



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

IBC Case Law Capsule

No. 218

(April 07, 2025)

Himatsingka Seide Ltd. vs. Textile Professional LLP
CP (IB) No. 886/MB/2022
Date of NCLT's Judgement: March 21, 2025

Facts of the Case

The present case concerns an application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016, read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by *Himatsingka Seide Limited* (hereinafter referred as 'Operational Creditor') seeking initiation of Corporate Insolvency Resolution Process (CIRP) against *Textile Professional LLP* (hereinafter referred as Corporate Debtor).

The application, filed on 27.07.2022, was premised on the alleged default in payment of ₹1,29,07,257.60, which includes interest of ₹8,78,383.60 at 18% per annum from due dates till 12.05.2022. This claim arises out of five unpaid invoices raised by the Operational Creditor between December 2021 and January 2022 for supply of cotton fibre to the CD. The dispute traces back to an arrangement wherein the OC agreed to supply cotton fibre and bear the conversion charges to be processed by *Shree Gajanan Sahakari Soot Girni Ltd.*, the consignee nominated by the CD. As per the agreed terms, payments were to be made within 30 days of invoice dates, failing which interest at 18% per annum would apply. Despite several invoices being raised, the CD defaulted on payment, prompting the issuance of a demand notice on 13.05.2022.

In response, the CD refuted the debt, alleging a pre-existing dispute over both qualities of goods supplied and unresolved conversion charges, asserting that it had acted merely as a facilitator. It claimed the goods were of inferior quality and that it had to bear the cost of conversion due to default by the OC. It also claimed that mediation was attempted, with a meeting held on 06.04.2022, minutes of which were drafted (though unsigned), and legal proceedings were subsequently initiated by the CD in other forums, including a case under the Maharashtra Co-operative Societies Act and a writ petition before the Bombay High Court.

The main issue raised before the Adjudicating Authority is: (i) Whether there is preexisting dispute between the parties?



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)



NCLT's observations:

The AA noted that the crux of the matter lay in determining whether a *pre-existing dispute* existed prior to the issuance of the demand notice. Despite the Operational Creditor's assertion that the CD accepted the goods without demur, the AA found on record several email correspondences dating back to January 2022 indicating dissatisfaction over the quality of goods and delays in resolving payment issues with the consignee.

The AA acknowledged that while the CD's reply to the demand notice was received after the statutory 10-day period, such delay did not bar the Debtor from substantiating pre-existing disputes through other records. It relied on precedent from *Brand Realty Services Ltd. v. Sir John Bakeries India Pvt. Ltd 2020.*, wherein the Hon'ble NCLAT held that absence of a timely reply under Section 8(1) IBC does not preclude the CD from producing evidence of pre-existing disputes before the AA.

Furthermore, the AA observed that the CD had promptly initiated parallel proceedings (including civil recovery claims and writ petitions) and had furnished uncontroverted communications showing that the parties had engaged in a mediation process. The OC neither denied nor effectively refuted these developments. Consequently, the AA held that a genuine and pre-existing dispute had been raised prior to the application under Section 9.

Order/Judgement: The AA dismissed the application filed by Operational Creditors on the grounds of a pre-existing dispute. It clarified that the order would not prejudice the Operational Creditor's right to pursue its claims before any other judicial forum.

Case Review: CIRP application is dismissed.