# COMET PERFORMANCE CHEMICALS PRIVATE LIMITED VS AARVEE DENIMS AND EXPORTS LIMITED

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Summary of the Case:

#### Details of the Parties:

- 1. Appellant:
  - Name: Comet Performance Chemicals Private Limited
  - CIN: U24304GJ2016PTC094087
  - Registered Office: Block B, Office No. 701, Mondeal Heights, Near Panchratna Party Plot, S.G. Highway, Ahmedabad, Gujarat – 380015

## 2. Respondent:

- Name: Aarvee Denims and Exports Limited
- **CIN:** L17110GJ1988PLC010504
- Registered Office: 191 Shahwadi, Near Old Octroi Naka, Narol Sarkhej Highway, Narol, Ahmedabad, Gujarat – 382405

## 3. Legal Representatives:

- For the Appellant: Mr. Arjun Sheth, Mr. Aalay Shah, Ms. Kriti Kothari, Ms. Henna George
- For the Respondent: Mr. Palash S. Singhai, Mr. Harshal Sareen

#### Facts of the Case:

- The case arises out of an order passed by the National Company Law Tribunal (NCLT), Ahmedabad, dated July 2, 2024, in CP (IB) No. 275(AHM)/2023.
- Comet Performance Chemicals Private Limited (Appellant)

initiated proceedings against Aarvee Denims and Exports Limited (Respondent) under the Insolvency and Bankruptcy Code (IBC), 2016.

 The dispute involved claims of unpaid dues by the Respondent towards the Appellant, with the Appellant seeking initiation of Corporate Insolvency Resolution Process (CIRP).

## Issues Involved:

- Whether the debt claimed by the Appellant qualifies as an operational debt under Section 5(21) of the IBC, 2016.
- 2. Whether there was a default in payment by the Respondent as required under Section 9 of the IBC to initiate CIRP.
- Whether the procedural and substantive conditions under the IBC were fulfilled for admission of the insolvency application.

# Judgment:

- The National Company Law Appellate Tribunal (NCLAT) upheld the decision of the Adjudicating Authority (NCLT), which had dismissed the Appellant's insolvency application.
- Key findings:
  - The claim made by the Appellant was not substantiated as a legally enforceable operational debt.
  - There was no adequate evidence to prove the default on the part of the Respondent.
  - Procedural lapses in the filing and representation of the case were identified.
- As a result, the appeal filed by Comet Performance Chemicals Private Limited was dismissed.

## Conclusion:

• The NCLAT reaffirmed that for an application under

Section 9 of the IBC to be admitted, the operational creditor must clearly establish the existence of a legally enforceable debt and evidence of default.

- The case highlights the importance of adhering to the procedural and substantive requirements under the IBC for initiating CIRP.
- The appeal was dismissed, and no relief was granted to the Appellant, Comet Performance Chemicals Private Limited.