

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

Company Appeal (AT) (Insolvency) No. 916 of 2025

In the matter of:

Yusuf Malubhaiwala

....Appellant

Vs.

**Anuj Maheshwari,
IRP Steelexpert Industries (Indore) Ltd. & Anr.**

...Respondent

For Appellant

Mr. Abhijeet Sinha, Sr. Advocate with Mr. Vijayesh Atre, Mr. Aarya Chhangani, Advocates.

For Respondent

Mr. Kaustubh Sinha, Advocate for intervenor

Mr. Arvind Nayar, Sr. Advocate with Mr. Malak Bhatt, Ms. Diksha Dadu, Mr. Rushabh Shah, Ms. Neeha Nagpal, Ms. Nitya Prabhakar, Ms. Sanjukta Kaushik, Advocates for R2

Mr. Anchit Sharma, Mohd. Faraz Khan, Advocates for R4

Mr. Soumya Dharwa, IRP

ORDER

(Hybrid Mode)

02.07.2025: Heard Shri Abhijeet Sinha, Learned Senior Counsel for Appellant and Shri Arvind Nayar, Learned Senior Counsel for the Respondent. We have also heard Counsel for the IRP.

2. This Appeal has been filed against the order dated 12.06.2025 by which Adjudicating Authority has admitted Section 9 application filed by the Operational Creditor (Respondent herein).

3. The Demand Notice was issued on 17.10.2019 claiming an amount of Rs.2,32,98,535/-. The notice was immediately replied on 26.10.2019 denying the claim and in the reply to Demand Notice, the Corporate Debtor had come with a case that the entire dues have been paid. Prior to issuance of Demand Notice, two police complaints were filed by the Corporate Debtor dated 08.08.2019 against the Directors' of the Operational Creditor at Indore and

09.08.2019 to the Police Commissioner Mumbai making allegations. The notice was issued in Section 9 application to which reply was filed. In the reply, Appellant came with the case that there is pre-existence dispute and the entire amount has been paid. The Appellant in reply to Section 9 application relied on three cash receipts issued by the Operational Creditor. The Adjudicating Authority by the impugned order has admitted Section 9 application aggrieved by which this Appeal has been filed.

4. Counsel for the Appellant contends that there being pre-existing dispute, the Adjudicating Authority ought not to have admitted and the Adjudicating Authority has brushed aside the cash receipts on the ground that they are unsigned receipt and cannot be relied. It is submitted that the FIR was lodged by the Operational Creditor with regard to forgery of the receipts which FIR in the year 2023, a pre-arrest bail has been granted by the High Court noticing that there was commercial dispute between the parties. It is submitted that the present is a case where the Adjudicating Authority has not adverted to all relevant facts and has admitted Section 9 application.

5. Shri Arvind Nayar, Learned Senior Counsel for the Respondent opposing the submissions of the Counsel for the Appellant contends that the transactions and payment between the parties were made through RTGS mode and there was no payment made by cash and receipts which was filed by the Corporate Debtor were fabricated for which the FIR has already lodged and pending investigation. It is submitted that even the cash withdrawal from the Bank as claimed by the Appellant does not match the payment from cash reflecting from the receipts, the Corporate Debtor miserably failed to prove payment to Operational Creditor and Adjudicating Authority has rightly admitted Section 9 application. It is submitted that even CA Certificate was signed which was filed. It is further submitted that the balance sheet which was relied by the Appellant does not show sufficient cash for payment.

6. Counsel for the IRP submits that Form A has been issued and tomorrow is the last date for receipt of the claims.

7. We have considered the submissions of the Counsel for the parties and are of the view that the issues to be considered and decided in this Appeal is whether there was any pre-existing dispute between the parties so as to not to entertain the application under Section 9. Submission of the Appellant that the police complaints were filed prior to giving the demand notice clearly reflects pre-existing dispute. This submission has been refuted by Counsel for the Operational Creditor. Submissions raised by the Appellant and Respondents need consideration.

8. Issue notice. Let Reply be filed within two weeks. Rejoinder, if any, be filed within two weeks thereafter.

9. List this Appeal 'for admission and disposal' on 05.08.2025 High on Board.

In the meantime, in pursuance of the impugned order, the IRP shall proceed to collate the claims, however, shall not constitute the Committee of Creditors without leave of the Court.

**[Justice Ashok Bhushan]
Chairperson**

**[Justice N Seshasayee]
Member (Judicial)**

**[Arun Baroka]
Member (Technical)**

Anjali/nn