



IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.301
C.P.(IB)/196(AHM)2025

Proceedings under Section 9 IBC

IN THE MATTER OF:

Benzo Chem Industries Private Limited
V/s
Aether Industries Limited

.....Applicant

.....Respondent

Order delivered on: 08/09/2026

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

CHITRA HANKARE
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT NO.2**

CP (IB) 196(AHM)2025

[An Application under Section 9 of the Insolvency and Bankruptcy Code, 2016]

In the matter of:

Benzo Chem Industries Private Limited

Having registered office address at
C-31 to C-36 & B-35, Third Floor,
C Wing, 224, Mittal Court, Jamnalal
Bajaj Marg, Nariman Point,
Mumbai -400021

...Petitioner
(Operational Creditor)

Versus

Aether Industries Limited

Having Registered office address at
Plot No.8203, Road No.8, GIDC Sachin,
Surat, Gujarat, Pin code: - 394230

...Respondent
(Corporate Debtor)

Order pronounced on 08/09/2026

Coram:

**MRS. CHITRA HANKARE,
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)**

Appearance:

For the Applicant : Mr. Ravi Patel, Advocate

For the Respondent: : Mr. Nipun Singhvi, Advocate

Mr. Vedant Dave, Advocate

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J U D G M E N T

- 1 The present application is filed on 14.05.2025 under Section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by Mr. Pravin Patil, Company Secretary i.e. Benzo Chem Industries Private Limited (for brevity 'Petitioner') with a prayer to initiate the Corporate Insolvency Process (CIRP) against Aether Industries Limited (for brevity 'Corporate Debtor').
- 2 Perusal of Part-I of the Form-1 indicates that the Operational Creditor/Petitioner is company registered under the Companies Act, 1956, registered office is: C-31 to C-36 & B-35, Third Floor, C Wing, 224, Mittal Court, Jamnalal Bajaj Marg, Nariman Point, Mumbai -400021. The petition is affirmed by Mr. Pravin Patil, Company Secretary, who is authorized under Board Resolution dated 05.03.2025.
- 3 Perusal of Part-II it reveals that the authorized share

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capital of the Corporate Debtor is Rs. 1,47,50,00,000/- and paid up capital of 1,32,59,02,410/-. The date of incorporation is 23rd January, 2013. registered office of the Corporate Debtor is Plot No.8203, Road No.8, GIDC Sachin, Surat, Gujarat- 394230. Perusal of Part-III of the Form-1 the name of the IRP is not mentioned, requested to consider the appropriate name of the IRP.

4 Perusal of Part-IV of the Form-1 reveals that the Operational Creditor engaged in the business of chemical supply etc. Total amount in default is Rs.6,70,61,760/- (Rupees Six Crores Seventy Lakhs sixty One Thousand Seven Hundred and Sixty Only). The date of default is mentioned to be 21.10.2024.

5 The Corporate Debtor had raised a purchase order dated 14th March, 2024 bearing no. AIL/PO/23- 24/9530 for 32,000/- kgs of chemicals, as more particularly specified there, on ex- works basis from the Corporate Debtor the payment terms therein being 90 days from the date of delivery. The Corporate Debtor has received the chemicals. The Corporate Debtor has raised no grievance on the receipt of the chemicals. The Corporate raised two Purchase order dated 20th July, 2024 and 23rd July

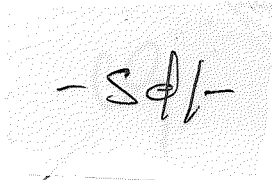
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2024 both aggregating to Rs. 6,70,61,760/- (Rupees Six Crores Seventy Lakhs sixty One Thousand Seven Hundred and Sixty Only).

- 6 The Ledger account as maintained by Operational Creditor for the period of 1st April, 2024 to 31st March 2025 reflect the same outstanding amount. Form GSTR-1 and Form GSTR-3 filed under the provision of GST Law in relation to supply of Goods to supply has been filed by the Corporate Creditor. Accordingly, after 90 days of delivery the Corporate Creditor hasn't received any payments. The Corporate Debtor after 6 months of delivery of the chemicals has conducted a joint testing of 2 lots of 2-Methoxy-6-chlorotoluene material. The minutes of the meeting conducted on 17th February 2025 indicate the procedural breach and mishandling of the chemicals against the own protocol set by the Corporate Debtor. By dated 11th March 2025, the Operational Creditor demanded payment of their invoices. However, the Corporate Debtor hasn't replied to the Legal Notice. On, 15th March 2025, the Operational Creditor issued a demand notice under Form 4 along with Invoices. The Corporate Debtor has not responded to



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the Form 4 Notice.

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List of other documents attached to this application in order to prove the existence of operational debt and the amount in default.

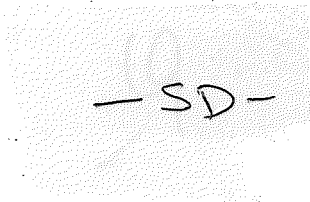
- i. Copy of the Purchase Order issued by the Corporate Debtor
- ii. Copy of the Transport Receipt
- iii. Copy of Invoices dated 20th July 2024 & 20th July 2024
- iv. Copy of Ledger Account of Corporate Debtor maintained by Operational Creditor for the period of 1st April 2024 to 31st March 2025
- v. Copy of GSTR-1 and GST-3
- vi. Copy of Minutes of Meeting 17th February 2025 (joint observation of 2 lots of 2-Methoxy-6-chlorotoluene material)
- vii. Copy of Demand Notice dated 15 March 2025 in Form 4 along with post receipt and delivery receipt evidencing service of demand notice on Corporate Debtor

Reply of the Corporate Debtor

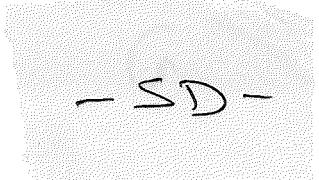
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Ld. Counsel for the Corporate Debtor appeared and filed its reply stating that:

- i. The present Application under Section 9 of the Insolvency and Bankruptcy Code, 2016 is not maintainable as the Operational Creditor has failed to comply with the mandatory requirement of filing the record of default with the Information Utility



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(NeSL) under Regulation 20(1A) of the IBBI (Information Utilities) Regulations, 2017.

- ii. The Application is further defective for non-compliance with Regulation 2B of the IBBI (CIRP) Regulations, 2016, as complete and relevant GST records have not been properly furnished.
- iii. There is a bona fide, substantial and pre-existing dispute regarding the quality of the goods supplied. The material supplied was found to contain foreign particles and contamination and was rejected by the Corporate Debtor. The dispute is supported by contemporaneous correspondence dated 07.12.2024 and 09.12.2024, wherein the Corporate Debtor rejected the consignment and communicated the contamination. The Operational Creditor itself admitted the presence of particles in its communications dated 09.12.2024 and 10.12.2024.
- iv. The Purchase Order expressly provided for inspection and approval of the goods and entitled the Corporate Debtor to reject defective goods. The supplied goods were therefore rejected in

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accordance with the contractual terms.

- v. The dispute existed well before issuance of the Demand Notice dated 15.03.2025. The Corporate Debtor had also instituted a Commercial Civil Suit before the City Civil Court, Surat, claiming damages exceeding Rs. 9 Crores.
- vi. The Corporate Debtor duly replied to the Demand Notice by reply dated 28.05.2025, specifically denying the operational debt and bringing the pre-existing disputes to the notice of the Operational Creditor.
- vii. In view of the aforesaid pre-existing and bona fide dispute, the present Section 9 Application is not maintainable and is liable to be rejected.

Rejoinder of the Operational Creditor :

9 In rebuttal the Operational Creditor has filed its rejoinder stating that:

- i. The allegations regarding defective and contaminated goods are denied. The Petitioner had supplied the goods in perfect condition and had provided the Certificate of Analysis (CoA), which

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showed that the chemicals were in good condition. No objection was raised by the Respondent at the time of receipt of the goods or in respect of the CoA. The Petitioner denies that the goods were defective. The joint inspection was conducted at the Petitioner's request, and the minutes of meeting record the Respondent's alleged mishandling and absence of communication on its part. The Petitioner submits that the alleged dispute was raised belatedly. The Respondent's communications were made in December 2024, almost two months after the payment had fallen due.

- ii. The Commercial Suit and pre-mediation proceedings relied upon by the Respondent were initiated after receipt of the Demand Notice and, according to the case status relied upon by the Petitioner, the suit was filed on 25.08.2025. The Petitioner therefore submits that the suit was filed as a counterblast to the present Application.

10 Ld. Counsel for the Corporate Debtor has filed an Additional Affidavit placing on record the correspondence exchanged between the parties in compliance of the order

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dated 04.08.2026 qua lifting the goods.

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We heard Ld. Counsels for the Operational Creditor and Corporate Debtor and perused the material/written submission on record. The Corporate Debtor has relied upon the following judgments:

- i. *Mobilox Innovations Pvt. Ltd. vs. Kirusa Software Pvt. Ltd.*
- ii. *M/s S.S. Engineers vs. Hindustan Petroleum Corporation Ltd.*
- iii. *Hon'ble NCLT, New Delhi Bench in Farukhi Glass Industries vs. Boutique Spirits Brands Pvt. Ltd. (CP IB-685/ND/2024)*
- iv. *Hon'ble NCLT, Ahmedabad Bench in Shubham Enterprise vs. Active Aluminium Pvt. Ltd. (C.P. (IB)/299/AHM/2024)*
- v. *Hon'ble NCLAT in Amrop India Pvt. Ltd. vs. The Hi-Tech Gears Ltd*
- vi. *R.A.J. Krishna Construction Co. Pvt. Ltd. vs. Newera Solutions Pvt. Ltd.,*

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The delivery of goods by the Operational Creditor, i.e. Operational Creditor, is admitted by the Corporate Debtor, i.e. CD. However, according to the Corporate Debtor, the goods were defective and he raised a dispute about it.

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The goods, i.e. chemicals, were delivered on 20.07.2024 and 23.07.2024. According to the Operational Creditor, the debt of default is dated

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21.01.2024 in respect of the debt due under the last invoice. The Operational Creditor issued a demand notice on 11.03.2025, which was replied to by the Corporate Debtor on 28.05.2025.

14 According to the Corporate Debtor, he had raised a dispute much before the issuance of the demand notice, i.e. through its e-mails dated 07.12.2024 and 09.12.2024, rejecting the consignment and communicating the quantification to the Operational Creditor. The Corporate Debtor also relied upon e-mail communications dated 09.12.2024 and 10.12.2024 by the Operational Creditor admitting the presence of particles in the supplied material. Both the parties have also taken joint inspection and joint analysis of the material. On perusing the e-mail dated 12.12.2024, it states that foreign particles were found in the material and, therefore, they are rejecting the materials. The e-mail issued by the Operational Creditor states that the Corporate Debtor has to check the material immediately on acceptance and that they are informing about the defective

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material late.

15. Thus, it appears that the Corporate Debtor had raised the issue regarding defective material in the month of December 2024, while the notice was issued in March 2025. Thus, certainly, there was a pre-existing dispute, whether correct or not, before the issuance of the notice. The Corporate Debtor has also relied upon the filing of a Civil Suit against the OC before the Commercial Court. However, it was filed in August 2025, i.e. after the issuance of the notice. Though it was filed afterwards, the e-mail communications show that there was an existing dispute. Accordingly, we pass following order:

ORDER

The CP(IB) 196/(AHM) 2025 is rejected.

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DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

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