



# INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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

## IBC Case Law Capsule

Number 254

(December 15, 2025)



**M/s Saraswati Wire and Cable Industries vs. Mohammad Moinuddin Khan & Ors.**

**Civil Appeal No. 12261 of 2024**

**Date of Supreme Court Judgment: 10<sup>th</sup> December 2025**

### Facts of the Case: -

The appeal arose from a challenge to the judgment of the National Company Law Appellate Tribunal (“NCLAT”), which had set aside the admission of a Section 9 application filed by M/s. Saraswati Wire and Cable Industries (“the Appellant/Firm”) against Dhanlaxmi Electricals Pvt. Ltd. (“the Corporate Debtor/CD”). The National Company Law Tribunal (“NCLT”), Mumbai Bench, had earlier admitted the Appellant’s petition and initiated the Corporate Insolvency Resolution Process (“CIRP”) on the basis of unpaid operational dues arising from supply of pipes and cables pursuant to multiple purchase orders placed by the CD.

The record disclosed that the CD regularly made payments against invoices raised by the Appellant and maintained a running ledger account reflecting a debit balance of ₹1,79,93,690.80. On 25<sup>th</sup> August 2021, the firm issued a demand notice under Section 8 of the IBC, claiming the principal amount of ₹1,79,93,690.80 along with the interest aggregating to ₹2,65,20,800. Meanwhile, the CIRP was admitted against the CD in another case.

In reply to the demand notice, the suspended Technical Director of the CD alleged non-supply under two invoices, short supply, and substandard quality of material. However, these assertions were unsupported by contemporaneous records, lacked quantification, and were raised after CIRP had already commenced against the CD in another proceeding, during which the suspended director had no authority to represent the company. The Firm thereafter filed its own Section 9 CIRP application in February 2023, which the CD failed to contest, resulting in forfeiture of its right to file a reply. The NCLT admitted the petition, holding that no genuine pre-existing dispute existed.

The suspended director challenged the admission order before the NCLAT, which accepted the plea of a pre-existing dispute by referring to historical correspondence from 2018–2019 and the time gap between the demand notice and the filing of the Section 9 petition. When the NCLAT allowed the appeal in favour of the CD, the Appellant therefore approached the Supreme Court.



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## Supreme Court's Observations:

After examining the factual record, the Supreme Court observed that the central issue was whether a “pre-existing dispute” existed on the date of issuance of the demand notice under Section 8 of IBC, and whether the NCLAT was justified in reversing the NCLT’s admission order.

The Court noted that the correspondence relied upon by CD from 2018–2019 did not interrupt the running account between the parties, nor did it stop further supplies or payments. The ledger maintained by the CD itself showed regular payments and reflected the admitted liability of ₹1.79 crore. Moreover, the CD paid ₹61 lakh after receipt of the Section 8 demand notice, which the Court held was wholly inconsistent with the existence of any real dispute. The Court further held that the reply dated 20.11.2021, which were heavily relied upon by the NCLAT, had no legal worth as it was issued by a suspended director at a time when CIRP against the CD had already commenced and an Interim Resolution Professional had taken charge. Consequently, the purported objections in that reply were legally unauthorised and could not constitute a pre-existing dispute.

Reiterating the test in *Mobilox Innovations Private Limited vs Kirusa Software Private Limited* (2018), the Court held that a dispute must be bona fide, not “spurious, hypothetical or illusory.” The defences raised by the CD pertaining to allegations of faulty supply, non-delivery under two invoices, inflated counterclaims, and an unsubstantiated blacklisting threat were found to be mere “moonshine,” unsupported by documents and contradicted by the CD’s own conduct. The Court concluded that the NCLAT erred by overlooking critical facts, ignoring the CD’s own ledger, and mischaracterising the delay in filing the Section 9 petition, which was actually explained by the pendency of an earlier CIRP. Consequently, the NCLT’s order admitting the Section 9 application was restored.

**Order/Judgement:** The Supreme Court allowed the appeal, thereby setting aside the order of the NCLAT and restoring the order of the NCAT admitting the CD into CIRP.

**Case Review:** *Appeal Allowed.*