IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – 1, AHMEDABAD

ITEM No.301
CP/13(AHM)2026

Under Section 55 (3) of CA 2013

IN THE MATTER OF:

Multimode Enterprises Pvt. Ltd. ....**Applicant**
V/s
Registrar of Companies, Gujarat ....**Respondent**

Order delivered on: 08/07/2026

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

O R D E R
(Hybrid Mode)

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

Sd/-
SANJEEV SHARMA
MEMBER (TECHNICAL)

Sd/-
SHAMMI KHAN
MEMBER (JUDICIAL)

Case Citation: (2026) ibclaw.in 2610 NCLT

IN THE NATIONAL COMPANY LAW TRIBUNAL, DIVISION BENCH, COURT - I, AHMEDABAD

Company Petition No. 13 (AHM) of 2026

In the matter of: *Multimode Enterprise Private Limited*

[A Company Petition under Section 55(3) of the Companies Act, 2013,]

Multimode Enterprise Private Limited
CIN: U79190GJ1996PTC028736)
Registered office at:
105-106, Anurag Commercial Centre,
R.C. Dutt Road, Alkapuri,
Vadodara, Gujarat, India, 390007
Email Id: contact@multimodemail.com

...Petitioner Company

AND

Registrar of Companies, Gujarat
ROC Bhavan, Opp. Rupal Park Society,
Behind Ankur Bus Stop,
Naranpura, Ahmedabad – 380013
Email Id: roc.ahmedabad@mca.gov.in

.... Respondent/RoC

Order Pronounced on: 08.07.2026

C O R A M :

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

A P P E A R A N C E:

For the Petitioner	: Mr. Darshan Pathak, PCS a/w.
	: Mr. Amrish Gandhi, PCS
For the Respondent/RoC	: Ms. Ishani Pandya, Dy. RoC

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ORDER
(*Per*: Bench)

1. The Company Petition bearing number **CP No. 13 of 2026** is filed on 26.02.2026 by the Petitioners under Section 55(3) of the Companies Act, 2013 seeking following reliefs: -

PRAYERS

A. *Condone the delay in redemption of Redeemable Preference share;*

B. *Grant post-facto approval under Section 55(3) of the Companies Act, 2013;*

C. *Permit the Petitioner to re-file Form SH-7 with the Registrar of Companies;*

D. *Pass any other orders(s) as this Hon'ble Tribunal may deem fit and proper.*

2. The Petitioner has placed the facts through the Company Petition and documents in the following manner: -

2.1. The Petitioner is a private limited company incorporated under the Companies Act, 1956 and is engaged in providing consultancy, advisory and professional services in the fields of corporate management, business management, company law, taxation, finance, investment, project evaluation, feasibility studies, research and development, software and technical services. The Company also carries on trading, import and export and allied commercial activities, investment and financial services, loan syndication and other permitted business activities, without engaging in agricultural, plantation, banking or real estate business as restricted under its Memorandum of Association.

2.2. The Petitioner Company had issued 5,000 (Five Thousand) 9% Non-Cumulative Redeemable Preference Shares of ₹1,000/- each, aggregating to ₹50,00,000/- (Rupees Fifty Lakh Only), comprising 2,500 Preference Shares of "K" Series and 2,500 Preference Shares of "L" Series, to Zest Aromas Private Limited, in accordance with the provisions of the Companies Act applicable on the date of issue.

2.3. Due to commercial disputes with the preference shareholder and consequential procedural constraints, the redemption could not be completed within the stipulated period and was effected after expiry of the tenure without obtaining prior approval of the Tribunal.

2.4. The entire redemption amount of ₹50,00,000/- has been fully paid, which is duly evidenced by certified bank statements placed on record. There is no outstanding liability towards the preference shareholder.

2.5. The Petitioner is unable to provide the ledger extract due to ongoing disputes with the preference shareholder. The said ledger is not in the custody, possession or control of the Petitioner Company.

2.6. When the Petitioner attempted to file Form SH-7, the same was rejected by the Registrar of Companies on the ground that prior approval of this Tribunal under Section 55(3) was not obtained.

LEGAL SUBMISSIONS / APPLICABILITY OF SECTION 55(3)

2.7. The Petitioner respectfully submits that Section 55(3) of the Companies Act, 2013 is a remedial and enabling provision intended to regularise situations where a company is unable to redeem preference shares within the stipulated period in accordance with the terms of issue.

2.8. In the present case, the Petitioner Company had issued Redeemable Preference Shares aggregating to ₹50,00,000/- which could not be redeemed within the tenure due to bona fide commercial disputes with the preference shareholder. Consequently, the said preference shares became "unredeemed preference shares" within the meaning of Section 55(3) of the Act.

2.9. Although Section 55(3) contemplates issuance of further redeemable preference shares with the approval of the Hon'ble Tribunal, the Petitioner submits that the entire preference share capital has already been redeemed in full by actual payment of the redemption amount, as duly evidenced by certified bank statements placed on record. Therefore, no fresh issue of preference shares is either required or intended by the Petitioner.

2.10. The present petition is accordingly filed seeking condonation of delay and post-facto approval of redemption of preference shares, as the procedural requirement of obtaining prior approval of this Hon'ble Tribunal under Section 55(3) could not be complied with at the relevant time. It is submitted that the noncompliance was purely technical and procedural in nature and was neither wilful nor deliberate.

2.11. The Petitioner further submits that no prejudice has been caused to any stakeholder, creditor, or member of the Company, as the preference shareholder has already received the entire redemption amount. There are no outstanding claims or liabilities in respect of the said preference shares.

2.12. In view of the Explanation appended to Section 55 of the Act, it is further clarified that the redemption of preference shares in the present case does not amount to reduction of share capital and therefore does not attract the provisions of Section 66 of the Companies Act, 2013.

3. Vide an order dated 12.03.2026 this Adjudicating Authority had issued notice to the **RoC** with direction to the RoC to file its reply within a period of two weeks. Further, the Publication Notice also issued for **Preference shareholder** and directed them to file reply/objection, if any, within a period of two weeks. Thereafter, proof of service be filed by way of an affidavit before the next date of hearing.

4. Thereafter, a service report affidavit has been filed along with paper publication on 24.03.2026 vide inward diary No. D-2608, which reflects that notice upon the RoC was sent through registered post and the same was delivered on 19.03.2026 and by hand against the acknowledgement on 18.03.2026.

5. Further, publication was also carried out on 19.03.2026 for information to the preference shareholder, inviting objection, if any, from them in the following newspapers:

a) Business Standard (English - Ahmedabad Edition)

b) Jai Hind (Gujarati - Ahmedabad Edition)

c) Free Press Journal (English - Mumbai Edition)

d) Navshakti (Marathi Mumbai Edition)

It is further seen that neither any preference shareholder appeared or filed any response/objection.

6. It is seen from the records that RoC has filed its report on 23.06.2026 vide inward diary No.R-369. The material observations of the Registrar of Companies are summarized below: -

I. It is stated that the petitioner company is not listed with any stock exchange.

II. The Report states that the Petitioner Company has filed balance sheet as at 31.03.2022, 31.03.2023, and 31.03.2024 along with relevant annual return. No show cause notice has been issued to the company. The ROC has also not scrutinised the documents filed by the Petitioner Company for the purpose of pointing out any specific violations of the Companies Act, 2013. Neither any compliant or any case is pending against the company.

III. According to MCA V3 portal records, it is observed that the company issued 2500 Type 'J' 9% Non-Cumulative Redeemable Preference Shares of Rs.

1000, Type 'K' 9% Non-Cumulative Redeemable Preference Shares of Rs.1000 and 2500 Type 'L' 9% Non-Cumulative Redeemable Preference Shares of Rs. 1000 each to Zest Aromas Private Limited on 04.03.2002 for 20 years and due for the aforesaid of redemption on 03.03.2022.

IV. The company had redeemed the Type 'J' 9% Non-Cumulative Redeemable Preference Shares of Rs.1000 on 17.03.2023 by delay with 379 days which laid to violation of Section 55 of the Companies Act, 2013.

V. The company has failed to redeem the 2500 Type 'K' 9% Non-Cumulative Redeemable Preference Shares of Rs.1000 & 2500 Type 'L' 9% Non-Cumulative Redeemable Preference Shares of Rs.1000 each on the same terms and conditions drawn in the past as per the requirement of Section 55 of the Companies Act, 2013 in the financial year 2021-22. The Auditors of the Company have reported the said non-compliance in its report for the Financial Year 2021-22, 2022-23, 2023-24 reproduced as under:

Financial Year 2021-22

In our opinion and to the best of our information and explanations given to us, we have observed that 10,000 Nos of 9%, non-cumulative redeemable preference shares issued to the shareholder during the financial year 2001-02, carrying a nominal value of Rs.1000/- per share, were liable to be redeemed within a period of 20 years from the date of allotment. However, out of the same 7.500 Nos. of preference shares are not redeemed the till date in absence of adequate free reserves to redeem those preference shares. Further, the company has not applied to NCLT for further extension. Which is breach of shareholders agreement and the financial liabilities for breach of agreement are neither provided in the Profit and Loss account of the company nor any appropriate reserves is created in the hooks for the same. (Ref: Note No 2 sub-Point No.5). However, it is informed to us that discussion on alternative solution to repay the preference shares is ongoing between the company and the preference shareholder.

Financial Year 2022-23 & 2023-24

In our opinion and to best of our information and explanation given to us, we draw your attention to Note No.2(5) and Note No.24 that 5,000 Nos of 9% non-cumulative redeemable preference shares issued to the shareholder during the FY 2001-02, carrying a nominal value of Rs.1000/ per share, were liable to be redeemed within a period of 20 years from the date of allotment. However, the same has not been redeemed till the date in absence of adequate free reserve to redeem those preference shares. Further, the company has not applied to NCLT for the further extension. Which is breach of shareholders agreement and the financial liabilities for breach of agreement are neither provided in the profit and loss account of the company nor any appropriate reserves is created in the books for the same. However, it is informed to us that discussion on alternative solution to repay the preference share is ongoing between the company and the preference.

VI. The company had redeemed Type 'K' 9% Non-Cumulative Redeemable Preference Shares of Rs.1000 & 2500 and Type 'L' 9% Non-Cumulative Redeemable Preference Shares of Rs.1000 each on 24.03.2023 by delay with 1116 days which also laid to violation of Section 55(2) of the Companies Act, 2013 read with Rule 9 of the Companies (Share Capital and Debentures) Rules, 2014. The company has also failed to follow the procedure under Section 55(3), which requires the consent of 3/4th in value of the shareholders and approval from the National Company Law Tribunal (NCLT) to issue further redeemable preference shares in lieu of the unredeemed ones.

VII. According to Section 55, the petitioner company must be redeemed 2500 Type 'J' 9% Non-

Cumulative Redeemable Preference Shares of Rs.1000, Type 'K' 9% Non-Cumulative Redeemable Preference Shares of Rs. 1000 & 2500 and Type 'L' 9% Non-Cumulative Redeemable Preference Shares of Rs.1000 each on or before 03.03.2022 but failed to do so, thus the company/ Officers have violated the provisions of Section 55 (2) & Section 55(3) of the Companies Act, 2013 and Rules made thereunder and thus liable to be penalized under Section 450 of the Companies Act, 2013.

VIII. It is noticed from the petition that the company has obtained the approval of 9% Cumulative Redeemable Preference Shareholder having which is more than 3/4th of the shareholders of the particular class u/s 48(1) r/w Section 55(3) of the Companies Act, 2013. Further, the company has not obtained approval of Equity Shareholders with 3/4th majority as per proviso of Section 48(1) of the Companies Act, 2013 as the rights attached to the equity shareholders would get adversely affected by extending tenure of 9% Redeemable Cumulative Preference shareholder as they are entitled for cumulative dividend. No resolution copy has been attached with the petition. Hence, this Tribunal may kindly direct the petitioner company to submit the proof of passing resolution and filing of resolution with the Ministry of Corporate Affairs along with requisite fees /additional fees.

IX. As per the proviso of Sub-Section 2 of Section 48 of the Companies Act, 2013, the application before the Tribunal shall be made within 21 days of passing resolution for getting approval of NCLT with regard to extension of tenure for Redeemable Cumulative Preference Shares. The company has already redeemed 2500 Type 'J' 9% Non-Cumulative Redeemable Preference Shares of Rs.1000, Type 'K' 9% Non-Cumulative Redeemable Preference Shares of Rs.1000 & 2500 and Type 'L' 9% Non-Cumulative Redeemable Preference Shares of Rs.1000 each without getting approval of NCLT with regard to extension of tenure for Redeemable Cumulative Preference Shares.

X. The Registrar of Companies, Ahmedabad further submits that the Hon'ble Bench of National Company Law Tribunal may be pleased to direct the Petitioner Company to ensure Statutory compliance of all applicable Laws and also on approval of petition, the Company shall not be absolved from any of its Statutory liabilities, in any manner.

XI. The Registrar of Companies, Ahmedabad further submits that the Hon'ble Tribunal may direct the company to comply with the provisions of the Companies Act, 2013 with respect to file certified copy of order with Registrar of Companies within

30 days from date of passing order.

7. Ld. PCS appearing for the Petitioner Company records consent for not filing any counter response being not required. We have heard the Ld. PCS for the Petitioner Company as well as Ld. Dy. RoC and perused the records.

8. The Petitioner Company, Multimode Enterprises Private Limited, a private limited company, had issued 5000 Non-Cumulative Redeemable Preference Shares of Rs 1,000 each aggregating to Rs 50,00,000 to Zest Aromas Private Limited. These preference shares were issued on 04.03.2002 and were to be redeemed in 20 years. These preference shares became due for redemption on 03.03.2022.

9. The records produced by the Petitioner and the report of the Registrar disclose variation regarding the number and classes of preference shares. However, the present petition concerns only to the 2,500 'K' Series and 2,500 'L' Series Redeemable Preference Shares aggregating ₹50,00,000/- and therefore the Tribunal confines itself to those shares.

10. However, these shares were not redeemed by 03.03.2022 and correspondence was exchanged between the company and the preference shareholder on 31.01.2022, 01.03.2022, 14.03.2022, 17.03.2022, and 22.04.2022. The list of event shows that the company addressed a letter to the preference shareholder informing that free reserves were insufficient for full redemption and sought consent to approach the NCLT under section 55 (3) for unredeemed preference shares.

11. The preference shareholder refused the consent and sought the redemption as per provisions of the Companies Act, 2013. Instead of redemption on 03.03.2022, the company made full payment of redemption amount of Rs 50,00,000 on 24.03.2025.

12. Section 55 (2) of the Companies Act, 2013 provides that preference shares can be issued by a company limited by shares which are liable to be redeemed within a period not exceeding 20 years. In this case, the preference shares matured for redemption on 03.03.2022 and redemption was effected after expiry of the stipulated tenure which constituted non-compliance with Section 55(2) of the Companies Act, 2013.

13. The Company did not seek approval of this Tribunal to issue further redeemable preference shares equal to the amount due as required under section 55(3) of the Act. The records indicate that the statutory preconditions prescribed under Section 55(3), namely consent of holders of three-fourths in value of the concerned preference shares and approval of the Tribunal for issuance of further redeemable preference shares, were admittedly not fulfilled.

14. The Auditor Report notes the violation of section 55(2) and 55(3) of the Act, as noted above. The Registrar has not opposed the maintainability of the petition but has pointed out statutory violations. The Registrar has pointed out the statutory violations and submitted that the Company and its officers are liable to penalty under Section 450 of the Companies Act, 2013. The preference shareholder has also not raised any objections regarding the application filed.

15. We note that there is violation of sections 55(2) and 55(3) of the Companies Act. However, the Auditor has recorded that adequate free reserves were not available to redeem the shares and the preference shareholder did not give consent as required for seeking an approval of this Tribunal. The Company filed Form SH-7 with the ROC but was rejected for seeking approval of the Hon'ble NCLT under section 55(3) of the Act.

16. Section 450 of the Companies Act, 2013 has provisions for punishment where no specific penalty or punishment is provided. It provides that the company and every officer of the company who is in default shall be liable for a penalty of Rs 10,000, and in case of continuing contravention, with a further penalty of Rs 1000 for each day after the first during which contravention continues, subject to a maximum of two lakh in case of a company and fifty thousand rupees in case of an officer who is in default or any other person.

17. In this case, the statutory non-compliance continued until appropriate proceedings were initiated before this Tribunal. Apart from the correspondence exchanged in

2022 and eventual redemption on 24.03.2023, no material has been placed on record showing any steps taken for obtaining statutory approval until the Board Resolution dated 22.03.2025. The default has been noted in the audit report as pointed out by the ROC. It is noted that the preference shareholder has finally been paid the amount on 24.03.2025 and has not raised any objection to the petition before us.

18. The Tribunal records that the Petitioner Company committed non-compliance with Sections 55(2) and 55(3) of the Companies Act, 2013 and the company has remained silent on the issue for about three years.

19. Although Section 55(3) contemplates prior approval of the Tribunal before issuance of further redeemable preference shares, the present case stands on a different footing since redemption has already been completed, the shareholder has received the entire redemption consideration, no objection survives and no prejudice has been caused. Accordingly, this Tribunal considers it appropriate to regularise the delayed redemption in the peculiar facts of the case.

20. Section 450 and 454 of the Companies Act provides for punishment where no specific penalty or punishment is provided and Adjudication of Penalties. The ROC has reported that penalties is leviable. We are not expressing our opinion or finding on the issue and the observations recorded herein shall not preclude the Registrar of Companies from initiating proceedings under Sections 450 and 454 of the Companies Act, 2013, in accordance with law.

21. Subject to compliance with this order as directed above, the delay in redemption of the K and L Series Preference Shares is hereby condoned. The redemption already effected on 24.03.2025 stands regularised and approved post-facto in the facts and circumstances of this case. The Registrar of Companies is directed to take on record the Form SH-7 to be filed by the Petitioner Company along with a certified copy of this order.

22. The Petitioner Company shall file copies of all relevant resolutions (Board and Shareholders, if any) passed in this regard with the Registrar of Companies within 30 days, if not already filed. The Registrar shall independently examine compliance with all applicable provisions of the Companies Act, 2013.

23. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

—SD—

SANJEEV SHARMA
MEMBER (TECHNICAL)

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)

VP