



INSOLVENCY & BANKRUPTCY

Boundaries in Section 9 IBC Applications: Analysing GLS Films Industries v. Chemical Suppliers

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The Insolvency and Bankruptcy Code, 2016, prescribes a stringent mechanism for the initiation of the Corporate Insolvency Resolution Process by an operational creditor. A fundamental safeguard embedded within Section 9 of the Code is the **mandatory rejection of applications where a pre-existing dispute is evident**.

In a recent and significant pronouncement, the Supreme Court of India, in the matter of *GLS Films Industries Private Limited v. Chemical Suppliers India Private Limited* (Civil Appeal No. 4019 of 2025; 2026 INSC 344), provided critical clarity on this threshold. The apex court reiterated that the adjudicating authority is solely required to ascertain the existence of a plausible dispute, explicitly cautioning appellate tribunals against conducting mini-trials to evaluate the ultimate merits of such defences.

Factual Background and the Genesis of the Dispute

The controversy arose from a commercial relationship between the appellant, GLS Films Industries Private Limited (the corporate debtor), and the respondent, Chemical Suppliers India Private Limited (the operational creditor). The respondent alleged that the appellant **defaulted on payments for chemical solvents** supplied over a period, accumulating to a claimed debt of Rs. 2,92,93,223. This sum included the principal amount and interest calculated at twenty-four percent per annum as of May 2021.

Consequently, the respondent issued a demand notice under Section 8 of the Code on November 11, 2021. The appellant replied in December 2021, strongly disputing the claim by citing the supply of defective materials in September and October of 2020, as well as in April and June of 2021. Despite this documented dispute, the respondent proceeded to file an application under Section 9 of the Code before the National Company Law Tribunal, New Delhi.

Decisions of the Adjudicating and Appellate Authorities

NCLT: Dismissal of the Section 9 Application

On December 16, 2022, the National Company Law Tribunal dismissed the Section 9 application. The Tribunal observed that the corporate debtor had raised a **plausible, pre-existing dispute** regarding the defective nature of the supplied materials long before the issuance of the demand notice.

The Tribunal relied on the following evidence:

- Correspondence dating back to December 2020 regarding defective supplies
- Subsequent police complaints filed by the corporate debtor
- Requests for reconciliation of accounts

The Tribunal concluded that the matter required a detailed investigation of evidence, thereby falling outside the summary jurisdiction of the insolvency tribunals.

NCLAT: Reversal of the NCLT Order

Aggrieved by this dismissal, the operational creditor approached the National Company Law Appellate Tribunal. On February 11, 2025, the Appellate Tribunal **reversed the lower adjudicating authority's order**.

The Appellate Tribunal reasoned as follows:

- A credit note of Rs. 1.66 crore had previously resolved the 2020 disputes.
- The appellant's defence regarding the 2021 supplies was characterised as a mere moonshine defence.
- The defects were not reported within the mandatory seven-day window stipulated in the commercial invoices.
- The evidentiary value of a civil recovery suit filed by the appellant in April 2022 was refused, deeming it a post-initiation event.

Rival Contentions of the Parties

Arguments of the Corporate Debtor (Appellant)

Before the Supreme Court, the appellant vehemently argued that the **pre-existing dispute was well-documented and genuine**. The corporate debtor raised the following contentions:

- Despite repeated requests for an amicable reconciliation of accounts, the respondent resorted to coercive tactics, which even prompted the filing of a police complaint prior to the statutory demand notice.
- The exorbitant interest claims, stretching retroactively back to the financial year 2016–2017, were maliciously fabricated.
- These interest claims were raised only after the appellant lodged formal complaints regarding the defective chemicals in July 2021.

Arguments of the Operational Creditor (Respondent)

Conversely, the respondent maintained that the debt was valid, due, and payable. The operational creditor advanced the following arguments:

- The issuance of the prior credit note had **completely extinguished any historical disputes** concerning product quality.
- The corporate debtor's failure to flag any new defects within the contractual seven-day timeframe legally precluded them from raising such issues as a valid defence to thwart the initiation of insolvency proceedings.

Legal Provisions and Judicial Precedents Relied Upon

The Supreme Court evaluated the matter under the rigorous framework of **Sections 8 and 9 of the Insolvency and Bankruptcy Code**. The Court relied on the following key judicial precedents:

- *Mobilox Innovations Private Limited v. Kirusa Software Private Limited* — This landmark precedent establishes that an adjudicating authority must only determine if there is a plausible contention requiring further investigation, without evaluating whether the defence will ultimately succeed in a court of law.
- *S.S. Engineers v. Hindustan Petroleum Corporation Limited* — Relied upon to reiterate the strict threshold conditions required for admitting a Section 9 application.
- *Sabarmati Gas Limited v. Shah Alloys Limited* — Cited to define the legal concept of account reconciliation as the adjustment of financial amounts to achieve mutual agreement, accommodating outstanding items.

Supreme Court Analysis and Reasoning

The bench, comprising Justice Sanjay Kumar and Justice R. Mahadevan, found **glaring infirmities in the Appellate Tribunal's approach**. The Court made the following key observations:

- Written correspondence regarding the defective supplies had commenced in December 2020, nearly a year before the Section 8 demand notice was issued. This timeline inherently established a genuine, pre-existing dispute.
- The respondent only began generating debit notes for retroactive interest after receiving the appellant's formal defect complaints, which the Court noted with suspicion.
- The operational creditor's erroneous and contradictory demand of Rs. 4.60 crore in September 2021 decisively proved the appellant's assertion that a thorough reconciliation of accounts was indispensable.

Crucially, the Supreme Court held that the Appellate Tribunal committed a grave error by ignoring the **cross-examination of the respondent's Director** in the parallel civil suit. The Director had made damning admissions, conceding that the chemicals were supplied in uncertified, locally procured drums, and acknowledging that formal written correspondence only began after payment conflicts arose.

The Court clarified that while the civil suit was filed post-initiation, these specific admissions related to pre-initiation events and possessed immense evidentiary value. Ultimately, the Court ruled that the Appellate Tribunal had **misapplied the Mobilox test** by embarking on an impermissible mini-trial to adjudicate the factual merits of the dispute rather than merely confirming its existence.

Final Decision and Conclusion

In its final verdict, the Supreme Court definitively allowed the civil appeal filed by GLS Films Industries Private Limited. The Court **set aside the impugned judgment of the National Company Law Appellate Tribunal** and rightfully restored the original order of the National Company Law Tribunal, permanently dismissing the operational creditor's Section 9 application.

This judgment serves as a vital jurisprudential anchor, reaffirming that the Insolvency and Bankruptcy Code is strictly a resolution mechanism and not a substitute for a debt recovery forum. It categorically protects corporate debtors from being pushed into insolvency when genuine, pre-existing commercial disputes and unreconciled accounts necessitate formal civil adjudication.

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