



IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-II, CHENNAI

CP(IB)/ 126(IBC)/ 2024

(filed under Section 9 of the Insolvency and Bankruptcy code, 2016 and Rule 6 of Insolvency and Bankruptcy (application to adjudicating authority Rules,2016)

In the Matter of *Daedong Shipping Co. Ltd.*

DAEDONG SHIPPING COMPANY LIMITED

Having its registered office at

Room 1503, LE MEILLEUR JONGNOTOWN,

JONGNO 19, JONGNO-GU, SEOUL,

Republic of Korea 03157

Represented by its authorised signatory/

Power of attorney holder Mr. Gajendra Harakchand Golchha

...Operational Creditor/Petitioner

Versus

BLUE MARINE LOGISTICS PRIVATE LIMITED

16/3, HARIRAM BUILDING,

2ND FLOOR, COLLEGE ROAD, CHENNAI - 600006.

... Corporate Debtor/Respondent

Order Pronounced on 26th September 2025

CORAM

SHRI JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)

SHRI RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

Present:

For Petitioner : Mr. Bharadwajarama subramaniam R., Advocate

For Respondent : Mr. S. Vasudevan, K. Krishnaswamy, R. Vetrivel Advocates

ORDER

(Hearing conducted through Hybrid Mode)

1. This application has been filed under Section 9 of the Insolvency and Bankruptcy code, 2016 by *Daedong Shipping company Limited* (hereinafter referred to as 'Operational Creditor) seeking to initiate Corporate Insolvency Resolution



Process against *Blue Marine Logistics Private Limited* (hereinafter referred to as 'Corporate Debtor').

2. In Part-I of the Petition, it is averred that the Operational Creditor is a Company having CIN as 104-86-23236 and its registered office at Room 1503, Le Melleur Jongno-Gu, Seoul, Korea- 03157.

3. In Part-II of the Petition, it is stated that the Corporate Debtor is a Company registered under companies Act, 1956 having CIN as U52341TN2005PTC057539 and its registered office at 16/3, Hariram Building, 2nd Floor, College Road, Chennai – 600006.

4. In Part-III of the Petition, the Operational Creditor has not proposed any Insolvency Professional to act as a Resolution Professional.

5. In Part-IV of the Petition, it is stated that the total outstanding Debt as USD 550,643.62 i.e., (Rs.4,57,36,651.80/-) . The date of default is not mentioned clearly.

Applicant Submissions:

6. It is submitted that Operational creditor was incorporated under the laws of South Korea, and is the owner of the vessel known as 'MV VTC Dragon' (**"hereinafter referred as Vessel"**).

7. It is stated that, the Operational Creditor has entered into an trip time charter (*herein after referred as charter party*) dated 06.10.2023 with the Corporate Debtor, as the Charterer for about 25-35 days on the terms and conditions more particularly mentioned therein.

8. It is stated that as per the terms agreed Corporate Debtor shall pay USD 6,400 (United States Dollar Six Thousand Four Hundred) per day as hire charge (**"Hire"**) for the Vessel which shall be paid every 15 days in advance. Subsequently by way of an addendum dated 25.10.2023, the parties has mutually extended the charter period for about 20-25 days.



9. It is stated that the applicant has delivered the vessel to the corporate debtor on 07.10.2023 and the vessel was used by the corporate debtor as shipper to carry rock boulders (cargos) in bulk from the port of loading i.e. Tuticorn to port of Discharge i.e., Hithadhoo Republic of Mauritius and MT Hojgaard Private Limited ("**Consignee /Receiver**") was the Consignee and Notifying party under the shipment.

10. It is stated that upon delivery of the vessel to the corporate debtor, payments were received towards the hire charges by the applicant as per the charter party from 13.10.2023 till 17.01.2024 i.e. from 1st Hire to 7th Hire. It is further stated that out of the 7 Hire charges, 4 Hire Charges were paid by Consignee on behalf of the Corporate Debtor.

11. It is submitted that the in and around February 2024, corporate debtor has stopped making payments for the hire charges and failed to re-deliver the vessel to the applicant. It is stated that the non- payment was due to collision between the barge (i.e. small boat used to transfer goods from Vessel to the Port) and the jetty which resulted in the delay of discharge of cargo from the vessel.

12. It is submitted that the applicant vide email dated 13.02.204, requested the corporate debtor to make outstanding payments for 08th and 09th Hire and 10th Hire. Since the applicant has received no response from the corporate debtor, the applicant vide another email dated 16.02.2024 demanded outstanding sum of USD 260,700 as per the statement of accounts from the corporate debtor.

13. It is submitted that, the corporate debtor failed to make the payments as requested by the applicant and hence the applicant vide email dated 19.02.2024 has informed the corporate debtor that the cargoes would not be discharged unless the full hire charges are paid in advance, and further informed that the vessel will be on hire charges or the period of suspended performance of the Vessel due to non-payment of Hire charges.



14. In pursuant to which the corporate debtor has informed the applicant that another barge shall be hired on 20.02.2024, for discharging of Cargos. Subsequently, the applicant vide email dated 20.02.2024, has directed the Corporate Debtor to pay the full Hire charges before the commencement of discharge operation by another barge.

15. In consequent to which the Corporate debtor vide email dated 20.02.2024 has informed the applicant that the *“their fund position is almost negative and that they are fully dependent on the Consignee”*, and further in the above email the corporate debtor has quoted the email received from the consignee wherein it was stated that the consignee would only pay a sum of USD 138,069 (United States Dollar One Hundred and Thirty-Eight Thousand and Sixty Nine) directly to the Operational Creditor towards the 8th hire, provided that they first receive their Cargos.

16. It is stated that the corporate debtor vide email dated 22.02.2024 has informed that the *corporate debtor do not have money to settle full amount but can only offer USD 138,069 as full and final settlement towards completion of the charter.*

17. It is stated that the applicant vide email dated 22.02.2024 has rejected the offer of the corporate debtor and called upon the corporate debtor to pay full hire due and further directed the corporate debtor to replenish/ refill bunkers (i.e 50 MT MGO) onto the vessel and also to clean the vessel hull bottom before re-delivery the vessel as agreed under the charter party.

18. The corporate debtor vide email dated 07.03.2024 has admitted that corporate debtor is unable to fulfil outstanding dues owed to them under the Charter party and has extended a fresh settlement offer of USD 150,000 along with 60 MT of bunkers as the final settlement proposal. In consequent to which the applicant vide email dated 07.03.2024 has rejected the offer of the corporate debtor and further request to elevate the offer for further consideration.



19. It is further stated that applicant has sent various reminders from 13.03.2024 to 18.03.2024 to the corporate debtor with a revised statement of accounts indicating the outstanding dues as the hire charges.

20. The applicant vide email dated 20.03.2024, demanded USD 543,250 towards Hire payment till April 07, 2024 from the corporate debtor and further requested the corporate debtor to supply the bunkers immediately and requested a schedule for underwater cleaning of the vessel.

21. It is submitted that consignee made a part payment of USD 138,000 to the applicant on behalf of the Corporate Debtor on 22.03.2024 and 09.04.2024 and in furtherance to which the applicant has adjusted these payment and updated the same in the statement of accounts issued upon the corporate debtor.

22. It is further submitted that the Vessel was stuck at the Port of Discharge due to non-payment of local agent fees by the corporate debtor. As the applicant was facing daily financial losses due to the non-discharge of the Vessel, the applicant has made payment of USD 45,022 to the local agent on behalf of the Corporate Debtor and hence the applicant claims the above money back from the corporate debtor.

23. In consequent to the payment the Vessel was discharged on 19.4.2024, and re-delivered to the applicant. The applicant vide email dated 23.04.2024 has called upon the corporate debtor to pay the balance sum of hire charges amount to USD 550,643.62 as per the Statement of Accounts as on 23.04.2024.

24. It is stated that in spite of several remainders, the corporate debtor has not paid the outstanding due and the applicant has issued Demand Notice on 25.04.2024 in Form 3 under Section 8 of the Insolvency & Bankruptcy Code, 2016 read with Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and claimed USD 550,643.62 from the corporate debtor which is due and payable by the corporate debtor.



25. In view of the above facts and circumstances, the applicant sought for allowing the present petition and thereby admission of the Corporate Debtor into CIRP.

Respondent Submissions

1. The corporate debtor has file reply vide SR No:5627 dated 21.11.2024 wherein the corporate debtor has denied the averments made in the application and prays that the present petition to be dismissed in limine.

2. It is stated that the applicant has filed the present application with malafide intent and vexatious interest in order to stall the operation and business of the corporate debtor.

3. It is stated that corporate debtor entered into an charter party on 06.10.2023 for the charter period of about 25-35 days “without guarantee”. The term "without guarantee" in a Charter Party Agreement denotes that there is no guarantee that the Vessel would be re-delivered to the Owner within the stipulated period.

4. It is stated that supply agreement was entered between the corporate debtor and the MT Hojgaard Private Limited for supply of the cargo and the shipment details are mentioned in the Bills of Lading dated 17.10.2023. The Bills of Lading indicate the Corporate Debtor as the Shipper and MT Hojgaard Private Limited as the Consignee.

5. It is stated that the voyage was commenced on 17.10.2023 from Tuticorn to Hithadhoo, Republic of Maldives, however, the end destination of the cargo is at ultimate discharge point being Fuvahmulah, Republic of Maldives, which is 35 miles away from Hithadhoo. Since the vessel cannot sail beyond the anchorage point (i.e, Hithadhoo) due to the shallow draft length of the waters at Fuvahmulah, the vessel stayed stationery at the anchored point and the cargo of Rock Boulders is unloaded onto an open flat top Barge propelled by a Tug Boat, which ultimately carries the cargo to the end destination Fuvahmulah for unloading.



6. It is stated that since, charter party was extended by way of addendum dated 25.10.2023, the 2nd voyage between Tuticorin to Port of Hithadoo with the same type and quantity of cargo and with the same Vessel was commenced on 11.12.2023. The vessel arrived at the anchor point on 14.12.2023 and the operations for cargo discharge was commenced on 16.12.2023.

7. It is stated that due to adverse weather conditions, the barge had made a collision against the jetty on 30.12.2023 which resulted in the damage of barges as well as port jetty. This was a Force Majeure situation which had left the jetty unavailable for almost 21 days which frustrated the discharge operations and put the Corporate Debtor in Financial Distress.

8. It is stated that the corporate debtor has made regular payments of the charter hire to the applicant, either through themselves or through consignee till the collision. It is further stated that, it was only upon the consequence of the frustration of discharge operations, the consignee halted payments to corporate debtor and hence the corporate debtor could not temporarily pay its dues to the applicant.

9. The corporate debtor submits that the delay in the entire discharge operations is attributed to "Force Majeure" and hence the incident and the delay fall under the category of an Act of god/ force majeure which is beyond the control of the corporate debtor.

10. It is stated that the corporate debtor tried to solve situation, however, the corporate debtor submits that applicant has took advantage of the situation and halted the discharge of cargo on and from 08.02.2024 till the pending charter hire charges are paid and the same has been communicated to the corporate debtor vide email dated 08.02.2024.

11. It is stated that corporate debtor approached the consignee regarding the applicant's decision to halt the discharge of cargo unless payment is received. In furtherance to which the Consignee came forward with a Settlement Offer i.e, payment of USD 150,000/- plus supply of additional 60 tons of bunker to their vessel



and the corporate debtor vide mail dated 07.03.2024 has intimated applicant about the settlement offer. However, the applicant has rejected the settlement offer vide email dated 07.03.2024 which has deliberately caused duress to the corporate debtor.

12. It is stated that, on 20.03.2024 the applicant allowed the cargo discharge operations of the Vessel to continue.

13. It is further stated that applicant has paid USD 45,022.22 to the local agent good time Maldives Pvt ltd towards agency fees to enable the vessel to sail from Maldives, and the same is evidenced from the statement of accounts which is furnished by the applicant. However, the Local Agent further raised a demand on the Corporate Debtor for USD 43,000.00 towards the Agency Fees which was negotiated at USD 25,000.00 and the same was paid by the Corporate Debtor on 18.04.2024.

14. It is submitted that the Agent at Hithadhoo was appointed by the Corporate Debtor and the applicant is a 3rd party between the Corporate Debtor and the Local Agent. It is further stated that despite lack of Privity of contract the applicant paid the agency fees to the local agent and now claiming the USD 45,022.22 from the corporate debtor. It is submitted that applicant not being a party to the contract, cannot claim the amount from the corporate debtor.

15. It is submitted that the corporate debtor vide email dated 26.06.2024 has come to know that there was a tripartite agreement between the applicant, owner of barge and the consignee for resumption of unloading operation of cargo upon payment of USD 1,36,000 and the same was paid in 2 instalments towards charter hire by consignee without informing to the corporate debtor, as stated in the statement of accounts dated 23.04.2024 filed by the applicant.

16. It is submitted that entire claim of the applicant is settled in full by the consignee; there is no amount payable by the corporate debtor to the applicant.



17. It is further stated that the execution of tripartite arrangement between the applicant, consignee and the owner of barged result in novation/ termination of the charter party dated 06.10.2023.

18. It is further submitted that the corporate debtor has no were admitted that the corporate debtor is insolvent and however, the email dated 20.02.204 and 07.03.2024 sent by the corporate debtor stated that fund position of the corporate debtor is negative, which meant as consignee stopped payment to the corporate debtor which in turn made the corporate debtor unable to pay the charter hire charged to the applicant. Hence the corporate debtor submits that the statement made via email dated 20.02.204 and 07.03.2024 is neither an admission of liability not an admission of insolvency at any point in time by the corporate debtor.

19. It is submitted that the proof of solvency of the corporate debtor is place as annexure VII of the typeset.

20. Based on the above submissions, the Respondent / Corporate debtor prayed for dismissal of the present petition.

Rejoinder filed by the applicant:

1. The applicant vide SR No: 2027 dated 05.12.2024 has submitted the rejoinder wherein the applicant has retreated the contents of the applicant and further has denied all the averments made by the corporate debtor in his reply.
2. The applicant has stated that, even if the jetty was not operation for 21 days, however the same is available after 21.01.2024 for discharging of cargo. However, the corporate debtor has not taken any steps to discharge the cargo until 20.02.2024.
3. It is further stated that corporate debtor has failed to inform the applicant about the accident of barge.
4. It is further stated that the applicant has allowed the discharge of cargo from vessel on 20.03.2024 due the daily financial losses faced by the applicant and further stated that corporate debtor has extremely delayed in discharging the



vessel and hence the applicant has made the payment of USD 45,022 to local agent on behalf of the corporate debtor.

5. It is further stated that vide email dated 26.06.2024 it is clearly stated that consignee provided assistance to the operational creditor in terms of fuel and incentive payments for unloading. It further stated in the above email that the payment is not made in lieu of full and final payment for the hire charges.
6. It is further stated that since both the parties (i.e., applicant & corporate debtor) were facing losses for each day of delay in discharging the cargo, the consignee has agreed to pay a sum of USD 138,000 to clear the cargo at the earliest and therefore the applicant submits that this cannot be treated as discharge of liability of the corporate debtor or novation or termination of charter party.

Written submission on behalf of the applicant:

1. The applicant has filed the written submission vide SR No: 2027 dated 05.07.2025 wherein the applicant has retreated the facts stated in the application and the rejoinder.
2. It is further stated that corporate debtor has never raised any dispute or contention prior to filing of the company petition and the applicant has relied on *Jaldhi Overseas pte Ltd Vs. RR Metal makers India Limited* and *Jaldhi Overseas pte Ltd Vs. RKB Global Limited* and *Innoventive Industries Ltd Vs ICICI Bank and Anr (2018) 1 SCC 407* and *Mobilox Innovation Private Limited Vs. Kirusa Software Private Limited (2018) 1 SCC 353*.

Written submission on behalf of the Corporate Debtor:

1. The corporate debtor has filed the written submission vide SR no:2027 dated 11.07.2025 where in the corporate debtor has retreated the facts stated in the reply filed by the corporate debtor.



2. It is submitted that the applicant has committed breach of contract of the charter party by collecting the freight amount directly from the consignee and further on execution of Tripartite agreement has modified the charter party terms and further this has discharged the corporate debtor from performing its contract.
3. It is further stated that by action of discharging the cargo, the valuable right of maritime claim to exercise its right to lien of the cargo has lost.
4. Based on the above submissions, corporate debtor prayed for dismissal of the present petition.

Findings of this Tribunal

1. Heard the counsels appearing for the parties and perused the documents on record.
2. The present application has been the filed under Section 9 of Insolvency and Bankruptcy Code, 2016 in seeking initiation of the Corporate Insolvency Resolution Process against the Corporate Debtor namely., Blue Marine Logistics Private Limited.
3. Before delving into merits of the case, we have look into the matter, whether there is a debt within the limitation period and the period of limitation is considered from the date of default. The date of default is defined under IBC, 2016 as follows:

“section 3(12) “Default” `means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not [paid] by the debtor or the corporate debtor, as the case may be;”
4. With regard to the period of limitation, the Hon’ble Supreme court in ***B.K. Educational Services Private Limited v Parag Gupta and Associates (2019)*** stated that Articles 137 and 5 of the Limitation Act, 1963 apply to applications filed under Sections 7 and 9 of IBC., the position is that the period of limitation is three years from the ***right to apply*** accrues.....”.



5. Thus based on the above judgement it is clear that the limitation starts from the date “right to apply accrues”. Further, On perusal of the records, we find that the Date of default mentioned in Form 5 is not clear and the default amount claimed by applicant is USD 550,643.62 i.e., (Rs.4,57,36,651.80/-) for non-payment of invoices raised by the applicant.
6. The list of dates and events is as follows:

S.NO	DATE	EVENTS
1.	06.10.2023	Trip Time charter party agreement was executed between applicant and the corporate debtor.
2.	25.10.2023	Trip Time charter party agreement was amended via addendum.
3.	07.10.2023	The Vessel was delivered to corporate debtor by the applicant.
4.	February 2024	The corporate has stopped making hire charges and also failed to return the vessel.
5.	13.02.2024	The applicant has requested the corporate debtor to make payment for the outstanding dues for 8 th , 9 th and hire charges.
6.	16.02.2024	The applicant vide email demanded US 260,700 from the corporate debtor.
7.	19.02.2024	The applicant has informed the corporate debtor that cargo discharge shall halt until full hire charges are paid in advance.
8.	20.02.2024	The corporate debtor vide email has proposed settlement offer.
9.	22.02.2024	The applicant has rejected the offer proposed by the corporate debtor and demanded full payment of outstanding dues along with replishing the bunkers and



		clean hull bottom before re- delivery as per the charter party agreement.
10.	07.03.2024	The corporate debtor has proposed a fresh settlement offer.
11.	07.03.2024	The applicant has rejected the offer proposed by the corporate debtor
12.	22.03.2024 & 09.04.2024	Consignee made part payment to the applicant on behalf of the corporate debtor.
13.	19.04.2024	The vessel was discharged and was returned to the applicant.
14.	23.04.2024	The applicant demand USD 550,643.62 from the corporate debtor.
15.	25.04.2024	The applicant has issued a demand notice for a sum of USD 550,643.62.

7. We find that applicant has entered into an agreement i.e., Trip Time Charter party agreement with Corporate Debtor on 06.10.2023 for the purpose of movement of bulk cargo of rock boulders from India to Republic of Maldives for 25-35 days. Further the charter party agreement was extended for 20-25 days via addendum.

8. The applicant has delivered the vessel to the corporate debtor on 07.10.2023 and the voyage commenced on 17.10.2023.

9. The Corporate Debtor paid hire charges from 1st hire commencing on 13.10.2023 to 7th hire ending on 17.01.2024. Subsequently, the corporate debtor has failed to pay the hire charges and further the corporate debtor has failed to return the vessel due to collusion between barge and jetty during Cargo discharge.

10. It is an admitted fact that the applicant requested for payment of 8th and 9th hire charges which is unpaid by the corporate debtor. The applicant vide email dated 19.02.2024 has informed the Corporate Debtor that Cargo discharge would be



halted until full hire charges were paid in advance which would also include hire charges for the period vessel which is inoperable due to non-payment of dues.

11. On February 2024 Corporate Debtor offered another barge for discharge of cargo from the vessel. However applicant demanded full payment before the said discharge begins vide email dated 20.02.2024

12. From the above sequence of event stated by applicant it is clear and admitted fact that hire charges for 1st to 7th hire has been paid by the corporate debtor and only hire charges for 8th and 9th outstanding.

13. It is also clear that, even though Corporate Debtor is charterer of the vessel for delivery of Cargo to the Consignee, the control on the loading and delivery of goods was with applicant, as the applicant had direct arrangement with consignee in respect of delivery of goods.

14. This was clear from the submission of applicant that even though Corporate Debtor offered substituted the barge (alternate vessel) on 20.02.2024 to make timely delivery of cargo to the consignee. However the applicant vide email dated 22.02.2024 has informed the corporate debtor that the offer is rejected and demanded full payment for the hire charges. The Operational Creditor did not agree and demanded full payment. This makes it clear that even alternate arrangement for fulfilment of the contractual obligation by Corporate Debtor has not been acceded to by the applicant.

15. Further, we find from the submission of the Corporate Debtor that, Corporate Debtor proposed to settle the outstanding dues by payment of USD 150,000 along with 60 MT of bunkers as the final settlement proposal vide email dated 07.03.2024 and the same was rejected by the applicant vide email dated 07.03.2024 and requested to enhance the offer for further consideration.

16. The above sequence of events and communication between the parties thereof makes it clear that there is a pre-existence of dispute between Corporate Debtor and



applicant by which applicant has claimed more than, what has been offered as a settlement amount of Corporate Debtor.

17. Therefore, the dispute as to quantum of outstanding due between applicant and Corporate Debtor has to be adjudicated. So that the default of debt becomes clear, when the outstanding debt is itself in dispute we can't consider the offer made by the Corporate Debtor as acceptance of debt, as applicant has never accepted the settlement of outstanding amounts offered by the Corporate Debtor.

18. We are of the view that there exist a dispute which needs to be adjudicated in terms of contract between Corporate Debtor and applicant as per the process enumerated in the contract.

19. This court finds that, the dues of the applicant from Corporate Debtor are not recovered from Corporate Debtor alone but also from the consignee directly by the applicant.

20. We are unable to understand when there is a Privity of Contract between applicant and Corporate Debtor, how could applicant receive money directly from consignee, thereby, obliterating the terms of contract by which the consignee should have paid the amounts to Corporate Debtor who is the charterer of the vessel and Corporate Debtor in turn would have made the payment to applicant.

21. We also find from the submission of the applicant that out of 7th hire charges received by applicant from Corporate Debtor, 4 hire charges were paid by consignee directly to applicant. This practice where consignee making direct payment of applicant keeps Corporate Debtor out of the loop then thereby creating confusion relating to the outstanding payment from Corporate Debtor as to whether it is due from Corporate Debtor or from consignee.

22. In view of the above, we are of the view that, the debt has not been established beyond reasonable doubt and the quantum of debt is also disputed by both the parties.



23. Hon'ble Supreme Court in the case of *Mobilox Innovations Pvt. Ltd. Vs. Kirusa Software (P) Limited 2017 1 SCC Online SC 353* held that the 'existence of 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 and observed as follows;

"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..."

24. Thus from the above, the decision of the Supreme Court in *Mobilox* (supra), it could be seen that this Tribunal need not be satisfied as to whether the defence raised by the Corporate Debtor is likely to succeed or not and also need not examine the merits of the dispute. The fact that dispute truly exists between the parties in fact is sufficient for this Tribunal to reject the Application.

25. As per Section 9 of IBC,2016 one of the essential ingredient is non-existence of Pre-existing Dispute before the date of Demand Notice. The demand notice was issued by the applicant on 25.04.2024. In this present case, there exist the



pre existence of dispute and thus essential ingredient under Section 9 of IBC,2016 is not satisfied.

26. Thus on perusal of the above facts and circumstances it is clear that there exists pre-existing dispute between the parties before the issuance of the Demand Notice, thus essential ingredient under Section 9 of IBC,2016 is not satisfied. The law is utmost clear if there is pre-existing dispute CIRP against Respondent cannot be initiated.

27. We are of the considered opinion that the Application of the applicant is liable to be dismissed. As a result thereof, CP/IB/126/2024 stands **Dismissed**.

-SD-

RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

-SD-

JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)