NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1233 of 2026

[Arising out of Order dated 28.04.2026 passed by the Adjudicating Authority (National Company Law Tribunal, Division Bench, Court – I, Ahmedabad), in C.P.(IB)/103(AHM)2025]

IN THE MATTER OF:

M/s Shambhu Technology Services Pvt. Ltd.
Through Authorized Representative
Mr. Rahul Neb, Director
Legal Office-1 E/2,
Jhandewalan Extension,
Delhi-110055. **...Appellant**

Versus

M/s OFB Tech Limited
Having its Registered Office at:
B-1102, Sankalp Iconic Tower,
Opp. Vikram Nagar, Bopal Ambli Road,
Bodakdev, Ahmedabad – 380054.
and
Address at which the books of account are to be maintained:
6th Floor, Tower A, Global Business Park,
MG Road, Gurgaon,
Haryana – 122001.
Email – compliance@ofbusiness.in,
finance@ofbusiness.in, yadvender.yadav@ofbusiness.in,
ankush.jain@ofbusiness.in,
Soumya.kumar@ofbusiness.in **...Respondent**

Present:

For Appellant	:	**Mr. Kunal Sabharwal, Mr. Damandeep Singh Bhalla, Mr. Sahil Chopra, Ms. Renu Sharma and Ms. Surabhi Sharma, Advocates.**
For Respondent	:	**Mr. Gaurav Mitra, Sr. Advocate with Mr. Sameer Abhyankar, Mr. Aakash Thakur, Mr. Dhruv Suri, Ms. Yashika, Ms. Urvika Suri, Ms. Saumya Tiwari and Ms. Ritika Garg, Advocates.**

J U D G M E N T

JUSTICE YOGESH KHANNA, MEMBER (JUDICIAL)

This appeal is filed against an impugned order dated *28.04.2026* passed by the Ld. Adjudicating Authority in C.P. (IB) No.*103/(AHM)/2025*, whereby an application filed under Section *9* of the Insolvency & Bankruptcy Code, 2016 (for short the **"IBC"**) for initiation of Corporate Insolvency Resolution Process (**"CIRP"**) against the respondent/corporate debtor on account of a default in payment of the operational debt amounting to Rs.*3,61,24,534.33/-* was dismissed.

2. It is alleged the operational debt arises out of the goods duly supplied by the appellant to the respondent, for which invoices were raised and part payments were also made. It is further submitted initially the company petition was dismissed by the Ld. Adjudicating Authority *vide* order dated *31.07.2025* solely on the ground, the respondent has been admitted into CIRP in another company petition *viz.* C.P. (IB) No.*369/AHM/2024* and the adjudicating authority while dismissing the proceedings granted liberty to the appellant to seek revival of the Company Petition, in case the admission order is set aside. Subsequently, this Tribunal had set aside the admission order vide order dated 14.11.2025 and thereafter the Adjudicating Authority vide its order dated *31.07.2025* had granted liberty to the appellant to revive the petition. Thus, C.P. (IB) No.*103/AHM/2025* was restored.

3. However, vide the impugned order, this company petition was again dismissed on the ground there exists a *Pre-Existing Dispute* between the parties.

4. It is submitted by the learned counsel for the appellant the appellant is doing the business of software publishing, consultancy, supply, etc. and it provides a platform to various entities to act as a link between seller and purchaser in respect of several commodities. It was argued all the transaction between the parties were recorded in the invoices for each delivery, raised on each occasion and the outstanding amount was payable within the period of *7* days of raising of such invoices. It was argued during the performance of the contracts between the parties, initially the Respondent adhered to the payment schedule but later failed to make payments of the outstanding amounts for invoices between June – July, 2024. There were constant and multiple follow up on *Whatsapp group* as well as on *email* but the payments were not forthcoming, hence a legal notice was issued on 07.10.2024 under Section *8* of the IBC by the appellant to the Respondent requiring the Respondent to repay the entire operational debt but nothing was paid and arbitration was also initiated.

5. The defence of the respondent was, there exists a *Pre-Existing Dispute* besides allegations of fraud, collusion alleging *interalia* the entire transactions during the relevant period were perpetrated by certain ex-employees of the corporate debtor in collusion with the operational creditor and fake purchase orders were generated and the goods were allegedly supplied to third parties without any authorisation by the Respondent and payments were wrongfully debited by misuse of internal systems. Due to these facts even a legal notice dated 28.08.2024 was issued by the respondent and subsequently the complaints were also lodged before the authorities *qua* fraud. The corporate debtor pointed out discrepancies in the documents relied upon by the operational creditor *viz.* absence of co-relation between purchase orders, invoices and delivery which involved a detailed examination and could not be adjudicated in summary proceedings.

6. We have also perused the legal notice dated 28.08.2024 issued by the respondents herein, which reads as under: -

> *"28 August 2024*
>
> *To,*
>
> *SHAMBHU TECHNOLOGY SERVICES PRIVATE LIMITED*
>
> *1-E/2, Jhandewalan Extension, Delhi, Delhi-110055*
>
> *Dear Sir*
>
> *Re- Legal notice Regarding Fraudulent Transactions carried out by SHAMBHU TECHNOLOGY SERVICES PRIVATE LIMITED having its office at 1-E/2, Jhandewalan Extension, Delhi, Delhi-110055 ("Addressee")*
>
> *We issue this legal notice on behalf of OFB Tech Pvt. Ltd., having its registered office at Shop No. G-22C, (UGF) D-1 (K-84), Green Park Main, New Delhi-110016 ("Our Client") concerning the serious and fraudulent activities involving certain transactions ostensibly between Our Client and the Addressee. This notice serves to formally outline our client's position regarding the fraudulent purchase orders ("POs") and the consequent purported delivery of materials by the Addressee to Our Client.*
>
> *1. Pursuant to an ongoing internal investigation and verification of facts, it has come to Our Client's knowledge that the Addressee, through its various officers, in collusion with certain employees of Our Client, have engaged in siphoning off of funds from Our Clients through the modus of generation of fake POs which have resulted in imposition of false and unfounded liabilities on Our Client. Without prejudice to the discoveries which may be made during the course of the ongoing investigation (as well as that which may be initiated pursuant to a criminal*

complaint lodged by Our Client), Our Client categorically denies any and all claims or liabilities arising specifically out of the following POs, against which the Addressee has sought to raise a claim against Our Client:

Order	***SPO Value***
OFB117224326765977	*16,13,640*
OFB117224325979919	*16,31,963*
OFB117224325559987	*8,14,328*
OFB117224324993419	*16,18,155*
OFB11722432427225	*8,04,563*
OFB117224234972256	*16,17,000*
OFB117224126339125	*8,08,500*
OFB117223386593253	*16,22,040*
OFB117223385597470	*16,64,040*
OFB117223383975791	*16,64,040*
OFB117223138778257	*7,96,871*
OFB117222582042143	*7,91,070*
OFB117222527713705	*8,04,720*
OFB117220967418892	*30,28,922*
OFB117220956048556	*12,04,875*
OFB117220894954370	*22,18,742*
Total	***2,27,03,468"***

7. We have also examined the impugned order and the following paragraphs are most relevant:-

"27. *It is further contended by the Corporate Debtor that there exists a pre-existing dispute prior to issuance of the demand notice, as evidenced by legal notices dated 28.08.2024 and subsequent correspondence, as well as complaints lodged before authorities regarding the alleged fraud. The Corporate Debtor has also pointed out discrepancies in the documents relied upon by the Operational Creditor, including absence of correlation between purchase orders, invoices and delivery, and has submitted that the matter involves disputed questions of fact which require detailed examination and cannot be adjudicated in summary proceedings under Section 9 of the Code.*

31.2. *The Corporate Debtor has placed reliance on a series of communications and proceedings to contend that disputes had arisen well prior to the demand notice. In particular, reference has been made to the legal notice dated 28.08.2024 issued by the Corporate Debtor disputing the alleged transactions, reply dated 17.10.2024 reiterating denial of purchase orders and supply of goods, as well as complaints dated 13.08.2024/15.08.2024 lodged before the authorities regarding the alleged fraud committed by its employees in collusion with the Operational Creditor. The Corporate Debtor has also relied upon the resignation letter dated 12.08.2024 of one of its employees detailing the alleged modus operandi of the transactions.*

31.3. *It is further the case of the Corporate Debtor that even prior to issuance of the demand notice, the entire transaction had been disputed on the ground that no valid purchase orders were issued, no goods were received, and that the alleged supplies were a result of fraudulent acts. The Corporate Debtor has also relied upon correspondence exchanged between the parties, including notices dated 13.09.2024 and 17.10.2024, to demonstrate that disputes regarding the very foundation of the claim were in existence prior to invocation of the Code.*

31.4. *Per contra, the Operational Creditor has contended that the alleged disputes are an afterthought and have been raised only to evade liability. It is submitted that the Corporate Debtor had acknowledged the transactions and made payments during the course of business, and that no dispute was raised contemporaneously with the supply of goods. It*

> *is further contended that the reliance placed by the Corporate Debtor on criminal complaints and other proceedings does not constitute a valid pre-existing dispute in terms of the Code, particularly when such proceedings were either closed or withdrawn.*
>
> ***31.7.*** *Upon consideration of the material placed on record, it is observed that the Corporate Debtor had, prior to issuance of the demand notice dated 07.10.2024, issued a legal notice dated 28.08.2024 disputing the existence of purchase orders and the alleged transactions. Further, complaints regarding alleged fraudulent transactions were initiated in August 2024, and correspondence between the parties indicates that the Corporate Debtor had raised objections with respect to the very basis of the claim. These documents demonstrate that disputes were raised prior to the demand notice and were not raised for the first time in response thereto.*
>
> ***31.8.*** *It is also pertinent to note that the record of the Information Utility, placed on record by the Operational Creditor itself as Annexure A-14, reflects that the debt has been marked as "disputed". The said record further captures that a legal demand notice and notice of dispute dated 28.08.2024 had been issued by the Corporate Debtor to the Operational Creditor. The said entry in the Information Utility, which is a statutory record, lends further support to the contention of the Corporate Debtor that the dispute had arisen prior to issuance of the demand notice under Section 8 of the*
>
> *Code."*

8. Thus, in view of the Pre-Existing Dispute, the application under Section *9* IBC was dismissed.

9. It was submitted the pre-existing dispute between the parties is a subject matter of a suit before the Hon'ble High Court of Delhi, at New Delhi filed by the Respondent against the appellant seeking recovery of the amount of Rs.*6,62,76,979/-,* which was wrongly paid by the respondent to the appellant as a result of a fraud. This suit, filed on 09.07.2025 finds mention in the impugned judgement at paragraph 17. Further, the suit filed by the respondent also is based on the same assertions of fact to contest the claim of the appellant as are contained in the respondent's legal notice dated 28.08.2024 issued prior to the demand notice dated 07.10.2024. Pertinently, in the said suit, the appellant has filed a counter claim for the very sum of money (i.e., Rs.*3,61,24,524.33/-*) which is claimed as an operational debt in the present proceedings. Summons have been issued on the counter claim on 09.07.2026 by the High Court. Therefore, it was submitted the pre-existing dispute between the parties, based on the voluminous documents and contested facts, is subject matter of a trial before a civil court, which is soon to commence.

10. Thus, it is the consistent case of the respondent the entire transaction between the appellant and respondent, carried out in the short interval of time between June 2024 to July 2024, was a result of a fraud played upon the respondent by its ex-employees in collusion with the appellant; the entire transaction was made to appear genuine by these ex-employees of the respondent by fabrication of documents and records; any payments released by the respondent to the appellant were under this impression of genuineness of the transaction, which was only exposed to be false and fabricated on or about 12.08.2024; the entire facts, as they became known over a period of time, are set out in detail in the Suit filed by the respondent before the Delhi High Court and are indicative of the several disputed questions of fact between the parties, which will be adjudicated upon at the trial; the actual transaction came to light over a period of time, when internal investigation was carried out by the respondent.

11. It was further submitted the fact of non-genuineness of the transaction was evident from the documents filed by the appellant itself. It is seen from the appellant's documents that: out of the *132* invoices relied upon by the appellant to claim operational debt, only *6* invoices were shown to have been issued against a Purchase Order; all of the above *6* invoices were issued against the same 2 Purchase Orders. Most importantly, the consignee address in the invoices is different from the 'ship to' address in the Purchase Orders. Most importantly, the consignees mentioned in the Purchase Orders are all entities associated with one of the ex-employees of the respondent who was an alleged perpetrator of the entire fraud.

12. Lastly, the Learned counsel for the appellant argued the total demand raised was Rs.3.6 crores approximately and if one look into the respondent's notice dated 28.08.2024, it speaks of the fabricated purchase orders only to an extent of Rs.*2.27* crores and even if such claim is duly considered, then also, admittedly, the respondent was liable to pay more than Rs.*1* crore viz. above the threshold. We have also examined the notice dated 28.08.2024 sent on behalf of respondent and it notes the allegations against two of its former employees namely Mr. Vaibhav Jain and Mr. Rishab Chaudhury, both in its sales team, being found engaged in unauthorised and fraudulent activities and they issued multiple purchase orders, *including the purchase orders* mentioned in para 1 of the notice amount to Rs.*2.27* crore. Thus it cannot be said the respondent admitted the balance amount of Rs.*1.3* crores approximately. In Paragraphs 4, 5 and 8 of its notice, the respondent has rather mentioned:

> *"4. xxxxx.... Our preliminary investigation has revealed that there is no internal record of any such POs being sanctioned by Our Client. The Addressee's collusion in the transaction is also evident from the fact no verification of the genuineness of the POs was ever conducted by the Addressee. Further, as is seen from at least the POs mentioned in paragraph 1, each of the said POs were raised for supply to the same purchaser, who, it has now been discovered, is also part of the conspiracy to defraud Our Client so as to siphon off money from Our Client. Further still, there has been a stark deviation from the SOP which was followed by Our Client in all other transactions except the ones mentioned under the POs mentioned in paragraph 1 of this Notice.*
>
> *5. Notably, the goods allegedly ordered under these fraudulent POs were delivered to a third-party trader(s) with whom Our Client has no relationship, business or otherwise. Subsequently, the funds generated from these fraudulent transactions were misappropriated by at least one of the implicated employees named herein for personal gains. It may be stated that Our Client has already initiated suitable legal action against these employees and those found to be in collusion with these employees.*
>
> *8. Therefore, in the light of the above facts, the Addressee is hereby notified that Our client is not liable to any amounts claimed by the Addressee against the POs mentioned in paragraph 1 and any such others as may have been generated by the Addressee in collusion with the aforesaid erstwhile employees or buyers and which may come to light as a result of the ongoing investigation."*

13. Thus it cannot be said that Respondent ever admitted the debt of more than Rs.*1* crore at any stage of the proceedings. Admittedly they had filed Civil Suit *qua* the loss and against issuance of purchase orders and allege never any supplies were made to them against purchase orders.

14. Thus all of these disputed question of facts require adjudication by way of a detailed trial, such as the one which is pending before the Delhi High Court.

15. In ***'Mobilox Innovations Pvt. Ltd.' Vs. 'Kirusa Software Pvt. Ltd.'*** reported in ***[(2018) 1 SCC 353],*** the following was held:-

> ***"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."*

16. Thus, where the record of information utility shows the amount being disputed and where the dispute is shown to have arisen prior to issuance of notice under Section *8* of the IBC, the application under Section *9,* IBC needs to be rejected. The Ld. Adjudicating Authority rather relied upon the judgment of this Tribunal in ***'Bhawani Prasad Mishra' Vs. 'Armaco Infralinks Pvt. Ltd. & Anr.'*** in ***[Company Appeal (AT) (Insolvency) No.557/2025],*** wherein the following was held:-

> *"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."*

17. Thus, we see no reason to entertain this appeal. Admittedly, the appellants have resorted to alternative remedies *viz.* filing of civil suit, stated to be pending between the parties, and hence we are not inclined to interfere with the impugned order. The appeal stands dismissed. Pending applications are also disposed of.

[Justice Yogesh Khanna]
Officiating Chairperson

[Barun Mitra]
Member (Technical)

[Ajai Das Mehrotra]
Member (Technical)

NEW DELHI

8th September, 2026

Himanshu/bm