If the corporate debtor is a solvent and functioning company and the quantum of debt is seriously disputed, then insolvency process invoked only to secure payment of individual dues, and the initiation and continuation of CIRP amounts to misuse of IBC as a recovery mechanism

The **Supreme Court** in the case of **Anjani Technoplast vs Shubh Gautam [Civil Appeal No. 8247 of 2022] dated April 23, 2026**, has held that a money decree in favour of a financial creditor may furnish a fresh cause of action for initiation of proceedings under Section 7 of the IBC, but that principle does not entitle a decree holder, as a matter of right, to invoke the insolvency process in substitution of execution proceedings. Where the corporate debtor is a solvent and functioning company, the creditor has an efficacious execution remedy, and the quantum of debt is seriously disputed, the insolvency process invoked only to secure payment of individual dues, and the initiation and continuation of CIRP amounts to misuse of the IBC as a recovery mechanism and abuse of process.

The Court observed that the central issue was not whether some money was due from the appellant, but whether the insolvency process under the IBC could be invoked as a substitute for execution of a civil court decree. The IBC is enacted for reorganisation and insolvency resolution of corporate persons in a time-bound manner and is not a debt recovery legislation.

Referring to the decision in the case of Swiss Ribbons (P) Ltd. vs. Union of India [(2019) 4 SCC 17], Pioneer Urban Land and Infrastructure Ltd. vs Union of India [(2019) 8 SCC 416], and GLAS Trust Co. LLC vs. BYJU Raveendran [(2025) 3 SCC 625], the Court observed that the IBC must not be used as a tool for coercion and debt recovery by individual creditors, and that using insolvency as a substitute for debt enforcement amounts to improper use of the Code. The Court further noted that Section 65 of the IBC itself reflects the legislative intent to prevent fraudulent or malicious initiation of insolvency proceedings for purposes other than insolvency resolution.

The Court found the respondent’s conduct significant: despite holding a final money decree, he did not initiate execution proceedings and instead invoked Section 7 of the IBC against a solvent and functioning company. The appellant had represented itself as a running company with substantial revenue and profits, had undertaken to pay the amount lawfully due, and had deposited substantial sums before the High Court and pursuant to orders of this Court. These circumstances did not indicate genuine insolvency.

The Court also considered the serious and unresolved dispute as to the quantum of debt. It noted that the computation of the decretal amount, including credit for prior payments, was already pending before the Delhi High Court, and that the respondent had taken materially inconsistent positions before different forums regarding the amount due. Such discrepancies, in the Court’s view, went to the root of the claim and made insolvency proceedings inappropriate.

The Court clarified that although Dena Bank states that a decree for money in favour of a financial creditor gives a fresh cause of action to initiate proceedings under Section 7 of the

IBC, that proposition does not mean that every decree holder who is also a financial creditor can invoke the IBC as a matter of right in preference to execution. Whether resort to the IBC amounts to misuse of process must still be examined on the facts of each case.