. When we see the above two communications, we have no doubts in our mind that the Corporate Debtor had apprised the Appellant in unequivocal terms on 12.10.2022 and 14.10.2022 about faulty consignments having been delivered to them. This pre-existing dispute is fortified by the fact that the Appellant in their email dated 19.10.2022 as placed at page 225 of APB had accepted that the steel sheets had got rusted owing to moisture during monsoon. It is equally pertinent to note that the Corporate Debtor had also sent a communication on 19.10.2022 as placed at page 223 of APB requesting the Appellant that the goods supplied to them stand rejected by them and that the Appellant may take the same back. We are also not persuaded by the contention of the Appellant that the CFR alongwith the purchase order was an express agreement between the Appellant and the Respondent which negates any remedy available to the parties under the provisions of Sale of Goods Act, 1930 including those relating to

quality of goods. We do not find any fault on the part of the Adjudicating Authority to have abstained from making any interpretation of CFR INCOTERMS or the applicability of the Sales of Goods Act as this was beyond the remit of the summary jurisdiction of the Adjudicating Authority.

21. It is the case of the Corporate Debtor that what further substantiates that there was dispute between the two with regard to the quality of goods supplied was the Appellant's admission to supply of defective goods and repeated offers of compensation made during negotiation held between them.

22. It may be useful to take notice of the communications from the Appellant dated 08.11.2022 and 28.12.2022 which are as extracted below:

> *"From: kally <kally@jssteel.kr>*
> *Sent: 08 November 2022 13:31*
> *To: Darshan Shah*
> *Cc: Jignesh Patel: Tanmay Patel*
> *Subject: RE: RE: RE: Re: Fwd: FW: B/L NO. EPIRCHNSHA221664, pending payment*
> *Dear. Mr. Darshan*
>
> *Referring to our discussion on the phone, below is our suggestion but best effort too.*
>
> *1) flood damaged, those are no more claim dispute towards manufacturers but we are also very pity to happened disaster, and we willing to share your difficulties mutually. We will*

cover & cooperate to compensation, usd100/mt for 190.292mt……"

"From: kally [mailto:kally@jssteet.kr]
Sent: 23 December 2022 11:28
To: Darshan Shah; Balaje MV; tanmay@3madstamp.e0m
Cc: balajimvin@yahoo.co.in; Jignesh Patel; jscorp@jS5teei.kr
Subject: RE: RE; Re: Re: BLNO. EPIRCHNSHA221664
Dear Darshan

It was very pleasure to visit and meet you last Monday, hope we wish everything Is going on well.

Regarding to our issues, below is our update to be finalized.

(1) Claim reimburse:

We accept and agree your proposal that $550/mt. : Well noted. You have our bank details, arrange to reimburse the claim amount of US$ 550.00 per MT x 190.292MTs = US$ 1,04,660.60 and inform us by sharing the payment details…"

23. The above two emails clearly constitute acknowledgment by the Appellant that the supplies made by them suffered from quality deficiencies. The Appellant having agreed to compensate the Corporate Debtor is also a clear admission of the fact that the goods supplied were not in terms of the specifications which had been agreed to by the parties. The plea taken by the Appellant that the Adjudicating Authority did not take into account the surrounding facts and circumstances in that the Appellant was compelled to agree to pay the compensation amount as they were

subjected to blackmail by the Corporate Debtor does not impress us. When the emails explicitly record admission of deficiency in supply and resultant payment of compensation by the Appellant, it is not the remit of the Adjudicating Authority to get into the circumstantial reasons which led to such compensatory offers.

24. Having noticed the statutory construct of the IBC and the law postulated by the ***Mobilox judgement supra,*** it is clear that the Adjudicating Authority must reject a Section 9 application once a Notice of Dispute has been raised by the Corporate Debtor post receipt of a Section 8 Demand Notice by invoking Section 9(5)(ii)(d) of the IBC except when the notice of dispute contains a patently feeble legal argument or an assertion of fact unsupported by evidence and is spurious and illusory.

25. Thus, once the Corporate Debtor has issued a Notice of Dispute, all that the Adjudicating Authority has to see is whether the dispute is a plausible dispute which requires further investigation irrespective of whether the dispute raised has a chance to succeed as a defence. As long as the dispute is not a patently feeble legal argument or an assertion of fact unsupported by evidence, the Adjudicating Authority has to reject the application. All that the Adjudicating Authority has to satisfy itself

is that the dispute truly existed in fact and is not spurious, hypothetical or illusory and in the present facts of the case, there is nothing on record to show to the contrary. In the present set of facts, on a holistic analysis of the emails which emails find mention in the notice of dispute and the exchange of these emails not having been controverted leads us to the inescapable conclusion that genuine pre-existing disputes were there and the Adjudicating Authority therefore committed no error in concluding the presence of pre-existing disputes. The tone and tenor of the emails exchanged between the two parties clearly manifest existence of dispute which antedates Section 8 demand notice. It is well settled that in Section 9 proceeding, there is no need to enter into final adjudication with regard to existence of dispute between the parties regarding operational debt. For such disputed operational debt, Section 9 proceeding under IBC cannot be initiated at the instance of the Operational Creditor. In the present factual matrix, the defence raised by the Corporate Debtor therefore cannot be held to be moonshine, spurious, hypothetical or illusory. The Adjudicating Authority has therefore correctly noted that the conditions laid down in Section 9 not standing fulfilled, the application deserved to be rejected.

26. Considering the overall facts and circumstance of the present case, and in view of the foregoing discussion, we are satisfied that the Adjudicating Authority did not commit any error in rejecting the Section 9 Application filed by the Appellant. There is no merit in the Appeal. Appeal is dismissed. We however make it clear that it will remain open to the Appellant to resort to other remedies that may be available to it under any other law. No order as to costs.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Place: New Delhi
Date : 20th April, 2026.
Sheetal