

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT-1, AHMEDABAD



ITEM No.303
C.P.(IB)/169(AHM)2025

Under Section 9 IBC

IN THE MATTER OF:

Monte Bianco Diamond Tools Pvt. Ltd
V/s
Adison Granito Pvt. Ltd

.....Applicant

.....Respondent

Order delivered on: 06/10/2025

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

ORDER
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

Sd/-

SANJEEV SHARMA
MEMBER (TECHNICAL)

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)



**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT-I, AHMEDABAD**

CP (IB) No.169/9/AHM/2025

(Petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

In the Matter of: Adison Granito Pvt. Ltd

Monte Bianco Diamond Tools Pvt. Ltd.

(CIN: U29292GJ2010PTC061916)

Registered office at 710, 7th Floor,
ISCON Elegance, Nr. Jain Temple
Circle-P, S G Highway, Vejalpur
Ahmedabad-380 051, Gujarat

...Applicant/Operational Creditor

VERSUS

Adison Granito Private Limited.

(CIN: U26941GJ2016PTC085815)

Registered office at 1509, Shapath-V
Opp. Karnavati Club, S.G. Highway
Vejalpur, Ahmedabad-380 051
Gujarat.

Also, at: Survey No. 531 to 536,
Bileshwarkampa, Talod Harsol Road,
Taluka-Talod, District-Sabarkantha,
Gujarat-383215.

...Respondent/Corporate Debtor

Order Pronounced On: 06.10.2025

C O R A M :

MR. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)

MR. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)



A P P E A R A N C E :

For the Applicant/OC : Mr. Sumit Parikh, Advocate.

For the Respondent/CD : **Ex-parte**

O R D E R
Per Bench

1. This Petition is filed on 28.03.2025 by the Applicant- Monte Bianco Diamond Tools Pvt. Ltd (hereinafter referred to as 'Operational Creditor') against the Respondent- Adison Granito Private Limited (hereinafter referred to as 'Corporate Debtor') under Section 9 of the IBC, 2016 read with Rule 6 of the IB (AAA) Rules, 2016 for initiation of CIRP, appointment of IRP and declaration of moratorium for default in payment of operational debt of Rs.1,68,87,832/- arising from supply of Polishing Abrasive and Diamond Squaring wheels.
2. On 09.05.2025, an opportunity was granted to file an amended Petition for submission of the requisite relevant documents to substantiate the operational debt and default in terms of the proviso of section 9(5)(ii) of the IBC, 2016. Amended Petition filed on 16.06.2025 along with relevant documents vide inward no. D-3800.
3. On perusal of Part-I of the Form-5, it shows that Operational Creditor was incorporated on 09.08.2010 under the Companies Act, 1956 with CIN U29292GJ2010PTC061916, registered office at 710, 7th Floor, Iscon Elegance, Nr. Jain Temple, Circle-P, S.G. Highway, Vejalpur, Ahmedabad,



Gujarat 380051. Petition filed through Director Mr. Girish Babulal Mishra authorised by Board Resolution dated 02.09.2023, which is annexed as Annexure-C.

4. On perusal of Part-II of the Form-5, it shows that Corporate Debtor was incorporated on 26.01.2016 under Companies Act, 2013 with CIN U26941GJ2016PTC085815, registered office at 1509, Shapath-V, Opp. Karnavati Club, S.G. Highway, Vejalpur, Ahmedabad, Gujarat 380051, authorised share capital Rs.43,00,00,000/-, paid-up share capital Rs.42,70,09,300/- as per Master Data from Ministry of Corporate Affairs website, which is annexed as Annexure-B.
5. On perusal of Part-III of the Form-5, it shows that the Operational Creditor has named Mr. Tejas K. Shah, Reg. No. IBBI/IPA-AAI/10185/02/061124/106265, address B-201, Narayan Krupa Avenue, Opp. Prernatirth Derasar, Jodhpur, Satellite, Ahmedabad, Gujarat 380015 (e-mail: tejashah44@yahoo.com) to act as IRP under Section 13(1)(c). Written communication in Form-2 dated 13.06.2025, AFA in Form-B dated 13.06.2025, registration certificate dated 24.06.2024 are annexed - Annexure-D. AFA is valid up to 31.03.2026 in compliance with Rule 9(1) of IB (AAA) Rules, 2016.
6. On perusal of Part-IV of the Form-5, it shows that the total claimed operational debt is Rs.1,68,87,832/-, arising from the supply of goods specifically Polishing Abrasive and Diamond Squaring wheels to Corporate Debtor. Date of



default stated as 23.09.2021, corresponding to the first unpaid invoice.

7. On perusal of Part-IV & Part-V of Form-5, the Operational Creditor has placed the facts through this Petition in the following manner:

- (i) Operational Creditor is engaged in the trading of Abrasive and Diamond Squaring Wheels used for cutting, drilling, grinding and polishing in industries of ceramics, natural stone, refractory material, glass and building projects.
- (ii) Corporate Debtor engaged in the manufacturing of non-metallic mineral products.
- (iii) Business transactions between parties wherein Corporate Debtor approached Operational Creditor for requirements of Glaze Polishing Abrasive and Diamond Squaring wheels; goods supplied and received by Corporate Debtor at regular intervals; running account maintained by Operational Creditor.
- (iv) During the business course, Polishing Abrasive and Diamond Squaring wheels supplied in various quantities as required; delivered and consumed by Corporate Debtor without dispute. The invoices issued from 23.09.2021 to 19.11.2022 are annexed as Annexure-F Colly.
- (v) Invoices required payment on the date of invoice; terms not disputed by Corporate Debtor; working computation chart provided, which is annexed as Annexure-G.
- (vi) Regular telephone correspondence between parties; Corporate Debtor assured payments towards goods received and consumed.



- (vii) The Part Payment was received till 23.03.2023. Still Rs.1,68,87,832/- remains due and payable by the Corporate Debtor for supplies as per the ledger account from 01.04.2019 to 20.12.2023, which is annexed as Annexure-E.
- (viii) Demand Notice dated 03.02.2024 in Form-3 and Form-4 was issued u/s 8 calling for payment of Rs.1,68,87,832/-, which was served via e-mail on 03.02.2024 and registered post on 09.02.2024 to the factory address; undelivered at the registered office due to 'addressee left with no instruction' - Annexure-A.
- (ix) No reply or payment received after demand notice dated 03.02.2024; affidavit u/s 9(3)(b) filed confirming no notice of dispute, which is annexed as Annexure-I.
- (x) Form-D filed as Record of Default with National E-Governance Services Limited (NeSL) under IBBI (Information Utilities) Regulations, 2017; default date 23.09.2021; status deemed authenticated, which is annexed as Annexure-H.

8. The Operational Creditor has relied upon the following documents, which are as under: -

- (a) A copy of the Form 3 and Form 4 served on the corporate debtor along with its tracking receipt - Annexure A Colly.
- (b) A copy of the corporate debtor's profile from the Master Data of the Ministry of Corporate Affairs - Annexure B.
- (c) A copy of the Board Resolution authorising Mr. Girish Babulal Mishra on behalf of the Operational Creditor Company - Annexure C.
- (d) A copy of written communication by the proposed interim resolution professional as set out in Form 2 - Annexure D.



- (e) A copy of the Ledger account of the Corporate Debtor in books of account of Operational Creditor - Annexure E.
- (f) A copy of all Invoices - Annexure F.
- (g) A copy of Working Computation of the outstanding dues along with Computation Chart - Annexure G.
- (h) A copy of Form D i.e. Record of Default - Annexure H.
- (i) A Copy of an Affidavit under Section 9(3)(b) of the IB Code - Annexure I.

9. On issuance of the notice, a service report was filed by the Operational Creditor on 08.08.2025 vide Inward No. D-5443; a notice was received by the director of Corporate Debtor on 28.07.2025 with acknowledgement; notice was also served through e-mode on 23.07.2025. Hence, Service was considered sufficient and complete through e-mode and Dasti Mode u/Rule 23 of IB (AAA) Rules, 2016. However, despite service, no appearance or reply filed by Corporate Debtor; sufficient opportunities provided; right to file reply closed vide order dated 30.09.2025 and proceedings proceeded **ex-parte**.

10. We have heard the arguments of Ld. Counsel for the Applicant/Operational Creditor, Ex-parte against the Respondent/Corporate Debtor and perused the material available on record.

11. The learned counsel for the Operational Creditor submitted that the operational debt is undisputed and the Corporate Debtor has defaulted in payment. The existence of debt is



supported by invoices, ledger account maintained from 01.04.2019 to 20.12.2023, working computation and record of default. No notice of dispute was received from the Corporate Debtor. The proposed Interim Resolution Professional, Mr. Tejas K. Shah has given consent in Form 2. Hence, the petition deserves admission.

- 12.** Section 9(5) of IBC provides that the Adjudicating Authority shall admit the application if satisfied that default has occurred and the application is complete. The application must fulfil requirements under Section 9(3), including a record of default or a certificate from a financial institution under Section 9(3)(c) that no payment of unpaid operational debt has been received by the Operational Creditor.

- 13.** The Operational Creditor has relied upon the ledger account maintained in its books of account from 01.04.2019 to 20.12.2023 to prove the outstanding. The ledger has not been confirmed by the Corporate Debtor. The Hon'ble NCLAT in *Ramniwas B Somany v. Anushri Paper Pack Pvt. Ltd and Anr.* **(2025) ibclaw.in 760 NCLAT** decided on 17.09.2025, observed that "*By way of acknowledgement of debt by the Corporate Debtor on 17th May 2016 in form of the entries in the books of accounts which is reflected by way of Ledger account of the Respondent No.1 in the books of Corporate Debtor, which was supplied by the Corporate Debtor*".

Thus, the ledger account produced by the Operational Creditor herein requires confirmation from the Corporate



Debtor to establish the prima facie existence of debt, which is not the case here in the absence of confirmation.

14. Further, the Operational Creditor has not filed a copy of a certificate or bank account statement from the financial institution maintaining its accounts confirming that no payment of the unpaid operational debt has been received in terms of Section 9(3)(c) of IBC.
15. Additionally, the Operational Creditor has not furnished copies of relevant extracts of Form GSTR-1 and Form GSTR-3B filed under the Goods and Services Tax laws or copies of e-way bills in terms of Regulation 2B of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for the invoices raised from 23.09.2021 to 19.11.2022 which form part of the claimed debt. Regulation 2B mandates such documents to prove the existence of operational debt.
16. The Operational Creditor has also not filed an audited or provisional Balance Sheet or Financial Statement for the financial years 2021-22, 2022-23, 2023-24 or 2024-25 to corroborate the outstanding operational debt. In *Bijendra Prasad Mishra v. HS Mercantile Pvt. Ltd. and Anr.*, **(2025) ibclaw.in 753 NCLAT** decided on 16.09.2025, the NCLAT held that while a written agreement is not a pre-condition, the presence of financial statements (e.g., balance sheet acknowledgements) or corroborative documents is essential to substantiate the debt claim; their absence renders it unsubstantiated, leading to rejection of the Section 9



petition. Further, neither balance sheet nor any other document is provided to substantiate that the Corporate Debtor has shown the amount payable to the OC as its liability.

- 17.** An opportunity was provided to the Operational Creditor to file relevant documents in support of the case vide order dated 09.05.2025 in terms of the proviso to Section 9(5)(ii)(a) of IBC in terms judgment of the Hon'ble NCLAT in *Tek Travels Pvt. Ltd. v. Altius Travels Pvt. Ltd.*, **(2021) ibclaw.in 208 NCLAT** decided on 21.04.2021. However, the Operational Creditor failed to file the aforementioned documents in the given opportunity to rectify defects, which was provided under the proviso to Section 9(5)(ii)(a) of the IBC, 2016.
- 18.** In view of the above, the petition suffers from material deficiencies and is not complete as required under Section 9 of IBC. The application is liable to be rejected under Section 9(5)(ii)(a) of the IBC, 2016.
- 19.** Accordingly, **CP(IB) No.169/9/AHM/2025** is hereby **dismissed** as defective. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd/-

Sd/-

SANJEEV SHARMA
MEMBER (TECHNICAL)

SHAMMI KHAN
MEMBER (JUDICIAL)

Sudha/Ps