

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 1373 of 2025

IN THE MATTER OF:

Accurate Transheat Pvt. Ltd.

...Appellant

Versus

Sufi International Pvt. Ltd.

...Respondent

Present:

For Appellant: Appeared but presence not marked.

For Respondents: None.

**J U D G M E N T
(10th December, 2025)**

Ashok Bhushan, J.

This Appeal has been filed challenging the order dated 21.07.2025 passed by the Adjudicating Authority (National Company Law Tribunal) Ahmedabad, Court-2 rejecting Section 9 application filed by the Appellant.

2. Brief facts of the case necessary to be noticed for deciding the Appeal are:-

2.1. The Appellant Company received purchase order from Sufi International Pvt. Ltd., the Respondent herein. The goods were supplied by the Appellant in the Financial Year 2020-2021. The Appellant issued a demand notice dated

24.03.2023 under Section 8 of the IBC claiming default of amount of Rs.2,08,68,294/- as unpaid operational debt. The demand notice dated 24.04.2023 was replied by Respondent No.1 vide letter dated 29.05.2023 denying the claim. The purchase order as well as invoices were disputed. It was further pleaded that the Appellant has filed various criminal complaints under Section 138 of the Negotiable Instrument Act (NI Act) against the Respondent No.1. The cheques were deposited which were given for security. It was pleaded that dispute exists between the parties. Reply to Section 9 application was filed by Respondent No.1. Adjudicating Authority after hearing the parties by impugned order has rejected the application. Appellant aggrieved by the said order has come up in this Appeal.

3. We have heard Shri Dhiren Dave, Learned Counsel for the Appellant.

4. On 17.10.2025, Appellant was granted time to file additional affidavit to bring on record the NeSL Certificate as referred in paragraph 5 of the impugned order. Appellant filed NeSL Certificate along with additional-affidavit. On 12.11.2025, order sheet contained following order:-

***“12.11.2025:** An Additional Affidavit has been filed by the Appellant which indicate that in the information record of the Information Utility claim is disputed. Learned counsel for the Appellant was pointed out to the Section 9(5)(ii)(d) which require the Adjudicating Authority to reject the application when there is record of dispute in the Information Utility. Learned counsel*

for the Appellant prays for time to cite judgment of Hon'ble Supreme Court in the above regard. Prayer is allowed.

List this Appeal on 27.11.2025.”

5. Counsel for the Appellant relying on the judgment of the Hon'ble Supreme Court in **“MobiloX Innovations Private Limited vs. Kirusa Software Private Limited- (2018) 1 SCC 353”** submits that the dispute which is contemplated has to be genuine dispute and not a moonshine dispute. The Respondent No.1 had filed a petition under Section 482 CrPC before the High Court challenging the criminal complaint filed by the Appellant which has been dismissed by the High Court. The dispute sought to be raised by the Respondent is moonshine dispute. Referring to the record of dispute as reflected in NeSL record, Learned Counsel submits that the reasons of dispute given by the Corporate Debtor in NeSL Certificate is not enough. The dispute must be credible and supported by evidence. The Adjudicating Authority has to see as to whether there is plausible contention which requires further investigation. The certificate of dispute in NeSL does not bar admission of Section 9 application if the Adjudicating Authority finds no real dispute.

6. We have considered the submissions of the Learned Counsel for the Appellant and perused the record.

7. The Adjudicating Authority in paragraph 5 of the impugned order has noticed “In the Form D filed with NeSL the status is shown as disputed”. In this

Appeal Appellant was given time to bring NeSL Certificate on record which has been filed along with the additional affidavit. NeSL Certificate of Part-B as brought on record provides as follows:-

“NATIONAL E-GOVERNANCE SERVICES LIMITED

PART B

(History of all filing of information received by IU for the same UDI, whether regular debt or default, and the status of authentication by the party)

History of submission and Authentication in respect of M/s SUFI INTERNATIONAL PVT. LTD. (Debtor)

Unique Debt Identifier: AABCA9581G_1

Date of Submission	17-10-2023 11:57:22
Type of Submission	Default Submission
Submission ID	1
Submitted by (CREDITOR)	M/s ACCURATE TRANSHEAT PVT LTD
Debtor	M/s SUFI INTERNATIONAL PVT. LTD.
Default Amount	20868924.00
Status of Authentication by Debtor	DISPUTED
Reason For Dispute	No such debt existed, Remarks- False information & wrong claim. We have already got stay order from honourable high court, Gujarat. This is already judicial matter.
Authentication Completed on	21-10-2023 18:42:09

8. Section 9(5)(ii) of the IBC provides as follows:-

“9. Application for initiation of corporate insolvency resolution process by operational

creditor. – (5) *The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), by an order–*

(ii) reject the application and communicate such decision to the operational creditor and the corporate debtor, if -

(d) notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility;”

9. We, in the present case, are concerned with the provision of Section 9(5)(ii)(d). Sub-clause (d) uses two *expressions* (i) notice of dispute has been received by the operational creditor or (ii) there is a record of dispute in the information utility.

10. In the present case, although demand notice was replied and notice of dispute was given by the Corporate Debtor but for the purposes of present case, we need to consider second phrase under Section 9(5)(ii)(d) i.e. there is a record of dispute in the information utility. In the present case record of dispute which was brought on the record before the Adjudicating Authority is NeSL record, which we have already extracted above.

11. It is relevant to notice that the Adjudicating Authority on 15.12.2023 has passed following order after referring to the NeSL record where dispute was noticed. The order dated 15.12.2023 is as follows:-

“Ld. Counsel for the applicant seeks liberty to file an affidavit to clarify the reason for dispute status in terms of page 95 of the application wherein it is stated that:

"no such debt existed. Remarks False information & wrong claim. We have already got stay order from Hon'ble High Court, Gujarat. This is already judicial matter".

List for further consideration on 24.01.2024.”

12. Whether in the present case there is a record of dispute in the information utility and what is the consequence of the said record need to be considered. There cannot be any dispute that record of information utility contains a dispute which is noted in Part B in Column “status of authentication by debtor”. Thus, when information of dispute given by the Operational Creditor was communicated to the Corporate Debtor, Corporate Debtor has disputed the debt which is recorded in the NeSL record. We need to notice the judgment of the Hon’ble Supreme Court which has been relied by the Appellant in **“MobiloX Innovations Private Limited”** (supra). Hon’ble Supreme Court in the above case had occasion to consider the legislative scheme of Section 9 of the IBC. In paragraph 33 of the judgment, entire scheme of Section 9 has been noticed in following words:-

“33. The scheme under Sections 8 and 9 of the Code, appears to be that an operational creditor, as defined, may, on the occurrence of a default (i.e. on non-

payment of a debt, any part whereof has become due and payable and has not been repaid), deliver a demand notice of such unpaid operational debt or deliver the copy of an invoice demanding payment of such amount to the corporate debtor in the form set out in Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 read with Form 3 or 4, as the case may be [Section 8(1)]. Within a period of 10 days of the receipt of such demand notice or copy of invoice, the corporate debtor must bring to the notice of the operational creditor the existence of a dispute and/or the record of the pendency of a suit or arbitration proceeding filed before the receipt of such notice or invoice in relation to such dispute [Section 8(2)(a)]. What is important is that the existence of the dispute and/or the suit or arbitration proceeding must be pre-existing i.e. it must exist before the receipt of the demand notice or invoice, as the case may be. In case the unpaid operational debt has been repaid, the corporate debtor shall within a period of the self-same 10 days send an attested copy of the record of the electronic transfer of the unpaid amount from the bank account of the corporate debtor or send an attested copy of the record that the operational creditor has encashed a cheque or otherwise received payment from the corporate debtor [Section 8(2)(b)]. It is only if, after the expiry of the period of the said 10 days, the operational creditor does not either receive payment from the corporate debtor or notice of dispute, that the operational creditor may trigger the insolvency process

by filing an application before the adjudicating authority under Sections 9(1) and 9(2). This application is to be filed under Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 in Form 5, accompanied with documents and records that are required under the said form. Under Rule 6(2), the applicant is to dispatch by registered post or speed post, a copy of the application to the registered office of the corporate debtor. Under Section 9(3), along with the application, the statutory requirement is to furnish a copy of the invoice or demand notice, an affidavit to the effect that there is no notice given by the corporate debtor relating to a dispute of the unpaid operational debt and a copy of the certificate from the financial institution maintaining accounts of the operational creditor confirming that there is no payment of an unpaid operational debt by the corporate debtor. Apart from this information, the other information required under Form 5 is also to be given. Once this is done, the adjudicating authority may either admit the application or reject it. If the application made under sub-section (2) is incomplete, the adjudicating authority, under the proviso to sub-section (5), may give a notice to the applicant to rectify defects within 7 days of the receipt of the notice from the adjudicating authority to make the application complete. Once this is done, and the adjudicating authority finds that either there is no repayment of the unpaid operational debt after the invoice [Section 9(5)(i)(b)] or the invoice or notice of payment to the

corporate debtor has been delivered by the operational creditor [Section 9(5)(i)(c)], or that no notice of dispute has been received by the operational creditor from the corporate debtor or that there is no record of such dispute in the information utility [Section 9(5)(i)(d)], or that there is no disciplinary proceeding pending against any resolution professional proposed by the operational creditor [Section 9(5)(i)(e)], it shall admit the application within 14 days of the receipt of the application, after which the corporate insolvency resolution process gets triggered. On the other hand, the adjudicating authority shall, within 14 days of the receipt of an application by the operational creditor, reject such application if the application is incomplete and has not been completed within the period of 7 days granted by the proviso [Section 9(5)(ii)(a)]. It may also reject the application where there has been repayment of the operational debt [Section 9(5)(ii)(b)], or the creditor has not delivered the invoice or notice for payment to the corporate debtor [Section 9(5)(ii)(c)]. It may also reject the application if the notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility [Section 9(5)(ii)(d)]. Section 9(5)(ii)(d) refers to the notice of an existing dispute that has so been received, as it must be read with Section 8(2)(a). Also, if any disciplinary proceeding is pending against any proposed resolution professional, the application may be rejected [Section 9(5)(ii)(e)].”

13. In the above paragraph, the Hon'ble Supreme Court held that *“it may also reject the application if the notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility [Section 9(5)(ii)(d)]. Section 9(5)(ii)(d) refers to the notice of an existing dispute that has so been received, as it must be read with Section 8(2)(a). Also, if any disciplinary proceeding is pending against any proposed resolution professional, the application may be rejected [Section 9(5)(ii)(e)]”*

14. The submission which has been pressed by the Appellant is that there was no genuine dispute since the proceeding which was initiated by Respondent No.1 for quashing the criminal complaint filed by the Appellant under Section 138 of NI Act has also been dismissed by the High Court. The dismissal of the petition for quashing the complaint has also been noticed by the Adjudicating Authority. The effect of dismissal by the High Court is that the criminal complaint filed by the Appellant against the Respondent No.1 is still pending before the Learned Magistrate where offence under Section 138 of the NI Act is alleged against the Operational Creditor. In the record of dispute, Respondent No.1 has said false information and wrong claim and further claim that “no such debt existed”. The debt is clearly denied by the Corporate Debtor which is captured by the NeSL in Part B as noted above. In **“Mobilox Innovations Private Limited”** (supra), the Hon'ble Supreme Court in paragraph 51 has laid down following:-

“51. It is clear, therefore, that once the operational creditor has filed an application, which is otherwise complete, the adjudicating authority must reject the application under Section 9(5)(i)(d) if notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility. It is clear that such notice must bring to the notice of the operational creditor the “existence” of a dispute or the fact that a suit or arbitration proceeding relating to a dispute is pending between the parties. Therefore, all that the adjudicating authority is to see at this stage is whether there is a plausible contention which requires further investigation and that the “dispute” is not a patently feeble legal argument or an assertion of fact unsupported by evidence. It is important to separate the grain from the chaff and to reject a spurious defence which is mere bluster. However, in doing so, the Court does not need to be satisfied that the defence is likely to succeed. The Court does not at this stage examine the merits of the dispute except to the extent indicated above. So long as a dispute truly exists in fact and is not spurious, hypothetical or illusory, the adjudicating authority has to reject the application.”

15. In the above paragraph, the Hon’ble Supreme Court has held that the Adjudicating Authority is to see at this stage is whether there is a plausible contention which requires further investigation and that the “dispute” is not a patently feeble legal argument or an assertion of fact unsupported by evidence. As noted above, clause (d) of Section 9(5)(ii) has two different clauses, (i) notice

of dispute has been received by the Operational Creditor and (ii) there is record of dispute in the information utility. Section 9 of the IBC which entitles an operational creditor to initiate proceeding for insolvency against the Corporate Debtor contains a legislative scheme where Section 9 application is not to be entertained when debt is disputed. Present is a case where there is a record of dispute in the information utility. This Tribunal had occasion to consider Section 9(5)(ii)(d) in Company Appeal (AT) (Insolvency) No.557 of 2025-
“Bhawani Prasad Mishra vs. Armaco Infralinks Pvt. Ltd. & Anr.” decided on 25.04.2025. In the above case also in the record of information utility, dispute was there and this Tribunal relying on the said has held that the Adjudicating Authority could not have admitted Section 9 application. In paragraphs 28 & 31, following was observed:-

“28. When we look into Section 9(5)(ii)(d) there are two circumstances under which Section 9 application deserves to be rejected i.e. (i) notice of dispute has been received by operational creditor or (ii) there is record of dispute in the Information Utility. In the present case, both the above clauses are fully met since notice of dispute has been received by operational creditor and there is record of dispute in the Information Utility. The record of dispute in the Information Utility as extracted above was information which was submitted by ‘Armaco Infralinks Pvt. Ltd.’ for authentication and authentication made on the same day by the corporate debtor disputing the information which is captured in the Information Utility information. The statutory condition as contained in Section 9(5)(ii)(d) was fully in existence, hence,

Adjudicating Authority had to reject the application. Adjudicating Authority although in paragraph 31 has noticed the record of default in the Information Utility which paragraph 31 is as follows:-

“31. Further, upon perusal of record of default in the information utility namely National E-Governance Services Ltd. (‘NeSL’) produced by the Respondent vide its reply dated 18.01.2025, we notice the existence of prior dispute between the parties. The relevant screenshot is reproduced hereunder:

Authentication Status				
<i>Party Name</i>	<i>Relationship</i>	<i>User Id</i>	<i>Status</i>	<i>Date and Time of Authentication</i>
<i>B.S.ISPAT LTD.</i>	<i>Debtor</i>	<i>2701316</i>	<i>Disputed</i>	<i>04/09/2024 17:04:59</i>
<i>Reason for Dispute: Pre-existing Dispute. Remarks- No default has been committed by B S Ispat Limited. Pre-existing dispute exist prior to the issuance of Demand Notice dated 04.09.2024.</i>				

31. Section 8(2)(a) is a provision which provides that the corporate debtor shall, within a period of ten days of the receipt of the demand notice or copy of the invoice mentioned in sub-section (1) bring to the notice of the operational creditor existence of a dispute, if any, or record of the pendency of the suit or arbitration proceedings filed before the receipt of such notice or invoice in relation to such dispute. Section 8(2)(a) does not in any manner dilute the requirement of Section 9(5)(ii)(d). The initiation of insolvency against the Corporate Debtor has a serious consequences and when there are sufficient material to indicate that condition as mentioned in Section 9(5)(ii)(d) are in

existence, Adjudicating Authority cannot proceed to ignore the same. There can be no dispute to the proposition laid down by the Hon'ble Supreme Court in **“MobiloX Innovations Private Limited vs. Kirusua Software Pvt. Ltd.- (2018) 1 SCC 353”** that dispute which is contemplated in Section 8(2)(a) has to be a bonafide dispute. In paragraph 38 of the judgment of **“MobiloX Innovations Private Limited”** following was laid down:-

“38. It is, thus, clear that so far as an operational creditor is concerned, a demand notice of an unpaid operational debt or copy of an invoice demanding payment of the amount involved must be delivered in the prescribed form. The corporate debtor is then given a period of 10 days from the receipt of the demand notice or copy of the invoice to bring to the notice of the operational creditor the existence of a dispute, if any. We have also seen the notes on clauses annexed to the Insolvency and Bankruptcy Bill of 2015, in which "the existence of a dispute" alone is mentioned. Even otherwise, the word "and" occurring in Section 8(2)(a) must be read as "or" keeping in mind the legislative intent and the fact that an anomalous situation would arise if it is not read as "or". If read as "and", disputes would only stave off the bankruptcy process if they are already pending in a suit or arbitration proceedings and not otherwise. This would lead to great hardship; in that a dispute may arise a few days before triggering of the insolvency process, in which case, though a dispute may exist, there is no time to approach either an Arbitral Tribunal or a court. Further, given the fact that long limitation periods are allowed,

where disputes may arise and do not reach an Arbitral Tribunal or a court for up to three years, such persons would be outside the purview of Section 8(2) leading to bankruptcy proceedings commencing against them. Such an anomaly cannot possibly have been intended by the legislature nor has it so been intended. We have also seen that one of the objects of the Code qua operational debts is to ensure that the amount of such debts, which is usually smaller than that of financial debts, does not enable operational creditors to put the corporate debtor into the insolvency resolution process prematurely or initiate the process for extraneous considerations. It is for this reason that it is enough that a dispute exists between the parties.”

16. In the facts of the present case, in the record of information utility, the Corporate Debtor has disputed the debt which is recorded in the information utility. The proceeding under Section 9 is a proceeding which clearly contemplates that in event, when the notice of dispute has been received by the operational creditor and there is a record of dispute in the information utility, application is to be rejected. Section 9 proceeding is not a proceeding for deciding various contractual dispute between the parties and insolvency proceeding against the Corporate Debtor can proceed only in accordance with the statutory scheme under Section 9 and the statutory scheme under Section 9 itself contemplate that when there is a record of dispute in the information utility, the Adjudicating Authority had to reject the application.

17. In the facts of the present case, we are of the view that the Adjudicating Authority did not commit any error in rejecting Section 9 application filed by the Appellant. The Appeal is dismissed. We, however, make it clear that dismissal of Section 9 application shall not preclude the Appellant to take such remedy in law as permissible.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

**New Delhi
Anjali**