

No proceedings under Section 9 of IBC could have been drawn by an entity, which did not have the juristic authority in the eyes of law, and vested authority to litigate as a juristic entity. Thus, company petition filed by non-existing entity at time of institution of Section 9 application of IBC, is not maintainable

The **Chennai Bench of the National Company Law Appellate Tribunal (NCLAT)** in the case of **Samunnati Agri Value Chain Solutions vs Nekkanti Sea Foods [Company Appeal (AT) (CH) (Ins) No. 337 / 2025]** dated **April 02, 2026**, has held that that no proceedings under Section 9 of IBC could have been drawn by an entity, which did not have the juristic authority in the eyes of law, and vested authority to litigate as a juristic entity. Mere order of condonation of delay application will not itself make the entity of M/s. Samunnati Agri Value Chain Solutions Private Limited, to be a Company being a juristic status. The Application under Section 9 of IBC, was showing the Applicant as M/s. Samunnati Agro Solutions Private Limited, which was a name in much distinction to Samunnati Agri Value Chain Solutions Private Limited.

The Tribunal observed that since the Company Petition itself was preferred on Sep 19, 2024, the entity which was alleged to be holding a juristic authority and juristic existence to file the Company Petition, in fact was rather a non-existing entity. M/s. Samunnati Agro Solutions Private Limited, was not legally in existence at that point of time and there was no reservation of right reserved, to sue or be sued.

The Tribunal explained that as on the date of institution of the proceedings under Section 9 of IBC, it was filed by M/s. Samunnati Agro Solutions Private Limited, which was a non-existing company as its existence did not persist in the eyes of law even much prior to the institution of the Application, having merged into the parent company as on Dec 23, 2022.

Thus, the Tribunal upheld the dismissal of the Company Petition, as the company was not into existence in the eyes of law at the time of the institution of Section 9 Application of Insolvency & Bankruptcy Code, 2016 (IBC). Owing to the said fact, since the proceedings was drawn by a non-existing entity, it was not maintainable and the same has been rightly dismissed by the NCLT.