



IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT-IV

C.P. (IB) NO. 599/ND/2023

IN THE MATTER OF:

**RASHTRIYA MILL MAZDOOR SANGH, BOMBAY
MAZDOOR MANZIL, G.D. AMBEDKAR ROAD,
PAREL, MUMBAI – 400012.**

...OPERATIONAL CREDITOR

VERSUS

**NATIONAL TEXTILE CORPORATION LIMITED
SCOPE COMPLEX, CORE-IV, 7 LODHI ROAD,
NEW DELHI – 110003.**

...CORPORATE DEBTOR

ORDER DELIVERED ON: 12.09.2025

CORAM:

**SHRI MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

**For the Applicant : Ms. Eshna Kumar, Mr. M. Poudiwibou,
Mr. Harshvardhan Upadhyay, Advs.**
**For the Respondent : Mr. P. Nagesh, Senior Advocate
Ms. Shiva Lakshmi, Mr. Govind Sharma,
Mr. Madhav Bajaj, Ms. Katyayani Joshi, Advs.
Mr. Sonal Kumar Singh, Mr. Ratik Sharma, Advs.**

ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. The instant application has been filed by M/s Rashtriya Mill Mazdoor Sangh, Bombay (hereinafter referred as 'Applicant'/'Operational Creditor'), having office at Mazdoor Manzil, G.D. Ambedkar Road, Parel, Mumbai –



400012 under section 9 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'the Code') with prayer to initiate Corporate Insolvency Resolution Process in respect of M/s National Textile Corporation Limited, (hereinafter referred as 'Respondent Company' or 'Corporate Debtor').

2. The Respondent Company **M/s National Textile Corporation Limited** having CIN: U74899DL1968GOI004866 was incorporated on 01.04.1968 under the provisions of the Companies Act, 1956 having its registered office situated at Scope Complex, Core-IV, 7 Lodhi Road, New Delhi – 110003. The Authorized Share Capital is Rs. 50,00,00,00,000/- and Paid-up share capital is Rs. 30,62,16,01,000/-.
3. The total amount of default alleged in Part-IV of the application preferred under section 9 is Rs. 44,96,83,089/- (Rupees Forty-Four Crore, Ninety-Six Lakhs, Eighty-Three Thousand and Eighty-Nine Only) and date of default is 10.07.2023 i.e., the last date as of which salary was payable for the month of June, 2023.

4. Submissions by the Ld. Counsel appearing on behalf of the Operational Creditor.

- i. The Operational Creditor was engaged with the Corporate Debtor for the purpose of running the mills efficiently and in the interests of workmen. A substantial number of its members are employees in the mills of the Corporate Debtor in Mumbai, Maharashtra.
- ii. Since 18th May 2020, the wages for the workmen/employees working in certain mills functioning under the Corporate Debtor have not been paid due to the shutdown of those mills. Despite repeated requests, workers have only been paid their wages at 50% of the normal rate. The remaining portion of the workmen's wages and salaries remains unpaid and is due to the workmen. The wages for the months of May and June, 2023 as well as certain bonus amounts are wholly unpaid and are payable to the workmen in three mills, namely: Tata Mills, Poddar Mills, and India United Mills. The



existence of the dues of Rs. 66,88,70,000/- (Sixty-Six Crore, Eighty-Eight lakhs, Seventy Thousand) have been acknowledged by the Corporate Debtor.

iii. The unpaid wages amount to an operational debt owed by and defaulted on by the Corporate Debtor. Hence, the Operational Creditor issued a demand notice on 31.07.2023 to the Corporate Debtor demanding an amount of Rs. 44,96,83,089/-.

5. In response to the same, the Corporate Debtor has raised several averments against the present application which are mentioned hereinbelow: -

i. The Corporate Debtor has already discharged substantial payments towards the claim. A total sum of Rs. 38,63,48,946/- towards wages and Rs. 1,88,54,465/- towards bonus have been released, leaving only a residual balance of about Rs. 4.25 crores, which is under reconciliation.

ii. The partial payment of 50% wages was necessitated due to severe financial constraints during the Covid-19 pandemic. The workmen were not engaged in active work during lockdown, but still were paid 50% wages.

iii. The disputes as to quantum of wages and entitlement are pending before the Industrial Court, Mumbai, as well as before the Bombay High Court, thereby evidencing a genuine pre-existing dispute.

iv. It is submitted that the IBC is not a forum for enforcement of wage arrears or for adjudication of industrial disputes.

6. The Operational Creditor filed its rejoinder and made the following averments in the rejoinder:-

i. The Respondent, National Textile Corporation Limited, is a government company and falls within the definition of a 'Corporate Person' under IBC. Hence, it is a Corporate Debtor for the purpose of this petition.



- ii. The Corporate Debtor's objections denying its status as a corporate debtor and raising issues like MVRS and partial wage acceptance are baseless, irrelevant, and misleading.
- iii. There is no agreement to accept 50% wages. Any such communication was under protest and without prejudice. The workmen are entitled to full wages as per settlement, which the Corporate Debtor has failed to pay.
- iv. The orders of the Industrial Court and subsequent review application confirm that NTC admitted its inability to honour the settlement, reflecting insolvency.
- v. The allegations of forum shopping are unfounded, as proceedings under labour laws are distinct from insolvency proceedings. Under Section 238 of IBC, the code prevails over inconsistent laws.
- vi. Despite holding assets worth more than Rs. 1000 crores, the Corporate Debtor has defaulted on payment of Rs. 44.96 crores to the workmen. Its own admissions of heavy losses and lack of fund generation establish insolvency.
- vii. Existence of debt and default is clear and undisputed. Hence, the petition under Section 9 deserves admission and CIRP should be initiated against the Corporate Debtor.

ANALYSIS AND FINDINGS

7. We have heard the Learned Counsels for the Operational Creditor and the Corporate Debtor, and further perused the averments made in the petition, reply filed by the Corporate Debtor, rejoinder filed by the Operational Creditor and written submissions presented by both the Operational Creditor and the Corporate Debtor.
8. Since the registered office of the Corporate Debtor is in Delhi, this Tribunal is having territorial jurisdiction as the Adjudicating Authority in relation to prayer for initiation of Corporate Insolvency Resolution Process under



Section 9 of the Insolvency and Bankruptcy Code, 2016 against the Corporate Debtor.

9. At the outset, there is no dispute that unpaid wages fall within the ambit of operational debt under the Code. The Operational Creditor, being registered trade union, is therefore an operational creditor.
10. However, the issue for determination is whether there exists an operational debt in default, and if so, whether the petition merits admission under section 9.
11. The record shows that the Corporate Debtor has made substantial payments amounting to over 90% of the claimed sum, and the balance amount of Rs. 4.25 crores under reconciliation. Moreover, proceeding with respect to the very same wage issues are pending before statutory labour forum and before the Hon'ble Bombay High Court. This indicates the existence of a pre-existing dispute regarding the quantum of dues and entitlement.
12. The Hon'ble Supreme Court in ***Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd. (2018) 1 SCC 353***, held that if there is a real dispute prior to the issuance of a Section 8 notice, the Adjudicating Authority must reject the application under Section 9. The threshold for determining a dispute is whether there is a plausible contention requiring investigation and not a sham defense.
13. In the present case, the Corporate Debtor has produced material showing substantial payments, reconciliation pending and litigation in industrial forums. These constitute plausible disputes, not illusory or spurious.
14. Further, in the matter ***M/s S.S. Engineers versus Hindustan Petroleum Corporation Ltd. And Ors. [CIVIL APPEAL NO. 4583 OF 2022] dated 15.07.2022 it was held that:-***

30. This Court finds that there was a pre-existing dispute with regard to the alleged claim of the appellant against HPCL or its subsidiary HBL. The NCLAT rightly allowed the appeal filed on behalf of HBL. It



is not for this Court to adjudicate the disputes between the parties and determine whether, in fact, any amount was due from the appellant to the HPCL/HBL or vice-versa. The question is, whether the application of the Operational Creditor under Section 9 of the IBC, should have been admitted by the Adjudicating Authority. The answer to the aforesaid question has to be in the negative. The Adjudicating Authority (NCLT) clearly fell in error in admitting the application.

31. The NCLT, exercising powers under Section 7 or Section 9 of IBC, is not a debt collection forum. The IBC tackles and/or deals with insolvency and bankruptcy. It is not the object of the IBC that CIRP should be initiated to penalize solvent companies for non-payment of disputed dues claimed by an operational creditor.

32. There are noticeable differences in the IBC between the procedure of initiation of CIRP by a financial creditor and initiation of CIRP by an operational creditor. On a reading of Sections 8 and 9 of the IBC, it is patently clear that an Operational Creditor can only trigger the CIRP process, when there is an undisputed debt and a default in payment thereof. If the claim of an operational creditor is undisputed and the operational debt remains unpaid, CIRP must commence, for IBC does not countenance dishonesty or deliberate failure to repay the dues of an Operational Creditor. However, if the debt is disputed, the application of the Operational Creditor for initiation of CIRP must be dismissed.

15. However, the present petition, which essentially seeks recovery of wage arrears in the face of ongoing disputes, cannot be entertained as a substitute for labour law remedies.
16. In view of the above discussion, this Tribunal is of the considered opinion that although the claim of wages qualifies as an operational debt, the existence of a pre-existence dispute, coupled with substantial payments



already released and reconciliation of the balance pending, disentitles the applicant from relief under section 9 of the Code.

17. Accordingly, the petition i.e., **C.P. (IB) No. 599 of 2023** under Section 9 of the Insolvency and Bankruptcy Code, 2016 is hereby **dismissed**. However, this order shall not preclude the Applicant from seeking remedies, if so advised, under other laws that may be applicable in the facts of the case. There shall be no order as to costs.

Sd/-
ATUL CHATURVEDI
MEMBER (TECHNICAL)

Sd/-
MANNI SANKARIAH SHANMUGA SUNDARAM
MEMBER (JUDICIAL)