



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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

IBC Case Law Capsule

Number 245

(October 13, 2025)

Vidya Devi Chowdhury Vs. Vimla Fuels & Metals Limited
C.P. (IB) No. 211/9/AHM/2025
Date of NCLT Judgement, 06 October 2025

Facts of the Case: -

This Company Petition is filed by the Applicant, Ms. Vidya Devi Chowdhury, Proprietor of BDHCCI Coal Coke Minerals and Metal Enterprises, (hereinafter referred to as 'Operational Creditor'/OC) against the Respondent- Vimla Fuels and Metals Limited (hereinafter referred to as 'Corporate Debtor'/CD) under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC) for initiation of Corporate Insolvency Resolution Process (CIRP) for having defaulted in payment of the outstanding operational debt of ₹1,43,93,688/- including interest.

The OC alleged that they had been engaged in a commercial relationship with the CD for approximately 6-7 years, built on mutual trust and industry practices prevalent in the coal and coke sector, where suppliers often require advance payments to secure raw materials and manage production cycles. The OC would typically make advance payments to the CD, who, in turn, would supply LAM Coke within a stipulated period of two months based on mutually agreed conditions. However, when the CD failed to supply LAM Coke equivalent to approximately 375 tonnes, the OC issued a statutory demand notice under Section 8 of the IBC. The OC argued that the CD's acknowledgement of debt, no notice of dispute, and default on supplies to its sister concerns against the advance payments as ground to admit the insolvency petition.

Conversely, the CD contended that the petition suffers from *suppression veri* and *suggestio falsi* highlighting the concerns, *firstly*, that the claim does not constitute an "operational debt" under Section 5(21) of the IBC but mere advances without direct linkage to the provision of goods and services. *Secondly*, the CD contended that the demand notice is invalid, as it was issued by an advocate without the power of attorney. Labelling the advance payments made by the OC as "borrowed" amounts, the current petition is a tool for recovery rather than genuine insolvency resolution, and therefore contrary to the spirit of the IBC.

The Tribunal decided to adjudicate the matter on five legal questions—whether the claimed amount qualifies as an operational debt, whether it exceeds the statutory threshold, the validity of the demand notice under Section 8, the existence of any pre-existing dispute, and whether the petition was filed within the limitation period.



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NCLT's Observations:

After duly hearing both the parties, the NCLT firstly analyzed whether the claimed amount qualifies as an “operational debt” per Section 5(21) of the IBC. Relying on the documents presented, the longstanding relationship and industry practice, the NCLT found that the claimed amount was in fact an operational debt in accordance with the IBC. Thereafter, to satisfy the threshold of ₹1 crore set by Section 4 of the IBC, the NCLT noted that the balance sheet entries and undisputed communications between parties confirm the OC's principal debt of ₹1,18,46,827/- duly meets the said threshold. Regarding the validity of the demand notice issued by the OC, the NCLT relied on the Supreme Court judgement in the case of *Macquarie Bank Ltd. v. Shilpi Cable Technologies Ltd, (2017)*, wherein it was held that a notice sent on behalf of an operational creditor by a lawyer would be in order. Since the notice was in compliance with Form 3 along with all details and was served properly, it is valid. Lastly, the NCLT noted that the absence of any pre-existing dispute, the preclusion of any bona fide challenge, and the filing of the petition within the limitation period satisfy the legal requirements and the statutory mandate for its admission.

Order/Judgement:

Accordingly, in light of the above facts and circumstances, the NCLT admitted the CD in CIRP as per Section 9(5) of the IBC. As a consequence, thereof, an Interim Resolution Professional (IRP) was appointed, and a moratorium issued under Section 14. The IRP so appointed shall make a public announcement for submissions of claims under section 15. The commencement of the CIRP shall be effective from the date of this order.

Case Review: *CIRP application was admitted.*