



**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-II), CHANDIGARH**

CP (IB) No. 168/Chd/Hry/2019

(An application under Section 9 of the Insolvency and Bankruptcy Code, 2016)

IN THE MATTER OF:

TVS Supply Chain Solutions Limited

(Formerly known as TVS Logistics Services Limited)

Through its authorized representative

Registered Office at: 10, Jawahar Road, Madurai,

Tamil Nadu, 625002

...Applicant

Versus

ZTE Telecom India Private Limited

Registered Office at: 6th Floor, Tower-B,

Building No.10, DLF Cyber City, Phase-II,

Gurgaon, 122001

CIN: U32204HR2003PTC035635

EMAIL: amaresh.singh@zte.com.cn

...Respondent

Order delivered on: 09.10.2025

Coram: MR. KHETRABASI BISWAL, MEMBER (JUDICIAL)

MR. KAUSHALENDRA KUMAR SINGH, MEMBER (TECHNICAL)

Present:

For the Applicant : Mr. Anand Chhibbar, Senior Advocate with Mr. Vaibhav Sahni, Advocate

For the Respondent : Ms. Munisha Gandhi, Senior Advocate with Ms. Daizy Chawla, Mr. Jatin Kapoor, Ms. Salina Chalana & Mr. Rahul K. Kanojia, Advocates

ORDER

The present Petition is filed by TVS Supply Chain Solutions Limited, earlier known as TVS Logistic Services Limited, (Applicant-**TVS**) through an Authorized Representative Mr. Sandeep Sharma under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("**Code**") for initiation of Corporate



Insolvency Resolution Process (CIRP) against ZTE Telecom India Private Limited (Respondent-**ZTE**) for defaulting in payment of Rs.4,27,33,813/- and interest thereon of Rs.75,77,549/- calculated at 12% per annum for the period from 12.06.2012 to 12.02.2019, which was due and payable by the Respondent towards the services rendered by the Applicant.

2. The brief facts of the case, as stated in the petition, and argued by the Ld. Senior Counsel for the Petitioner, are summarized hereunder;

i. The Respondent-ZTE entered into a separate main contract with Indian Telecom Customers such as Reliance, TATA, Aircel, BSNL etc. for supply, install, test, commission, equipment and render other services for a fixed or mobile digital telecommunication networks and for this purpose the Applicant-TVS was appointed as a service provider. The Parties (Applicant and Respondent) had entered into a Master Service Agreement dated 25.07.2012 (MSA-I) which was valid until 24.07.2017 (5 years). Thereafter, another Master Service Agreement dated 01.07.2017 (MSA-II) was entered which was valid up to 30.06.2022 (5 years).

ii. The Applicant-TVS provided the required services for multiple projects of ZTE with various telecom companies from 2012 onwards under the said two Master Service Agreements and raised invoices at a regular interval which were payable within 30 days of raising the invoice as per Article 5 of the MSAs.

iii. ZTE had a vigorous and strict system of generating invoice in accordance with MSA. The flow chart of the process of raising of invoices is provided below:

- Step 1- Purchase order issued by ZTE
- Step 2- Completion of work by TVS
- Step 3- Generation of work completion certificate (WCC)/Joint Measurement Report (JMR)
- Step 4- WCC/JMR are signed plus stamped by ZTE executive.



- Step 5- WCC is uploaded on the system plus the same is sent to ZTE for approval.
- Step 6- TVS accepts approved WCC from the system to generate the invoice (P-6 invoice).
- Step 7- Tax invoices is generated by the TVS.

The required verification and approval is done in the “P-6” and “SRM” portals of ZTE itself. The tax invoices so generated were to be delivered to the office of ZTE and in return a hand written acknowledgment was received from the executive of ZTE who received the invoice.

iv. The Respondent-ZTE has generally made either part payments against the invoices raised or delayed the payment on the pretext that the invoices are not satisfactory; and that as such certain amounts has remained due and payable at all times since 2012. The TVS has addressed innumerable emails in regard to pending payments and ZTE has replied to most of them wherein they have acknowledged the debt/part payment against the invoices raised by TVS; that despite multiple reconciliations over time, ZTE kept delaying payments and raised baseless objections.

v. Till September 2015, an amount of Rs.7.04 Crores was outstanding for payment by ZTE for various projects and an email dated 09.09.2015 was sent by ZTE to TVS acknowledging that Rs.7.04 Crores was outstanding by it as on that date. Following that TVS had sent reminder emails dated 05.10.2015 and 21.06.2016 to pay outstanding amounts and expressed its grievance regarding delayed payments.

vi. On 24.06.2016, ZTE confirmed that further payment of Rs.2 Crores will be paid to TVS in June 2016, stating the reasons for delay as problem in “ERP” and inability of finance team to book invoices in payable account. On 18.09.2017, ZTE addressed an email stating that as per ZTE audit result, there were discrepancies in earlier JMR and invoices in respect of BSNL phase-VII project. Following that the



executives of TVS and ZTE met for five days during 03.11.2017 to 09.11.2017 in Gurgaon Office of ZTE for reconciliation where they exchanged various emails, information and requirements of audit queries etc.

vii. On 20.11.2017, the ZTE addressed a notice to TVS in regard to non-submission of proof/justification in respect of audit query raised by ZTE as regards BSNL Phase-VII project. In response thereof, TVS vide its email dated 21.11.2017, stated that all the queries had been addressed at the meetings held between the parties from 03.11.2017 to 09.11.2017; and vide its email dated 14.12.2017, the TVS requested the ZTE to forward actual queries of BSNL audit pertaining to sites where TVS had performed work.

viii. On 14.12.2017, ZTE has sent an overall summary and appendix wise feedback to TVS accepting amount of Rs.98,14,988/- payable to TVS on the basis of invoices. Thereafter, vide email dated 15.12.2017, ZTE shared its statement of accounts from 01.04.2017 to 30.11.2017 and requested TVS to share balance confirmation. Following that on 17.01.2018, TVS addressed a letter to ZTE thereby calling upon it to release the outstanding payment of Rs.2.44 Crores and thereafter, vide email dated 23.01.2018, TVS shared a balance confirmation letter, after reconciliation process to the amount of Rs.3,63,53,956/- as outstanding as on 30.11.2017.

ix. On 29.01.2018, the ZTE addressed a letter to TVS wherein it is stated that there are purported discrepancies in invoices of TVS to the tune of Rs.5.60 Crores. However, ZTE had not shared any supporting documents and queries of the BSNL to TVS. On 12.03.2018, TVS addressed another letter to ZTE regarding total outstanding payment due, urging ZTE to repay balance Rs.3,63,53,956/- as on 30.11.2017 along interest at the rate of 18%. On 09.07.2018, TVS issued a demand notice under Section 8 of IBC 2016 demanding payment of unpaid amount of Rs.4,27,33,813/- as a principal and interest thereon at the rate of 12% per annum. The ZTE replied to the said



demand notice on 20.07.2018 conveying pre-existing dispute alleging excess amount being paid by ZTE to the TVS. In response thereof, the TVS further addressed a letter dated 27.08.2018 urging ZTE to pay the outstanding debt. Following that on 19.09.2018, ZTE addressed a letter to the TVS acknowledging the letter dated 27.08.2018 and requesting TVS to provide certain other documents to further delay payment of outstanding debt.

x. On 07.05.2019, TVS filed the present company petition under Section 9 of the Code to initiate the CIRP in respect of the Respondent.

3. The Respondent has filed a reply and also represented by the Ld. Senior Counsel. Various contentions raised in the Petition and the contentions raised on its behalf by its Counsel are briefly summarized as under:

i. The Respondent had **consistently raised dispute regarding discrepancies in the invoices and the quality and scope of services rendered by the Applicant, beginning as early as 18.09.2017 well prior to the issuance of demand notice under Section 8 of the Code. The Respondent, through multiple written communications including emails and letters clearly conveyed its concern regarding the disputed invoices and intention to raise debit note in the event the issues remained unresolved by the Applicant.** The reference communications, inter-alia are stated to be following:

- Email dated 18.09.2017 [page 36, reply-Annexure R-4]
- Email dated 28.09.2017 [page 33, reply-Annexure R-3]
- Email dated 13.10.2017 [page 31, reply-Annexure R-2]
- Letter dated 20.11.2017 [page 16458 of petition, Annexure-A- 16, Vol. 55]
- Letter dated 29.01.2018 [page 16464-16472 of petition, Annexure A-20, Vol. 55]



iii. The demand notice dated 09.07.2018 issued by the Applicant is defective. The Respondent replied to the said demand notice inter-alia pointing out that the demand notice was not as per the prescribed format as invoices were not enclosed therein; and that the debt was already disputed. Following that the Applicant vide its reply dated 27.08.2018 (which is termed at rejoinder) did enclose those invoices which were not annexed earlier to the demand notice. To that the Respondent vide email dated 19.09.2018 further replied pointing out the missing invoices and supporting documents including Work Completion Certificates and Joint Measurement Report etc. It is stated that the Respondent had requested these for proper assessment and had clarified that response did not imply admission of the Applicant's claim; and that it had also reiterated audit findings of irregularities in invoices and excess payment already made.

iv. That as such, the contentions of the Applicant raised in Section 9 petition are untenable and unsubstantiated on account of the following:

- a. There is an admitted pre-existing dispute between the parties as is evident from various communications starting from September 2017 between the parties, i.e. well before the issuance of demand notice by the Applicant.
- b. The alleged debt has never been admitted by the Respondent. The email dated 23.01.2018 being purported as acknowledgement of debt is merely an acknowledgement of receipt of email by the Respondent and not the contents thereof.**
- c. The debit note dated 27.07.2018 raised by the Respondent after issuance of defective demand notice dated 09.07.2018, is issued in continuation of its prior communications and the amount of debit note had already been crystallized by the Respondent in January 2018 i.e. 6 months prior to issuance of the demand**



notice. The debit note raised on 27.07.2018 is also a part of routine practice followed between the parties and is thus not an after-thought.

d. The demand notice dated 09.07.2018 was itself defective, being unsupported by alleged pending invoices or supporting documents. The so called ‘unpaid invoices’ appended by the Applicant are defective, being either time barred or not in the prescribed format as per the agreement between the parties.

v. And, in view of the clear and demonstrable pre-existing disputes between the parties, as the Applicant has on several occasions expressly acknowledged them in its own written communications and further engaged in physical meetings specifically convened to discuss the concern raised by the Respondent, well before the issuance of Section 8 demand notice by the Applicant, the present petition is not maintainable under Section 9 of the IBC 2016 and as such is liable to be dismissed.

4. We have heard the Ld. Senior Counsels appearing for the Applicant as well as the Respondent and have carefully gone through the records, extant provisions of Code with supporting law.

5. The instant petition has been filed along with 66 volumes containing therewith pages over 19,776. And this itself prima facie shows that how the Petitioner has struggled to bring the issue under the provisions of Code. The convenience compilation and judgment compilation have also been filed and have been referred to. The respondent side too has filed convenient compilation & judgment compilation in support of its reply. It is noted that the Applicant herein had provided the services to the telecom customers of the Respondent as per the agreements entered under MSA-I and MSA-II. As explained to us, the Respondent-ZTE had its own vigorous and strict system for generating invoices and verification of invoices in the “P-6” and “SRM” portals of ZTE itself. The TVS was required to record details of the work



undertaken with relevant documents and to upload them in the said portals for verification. Details and documents were to be verified and approved at three levels i.e. by Circle Project Manager, then Key Account Manager and finally Project Director after which P-6 invoices were generated and then only the tax invoices were generated and submitted for the payments. It is also explained to us that for every new project, a purchase order (PO) was issued by ZTE to TVS which specified the details of project to be undertaken and the scope of work involved in the project; and that after completion of the project a site work completion certificate was issued by the ZTE and a Joint Measurement Report (JMR) was also created. It is the contention of the Applicant that after following such a detailed procedure as regards to work completion and quality checks, the (P-6) invoices were generated through the system of the Respondent itself which provided the very basis to raise the tax invoice for payment by the Respondent; and as such the genuineness of the same could not be questioned. The Ld. Senior Counsel appearing for the Respondent stated that during the period from 2012 to 2019, an amount approximately Rs.80 Crore have been paid for the work done by the Applicant-TVS. We do note that despite the regular payments made by the Respondent, some amount remained unpaid however, it is not unusual keeping in view the continuous work and the running accounts on services provided by the Applicant.

6. The Ld. Senior Counsel for the Respondent has also referred to clause 5.9 of MSA-II which provides that “Any payment of invoices by the Respondent shall not be deemed to constitute acceptance or evidence of satisfactory completion of the works and delivery of the products”. She has also referred to Clause 5.10 thereof which provides for a proper procedure and documentation for raising an invoice as agreed between the parties. The Ld. Senior Counsel has also referred to the email communications and letters evidencing the existence of pre-existing disputes between the parties, prior to the issuance of demand notice dated 09.07.2018 under Section 8 of the Code. For ready reference, the brief issue as raised through these email communications and the content thereof is reproduced hereunder:



A. Email dated 18.09.2017 [Vol 55, Annexure A-15 @ Pg. 16456; Annexure R-4 @ Pg. 36 of Reply]:

Pursuant to an internal audit under Clause 21 of the MSA [(MSA-I) Vol 54, Annexure A-6 @ Pg. 16252-16253 and (MSA-II) Vol 55, Annexure A-12 @ Pg. 16354-16355], the Respondent, via email dated 18.09.2017, informed the Applicant of discrepancies in invoices, including claims for uninstalled or cancelled sites. The Respondent stated it would issue a debit note or initiate recovery of excess payments if the issues remained unresolved. The relevant part of the email is typed and reproduced below:

“Sender:

roshanverma10065918

To:sandeep.sharma@tvslsl.com>;anand.bandhu@tvslsl.com>;jay.shankar@tvslsl.com;

Cc: libo10054228; liy10157708; padam shrivastava10094898; dengjunpeng10083521; prem nainwal10122229;

Date:

2017/09/18 18:31

Subject: To TVS Team, Please find the discrepancies of TSP and infra activity of BSNL PH7 project group as per ZTE audit result. Please Cross

Dear TVS Team,

As per the internal audit result of ZTE India for TSP and infra activity of BSNL PH7 Project Group, we have found discrepancies are given as below:

1. The sites without DC, Tower, SHELTER and ODPAD, but partner claimed item related to TSP and infra

Appendix 4-1

(See attached file: Appendix 4-1: TV SUNDRAM IYENGAR & SONS PRIVATE LIMITED-2486 lines)

2. The sites with DG/TOWER/SHELTER/ODPAD, partner overclaimed the workload of Excavation, RC(PCC, Steel, Shuttering compare with the standard site design.

Appendix 5-1

(See attached file: Appendix 5-1 TV SUNDRAM IYENGER & SONS PRIVATE LIMITED- 887 LINES)



3. *The sites with DG/TOWER/SHELTER/ODPAD, partner overclaimed the workload of Disposal, Chipping & Welding, Site Survey, MS gate, Pole, Structural analyze, SMPS l&c, Electrical layout, As build, fencing Pedestal, Bolt Template, Battery Cabinet, Tower Erection.*

Appendix 6-1

(See attached file: Appendix 6-1: TV SUNDRAM IYENGER & SONS PRIVATE LIMITED -73 lines)

4. *Wrong Item claimed for Tower sites.*

Appendix 7-1

(See attached file: Appendix 7-1: TV SUNDRAM IYENGAR & SONS PRIVATE LIMITED-10 lines)

If you have any justification against the claim, please provide by 21st Sept 2017, If no any response, ZTE will issue the debit note to deduct the same amount or start the formal process to claim back.

Regards,

Roshan Verma

Outsourcing Manager

ZTE Telecom India Pvt. Ltd.

6th Floor, Tower-8, Building No. 10, DLF Cyber City,

Phase-II, Gurgaon-122002 (Hr.) INDIA

T: +91-124-432000 | F: +91-124-4067329, 30

M: +91-7042520181

E: roshan.verma@zte.com.cn www.zte.com.com”

B. Reminder email dated 20.09.2017 [Annexure R-3 @ Pg. 35 of Reply]:

As no response was received from the Applicant to the email dated 18.09.2017, the Respondent first spoke with the personnel of the Applicant and then sent followed up with Applicant highlighting the audit discrepancies and recorded that no response had been received to its earlier email dated 18.09.2017. The relevant part of the email is typed and reproduced below:

“Sender: roshan verma10085918

To:<Sandeep.sharma@tvslsl.com>;

CC:anand.bandhu@tvslsl.com;jay.shankar@tvslsl.com’;



*iibo10054228; iiy10157708; padam shrivastava10094898;
dengjunpengi0083521; prem nainwal10122229;
Date: 2017/09/20 12:05*

Subject: Re: To TVS Team, Please find the discrepancies of Invoices of TSP and Infra activity of BSNL PH7 project group as per ZTE audit result. Please cross check the same respond immediately. Thanks!

Dear Sandeep,

As per our discussion today morning, please share your feedback and document against these case.”

C. Email dated 28.09.2017 [Annexure R-3 @ Pg. 34-35 of Reply]:
Respondent once again reiterated its demand for a response, confirming that no reply had been received from the Applicant even after its earlier emails dated 18.09.2017 and 20.09.2017. The respondent again warned of issuance of a debit note in case of continued silence by the Applicant. The complete email is typed and reproduced below:

*From : roshan.verma@zte.com.cn
Sent : Thursday, September 28, 18:21
Subject : Re: To TVS Team, please find the discrepancies of invoices of TSP and Infra activity of BSNL PH7 project group as per ZTE adult result. Please cross check the same and response immediately. Thanks!
To :Sandeep Sharma, Anand Bandhu
Cc: Jay Shankar; li.bo29@zte.com.cn; li.yi7@zte.com.cn;
padam.shrivastava@zte.com.cn;deng.junpeng@zte.com.cn;
prem.nainwal@zte.com.cn
Notice on discrepancies of invoices of TSP and Infra activity of BSNL PH 7 Project group.
Subject : Discrepancies of Invoices of TSP and Infra activity of BSNL PH 7 project group as per ZTE audit result.*

*Dear Mr. Sandeep,
Please refer to the mail dated 18th Sep 2017, wherein the discrepancies found in the JMR and Invoices submitted by you for the said project have been highlighted and asked you to submit your feedback. We have not received any reply since last 10 days, even after reminder to you.*



You are hereby requested again to submit your justification/proofs by tomorrow.

In the event of failure from your end in providing any justification/proof by tomorrow, we will issue the debit note of the noticed amount, and the same amount will be deducted from your account payable.

*Roshan Verma
Outsourcing Manager
ZTE Telecom India Pvt. Ltd.
6th Floor, Tower-B, Building No. 10, DLF Cyber City,
Phase -II, Gurgaon- 122002 (Hr.), India
T : +91 124 4323000 F: +91 124 4067329, 30
M: +917042520181
E:roshan.verma@zte.com.cn www.zte.com.cn”*

D. Email dated 29.09.2017 [Annexure R-3 @ Pg. 34-35 of Reply]:

It was only after the third reminder dated 28.09.2017 by the Respondent, the Applicant responded whereby it merely stated that they were “working on the same” and promised to submit a response “by next week.” The Applicant did not contest the audit discrepancies nor provide any documentary justification. The relevant complete email is typed and reproduced below:

*“TVS Logistics Services Limited
From : Sandeep Sharma (mailto: Sandeep.sharma@vslsl.com)
Sent : Friday, September 29, 2017 11:56 AM
To :Anand Bandhu; roshan.verma@zte.com.cn
Cc: Jay Shankar; li.bo29@zte.com.cn; li.yi7@zte.com.cn;
padam.shrivastava@zte.com.cn; deng.junpeng@zte.com.cn;
prem.nainwal@zte.com.cn
Subject: Re: To TVS Team, please find the discrepancies of
invoices of TSP and Infra activity of BSNL PH7 project group as
per ZTE adult result. Please cross check the same and response
immediately. Thanks!*

*Dear Mr. Roshan,
Kindly refer to our meeting where in we had discussed over audit
report and supporting documents required by you.
We are working on the same which is in line to the discussion, we
will submit our response by next week.*



In the meantime, also request you to share update on details of invoices submitted to you and currently not reflecting in your system.

Anand Bandhu in reading : Please share detailed invoice break up.

BR//

Sandeep Sharama

+91 7087919124”

7. On perusal of the aforesaid emails, it is noted that based on the internal audit of the ZTE certain discrepancies were conveyed to the Applicant-TVS vide email dated 18.09.2017 requiring the Applicant to give their justification, failing which, ZTE would issue a debit note. The issue that has arisen on internal audit relates to over claim of the workload of excavation, RC (PCC, Steel, shuttering etc.), disposal chipping & welding, site survey, MS gate, Pole, SMPS I&C, Electrical layout etc. claiming of wrong items for tower sites etc. A reminder thereon was issued vide email dated 20.09.2017 and 28.09.2017 to which the Applicant-TVS responded vide email dated 29.09.2017 that they are working on the same and would submit response by next week. As no documentary justification was provided by the Applicant, the parties had held a meeting in person between 03.11.2017 till 09.11.2017 however, the issues remained unresolved and the Respondent continued to maintain its objections to inflated billing by the Applicant. It is further noted that during the period 03.11.2017 to 22.11.2017 the Applicant had sent several emails to the Respondent requesting it to reject certain invoices, clearly confirming that the Applicant was aware of the Respondent's objections and was itself participating in the process of disallowing the invoices. Based on that the Ld. Senior Counsel for the Respondent contends that this conduct of the Applicant further substantiates the fact that the alleged debt was disputed and under reconciliation, and therefore, is not at all an undisputed liability. The Ld. Senior Counsel also refers to the letter dated 20.11.2017 [vol. 55-petition, Annexure A-16 at page 16458] whereby the Respondent has reiterated its concern regarding the Applicant's continued failure to submit adequate proof and justification for the discrepancies raised in invoiced amounts. It is further pointed out that letter dated 21.11.2017 [vol. 55-petition, annexure



A-17, page 16459] and email dated 14.12.2017 [vol. 55-petition, annexure A-18, page 16460] expressly mentions the existence of disputes raised by the Respondent pursuant to its internal audit confirming that the issues were genuine and not illusory; and that vide letter dated 17.01.2018 [vol.55-petition annexure A-19, page 16461-16463], the Applicant had issued a unilateral and unsubstantiated demand letter claiming Rs.2.44 Crore without addressing the specific audit objections raised by the Respondent since September 2017, or responding to prior communications dated 18.09.2017 and 28.09.2017. The Ld. Senior Counsel further pointed out that vide reply letter dated 29.01.2018 [vol. 55-petition, annexure A-22, page 16464-16465], the Respondent issued a formal reply to the Applicant's letter dated 17.01.2018, comprehensively refuting the claim and describing summary of ZTEs internal audit findings; that in this communication the Respondent clearly recorded that it had earlier notified the Applicant via email dated 18.09.2017 regarding discrepancies of approximately of Rs.5.60 Crores in the invoices raised by the Applicant under the BSNL Phase-VII project. It is argued that the Respondent's approach demonstrates not only the genuineness of the dispute but also the commercial reasonableness and audit backed basis on which the amounts (Rs.93.41 lakhs) were being withheld (which cannot be held as acknowledgement) as they were much less than the amount overpaid by the Respondent and in dispute (Rs.5.60 Crores) thereby ruling out any inference of a default under the Code. The Ld. Senior Counsel for the Respondent submitted that though the formal debit note of Rs.5,64,91,803/- was issued on 27.07.2018 for recording the entry in the books of accounts and that was done so after the issuance of the Section 8 notice, but the dispute thereon had been raised much earlier as on 18.09.2017. In view of these facts, we hold that this being a case of pre-existing dispute, the Application under Section 9 is not at all maintainable.

8. The reliance has been placed on the decision in Mobilox Innovations Pvt. Ltd. [(2018) 1 SCC 353] wherein the Hon'ble Supreme Court has laid down the controlling test of scope of examination by the Adjudicating Authority, while dealing with a petition under Section 9 of the Code, is



limited to verifying whether there exist a genuine dispute prior to the issuance of the statutory demand notice; and the decision in Innovoprism Trading LLC Vs. Allgovision Technologies Pvt. Ltd. [CP (IB) No.84/BB/2023, decided on 05.04.2024 of NCLT Bengaluru Bench] where the petition under Section 9 was dismissed noting that email communications demonstrating objections to invoices were predated the demand notice and relying on Mobilox (supra) the Bench had held that the existence of any such prior correspondence containing plausible dispute, even if not adjudicated, precludes admission under the IBC. The reliance has also been placed on another judgment Ivalua Inc. Vs. Wipro Ltd. [CP (IB) No.16/BB/2024, decided on 22.10.2024] wherein the NCLT Bengaluru Bench reiterated that the Adjudicating Authority is not expected to assess the strength of the defense but must simply determine if there exist a dispute.

9. The Ld. Senior Counsel appearing for the Applicant has relied upon on the decision of the Hon'ble NCLAT in the matter of Naresh Chaudhary [2023 SCC online NCLAT 487] to supports its plea that the Respondent's reliance on the debit note dated 27.07.2018 for pre-existence of dispute is a baseless attempt. We however find that facts of the case in the matter of Naresh Chaudhary have been clearly different and distinguishable to the facts of the case in the present matter before us.

10. We also note that the Respondent has also raised objections saying that Section 8 demand notice has been vitiated for want of enclosing invoices/primary documents; and that the invoices prior to 06.05.2016 are time barred; that Applicant have clubbed its claims across to separate MSAs and across multiple POs with different dates and defaults and had also questioned about validity of authority to the authorized representative signing the application. In the context, we find that following the issuance of demand notice dated 09.07.2018, Applicant had subsequently served upon the Respondent the invoices through its letter dated 27.08.2018 and as such the defect in that regard has been cured. We also note that the multiple POs have been issued in reference to the two MSAs, the nature of



work shows the continuity thereon and the account maintained by the parties are of a running account and as such the objections raised on this ground by the Respondent is not tenable. In any case we have already held that on account of the pre-existing dispute over the dues as claimed by the Applicant, the petition under Section 9 is not maintainable and therefore the other issues as raised by the Respondent will be of no consequence.

11. Further, it is a settled position of law that the Tribunal cannot go in roving enquiry on cardinal principles governing debt, default and dispute, which is conferred only summary jurisdiction and not a trial court jurisdiction to examine veracity of debt and dispute by examining documents running into thousands pages, so as to come to conclusion on the question of debt and dispute.

12. In the result, the Company Petition bearing CP (IB) No.168 of 2019 is hereby rejected. However, make it clear that this order will not come in the way of the Applicant /Petitioner to invoke any other remedy available to it under any other law. No order as to costs.

Sd/-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

Atiq

Sd/-

KHETRABASI BISWAL
MEMBER (JUDICIAL)