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:

1. 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.
3. 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.