IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.301
CP(IB) 764 of 2019

Proceedings under Section 9 IBC

IN THE MATTER OF:

Do Well Moulds ....**Applicant**
V/s
Manpasand Beverages Ltd ....**Respondent**

Order delivered on: 14/07/2026

Coram:
Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet.

Sd/-
DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-
CHITRA HANKARE
MEMBER (JUDICIAL)

AD/AP

NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH (COURT-II)

CP (IB) No. 764 of 2019

(Under Rule 6 of the Insolvency and Bankruptcy (Application to adjudicating Authority) Rules 2016)

IN THE MATTER OF:

M/s Do Well Moulds,
PAN-AADFD3727G
Registered office:
203, 2nd Floor, Bhagya Laxmi Apartment,
Haria Park, Dungra, Vapi, Gujarat-396195

Unit-1

280/2/B, Bhadakmora,
Vapi Silvasa Main Road,
Vapi Gujarat-396195

Unit-2

221/1, GI Zero Tax Industrial Estate,
Dadra D. & N.H. 396320

....Applicant
(Operational Creditor)

Versus

M/s Manpasand Beverages Limited,
CIN : L15499G2010PLC063283
Having registered office at:
1786&1774/1, GIDC Estate, Village, Manjusar
Savli Road, Vadodara, Gujarat-391775

...Respondent
(Corporate Debtor)

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Order pronounced on 14.07.2026

Coram:

MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)

MR. VELAMUR G. VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)

Appearance:

For the Applicant	: Mr. Jawahar Prajapati, Adv. & Mr. Dharmesh J Shah, Adv.
For Respondent	: Mr. Manish Bhatt, Sr. Adv. : Mr. Yash Dadich, Adv.

JUDGEMENT

1. This application is filed on 10 October 2019 by the Operational Creditor M/s DoWell Moulds a partnership firm under Sec 9 of IBC 2016, inter alia praying initiation of CIRP against the respondent M/s Manpasand Beverages Limited, (CIN: L15549GJ2010PLC063283) a company registered under Companies Act 2013. This application is submitted for a debt in default by the CD on the invoices raised for an amount of Rs. 34,40,91,542 is due to be paid by the respondent CD to the applicant.

2. It is submitted that the applicant is engaged in manufacturing and supplying of Moulds, Mould Parts, machines and its parts

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preform, caps, plastic components. The respondent CD approached the applicant and held a meeting on 7 May 2014 at its office at Vadodara regarding the price, quality and specifications of the goods and confirmed to carry out business with the applicant. Vide email dated 12 May 2014, the CD offered the requirement and OC respondent and confirmed the same through the first purchase order for sale of goods in terms of first purchase order BRD/14-15/MS/PO-037 dated 09.05.2014 and subsequently placed multiple orders which are attached to the application with the relevant proforma invoices. The applicant supplied after accepting the service, but the CD defaulted in payments since 19 February 2015 (invoices raised during the initial meeting), however as the business relationship, the applicant OC continued the business in good faith till May 2018, but since the CD did not pay any amount and repayment to the invoices after 28.05.2018, with default/s continuing since 2015 to 2018 in spite of various meetings, the applicant issued legal on the CD.

3. The applicant has in Form 5 (submitted under Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority)Rules 2016, listed 6 Purchase Order/s dated

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09.05.2014, 09.01.2015, 21.05.2015, 12.09.2015, requirement on email and performa sent after confirmation dated 18.11.2014, purchase order given on email dated 31.03.2015 accompanied by 7 various invoices for the year 2018 for Unit 1 amounting to Rs.12,62,60,000 and 53 invoices for the year 2017 & 2018 amounting to Rs.22,17,77,845. A copy of the ledger account is enclosed stating that the amount due is Rs.34,40,91,542 along with the email reminder sent to the respondent CD. The applicant has further submitted a letter dated 13 May 2019 from the respondent CD issued through the Chartered Accountants M/s Mehra Goel & Co. to confirm the debit balance in their books for Rs.41,27,31,796 as on 31 March 2019. It is also submitted by affidavit dated 5.10.2019 that the applicant operational creditor will send the proforma invoices with rates but imposed the condition that the delivery of the product will be given after releasing the outstanding amount. The applicant issued a demand notice in Form 3 as per IBC 2016 on 5 July 2019 to the respondent along with copies to 4 other respondent/s for an amount of due of Rs.34,40,91,542. The applicant also filed an affidavit dated 17 August 2020 that inspite of issuing notice, there is no single correspondence of dispute relating to payment of the

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debt nor received within 10 days of issue of notice by the applicant.

4. The respondent filed his reply by affidavit. While denying the application as being filed with ulterior motive for extorting monies from respondent, seeks dismissal of the petition with heavy cost. Further contended that this application is filed as incomplete and defective with undated authorisation letter and the applicant Mr Shailendra Singh Rajput has not produced the authorisation letter for the partnership firm to file this application. Neither the applicant had any authority to issue the demand notice/and or initiate any proceedings against the respondent hence it should be deemed to be defective per se and cited the judgment in the matter of China Diamond Corporation Ltd v Kalp Jewells LLP reported in taxman.com. It is also submitted that the applicant has not produced any affidavit of " no dispute" in accordance with the Sec 9(3)(b) of IBC 2016 along with its application, though it was served to the CD with an affidavit through its advocate only on 18.08.2020, only after receiving an objection on the similar ground by the respondent in the other matter filed before this adjudicating authority in CP No.132 of 2020 filed by Shailendra singh Rajput, Proprietor of Rajput & Sons vs

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Manpasand beverages ltd. It is pointed out the partner, being applicant of OC is also the proprietor of M/s Rajput & Sons, filed an affidavit belatedly. Hence curing of such defect at any stage is not possible and has not served notice for rectifying the defect.

It is also submitted that filing of Form 5 is incomplete and defective as details of the CD are not disclosed as per notification under Sec 55(2) of the code in Form 5 of application. The respondent has also questioned the format used and the details regarding date of incorporate of CD, address, bank account statements etc.., providing the details in tabular format of the working computation in Form 5. Also the applicant has clubbed together the claim arising out of alleged purchase order/invoices in one application and it has number of defects, hence to be rejected. Further the date of default mentioned in the petition is submitted to be 19.02.2015 which is clearly barred by limitation (B K Educational Services P Ltd judgment of Hon'ble Supreme Court – 213/150 SCL 293). Here the default has occurred 3 years before the filing of this application and is barred by law of limitation under Article 137 of the Limitation Act, 1963 and this application is filed in the month of Oct 2019. The Ld

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Counsel for respondent cites the judgment of Hon'ble Supreme Court of India in Babulal Vardharji Gurjat Vs Veer Gurjar Aluminium Industries P Ltd & Anr in Civil Appeal No.6347 of 2019. Further there is no debt which is due and payable within the meaning of Sec 3(11) of IBC 2016 and there exists disputes between the parties.

5. The Ld. Counsel for respondent submits that the present application is filed in respect of 60 alleged invoices due for an amount sum of Rs.34,40,91,542 outstanding to be payable by the CD which is denied as they are not valid as these were issue against the Purchase Orders for the years 2014 and 2015 against which requisite materials were to be delivered in the years 2014 and 2015 itself. There has been gross and inordinate delay in supplying the requisite goods as mentioned in the purchase order and were of sub-standard quality and not as per specifications of the respondent CD. The issue was resolved between the parties and the respondent CD has duly remitted the amount payable against the said Purchase Orders and as on date no invoice is due to be paid. The petitioner has not raised any invoices against relevant purchase orders and hence alleged invoices are raised in an arbitrary manner and no amount is due and payable. The

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petitioner has also cancelled these invoices and obtained reversal of GST which is reflected in the Form GSTR-1. Since these invoices have been cancelled it is misleading before this Hon'ble Adjudicating authority to make believe that these are outstanding which is also certified by CA of the applicant. As per their own statement, they have made submission before the GST authorities that they were not maintaining any books of accounts including relevant general ledger accounts. Hence he has right to file perjury against the petition. Also all the emails and alleged ledger accounts pertain to year 2014 and 2015 and no claim of invoice has been made with respect to the said years. The respondent further submits that the email communication dated 9.02.2019 was sent as a statutory requirement on account of on-going audit of respondent and should not be construed as acceptance of debt. This was sought for the year 31 March 2017 and 31 March 2018 while the purported invoices are for the financial year 2018-19 and applicant has only produced email communication and not the balance confirmation issued by respondent. The applicant has raised invoices based on mutual agreement, but the invoices raised between 6.11.2017 to 25.09.2018 do not have any single purchase order. No single good/material against

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alleged invoices claimed were sent by the applicant. Even though the applicant has submitted that respondent has not paid any amount, he himself has accounted for a receipt of a total sum of Rs.4,3,00,000 on 26.06.2018, 16.10.2018 and 28.05.2018. Since the ledger account and claimed amounts are different, genuineness of ledger account claimed are under doubt. Further, the petitioner has not produced any purchase order for supply of any goods and services from petitioner for period from 6.11.2017 to 25.09.2018. There is no delivery challan/lorry receipt in support of the alleged invoices claimed to be outstanding. None of the invoices are bearing any signature/stamp that these are acknowledged and accepted by respondent CD. Against the submission of debt due of Rs.34,80,37,845, the petitioner has only annexed invoices totalling Rs.34,37,70,479 in Annexure D and Annexure E hence these are malafide and arbitrary in manner to file this application.

6. It is further submitted by respondent that when the demand notice was issued dated 5.07.2019, the top officials of the respondent including Whole time Director and CFO were under judicial custody from 24 May 2019 to 26 July 2019 on account of search and seizure proceedings initiated by CGST

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Commissionerate, Vadodara. Also the MD was out of Vadodara for almost three months and almost all key employees of respondent had left the organisation, and hence not issuing notice of dispute on such demand notice does not bar the CD from pointing out existing disputes. This is justified by the decision of Hon'ble high Court in *Geeta Prints vs Falcon Industries and Hon'ble Supreme Court in Mobilox Innovations P Ltd vs Kirusa Software pvt ltd.* Respondent submits that the respondent is a going concern and viable company and a leading zero debt company.

7. The petitioner filed its rejoinder vide affidavit dated 31.12.2020. It also enclosed a copy of the tax audit report for the year 2015-2019, copy of the bank statements for the period from April 2017 to March 2019 and a copy of Bankers Certificate including certain information on the GST case of the CD. He also filed written submissions on 21 March 2025 submitting that the relevant invoices for consideration in the petition were raised from 6.11.2017 onwards and the last few invoices were dated 25.09.2018. Hence cause of action arose on 11.10.2018 when the last invoice rose on 25.09.2018 that remained unpaid after the credit period of 15 days and no disputes were raised by respondent. Further, the respondent

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asked for the account statement till July 2019 and break up of Rs.34 crores claimed as due, which was provided through CA certified copies of ledger accounts. It is submitted that to this the respondent had vide letter dated 16.08.2020 after substantial delay submitted that there is a dispute and there is no debt within the meaning of Sec 3(11) of IBC. Further, the petitioner also submitted by affidavit another rejoinder dated 28.11.2025 to the additional affidavit filed by respondent dated 2.09.2025 and 28.10.2025 in compliance with order dated 16.09.2025. It is submitted that Mr Shailendra Singh Rajput of the Respondent submitted before the GST department during its investigation with an intent to demonstrate that all the invoices under consideration issued to respondent were merely for circular trading and were not for actual supply of goods and further that due to this reason there is no outstanding payments against those invoices that remain due to the petitioner. Hence petitioner state that this does not mean that the invoices under consideration are part of circular trade. The respondent who has submitted the financial information in compliance with order of this tribunal directing respondent to submit the balance sheets, has purposely only provided only the consolidated figures in the

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groupings of the Note 8 and Note 17 of the respective years balance sheets including 2015-16, 2016-17, 2017-18 to 2019-29, hence there is a suppression of information to the tribunal.

8. The respondent filed an additional affidavit on 2.09.2025 of the order passed by Joint Commissioner, Central GST and Central Excise, Vadodara II Commissioner-ate on 28.01.2025. As per the order there appears to be certain inquiries conducted regarding availing bogus input tax credit (ITC) by Mr Shailendra Singh Rajput(Partner – Petitioner). It appears from the order that the applicant had purchased orally certain goods from various vendors on telephonic call and directly sold to the respondent and further e-way bills were generated without actual transportation and were paper transactions. The said transactions raised on the respondent were over Rs. 160 crores. It is also enquired from the applicant as per an excel sheet taken from the applicant's lap top the applicant was procuring orders of goods and supplied only to the respondent and the amount of total rotation amount is shown as Rs.260.18 crores.

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9. Both parties during the arguments stated that they were under investigation of GST authorities. It is also mentioned by respondent that in 2017 certain raids were conducted on the premises of the respondent and their personnel were arrested, a reason due to which the respondent could not raise objections to the notice issued by applicant. The applicant was directed to serve a notice on the GST authorities of the relevant jurisdiction vide the order of this tribunal dated 1.04.2026 and directed the GST officials to be present on next date of hearing on 09.06.2026. However, the applicant had not served the notice and none appeared for the hearing.

10. This matter was delayed for long as in between there were many claimants who had filed separate applications under Section 9 of IBC 2016 against the respondent CD, which were adjudicated by either Court II or Court I of the Tribunals of NCLT Ahmedabad which were challenged and the matters were even taken up to Hon'ble Supreme Court. Hence there was a long gap between the periods from 2020 – 2024.

11. Heard Ld. Counsels for both the sides. Perused the written submissions and judgments relied upon by the Respondent are as follows:

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1 *B. K. Educational Services Pvt Ltd v. Parag Gupta & Associates AIR 2018 SC 5601 / (2019) 11 SCC 633 (SC)*
2 *Babulal Vardharji Gurjar v. Veer Gurjar Aluminium Industries (P) Ltd (2020) 15 SCC*
3 *Mobilox Innovations (P) Ltd. v. Kirusa Software (P) Ltd*
4 *Axis Bank Ltd V. Asset Reconstruction Company (India) Ltd 2025*
5 *Alchemist Asset Reconstruction Co. Ltd V. Hotel Gaudavan (P) Ltd (2018) 16 SCC 94*
6 *P. Mohanraj v. Shah Bros. Ispat (P) Ltd (2021) 6 SCC 258*

Observations & Conclusions:

a) Based on the documents filed and the stated investigations proceeded before the GST authorities we find that the applicant and the respondent have certain pending investigations on GST input credits and there are investigation findings that these were circular paper trading. This is also substantiated by the perusal of the Tax invoices submitted by the applicant that there are no delivery challans/vehicle numbers mentioned.

b) Petitioner submitted that the invoices for group of transaction were raised from 06.11.2017 onwards and last invoices were dated 25.09.2018. Therefore, the petition is within limitation. In the petition at part-III petitioner stated that the purchase orders were given from 09.01.2015 and

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-SD-confirmation sent on 31.03.2015. It has further stated that since 19th February, 2015 "the Corporate Debtor is in default in not making payment as agreed towards services rendered by the OC" & " the OC continued business till May 2018 but lastly when the Corporate Debtor did not paid single penny after 28.05.2018, default was continued from 2015-18".

c) On the other hand the Respondent pointed out this confirmation and submitted that the period of limitation expired on 19.02.2018 and the petition was filed in October-2019. The Respondent further submitted that Part-IV of Form-V does not disclose any date of default therefore the claim is barred by limitation. The Part-IV -Second Column only mentioned the amount in default, but date of default is not stated. Considering the fact that initially invoices were issued since 2015, though the contract was continued the last date of invoice cannot be taken into consideration to count limitation period. The petitioner itself stated default started from 2015. Hence the petition is barred by limitation.

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d) Email dtd. 24.04.2015 placed on record by petitioner itself shows that there was dispute so payments were withhold. Moreover, no record of goods ordered from applicant since 06.11.2017 to 28.05.2018. The Respondent has not acknowledged any dues. There appears pre-existing dispute.

e) Further, this tribunal had asked for the financial statements audited by the respondent. As pointed out by Ld Counsel for the applicant, we find that they are consolidated statements and there is no separate mention of the liability of the Operational Creditor shown in any of the Audited Balance Sheet as a consolidated figure of trade payables is mentioned and even in the Notes to Accounts party wise statement is not provided even though the stated debt is around Rs.34.80 crores. Even if the subsequent invoices are within the limitation, the fact that the applicant has not enclosed the Delivery Challans, investigations are being conducted for circular and paper trading (not genuine transactions) by GST authorities, this matter appears to be a fraudulent receivable and payable transaction/s between both the parties, that both have for the purpose of availing input credits, a purported attempt to defraud the system, we observe and conclude that the petition is not maintainable and the

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appropriate authorities including GST and ROC have to take necessary cognizance of the matter and pass necessary orders after investigation. Hence we pass the following order :

ORDER

The CP(IB) 764 of 2019 is rejected. However, the Registry is directed to send a copy of this order to ROC and GST authorities for examination and investigation.

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DR. V.G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

CHITRA HANKARE
MEMBER (JUDICIAL)

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