IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.304
C.P. (IB)/267(AHM)2024

Proceedings under Section 9 IBC

IN THE MATTER OF:
M/s.Annapurna Pet Private Limited ....**Applicant**
V/s
M/s.Manpasand Beverages Limited ....**Respondent**

Order delivered on: 17/08/2026

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/SJ/ AP

IN THE NATIONAL COMPANY LAW TRIBUNAL

AHMEDABAD BENCH, COURT - II

CP (IB) No. 267 of 2024

(Filed under Section 9 of the Insolvency & Bankruptcy Code, 2016 read with Rule 6 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

In the Matter of:

M/s. Annapurna Pet Private Limited
CIN No.: U25203MH2011PTC218187
Reg. Office at: A-201/202, Rajeshri Accord,
Telly Cross Lane, off. S.N Road,
Near Station, Andheri (East),
Mumbai, Maharashtra-400069
Email Id: info@appet.co.in

Applicant/
Operational Creditor

V/s.

M/s. Manpasand Beverages Limited
CIN No.: L15549GJ2010PLC063283
Regd. Office at 1768 & 1774 Patki - 1,
Village Manjusar Tal. Savli, Vadodara,
Gujarat, India, 391775
Email Id: info@manpasand.co.in

...Respondent/
Corporate Debtor

Order pronounced on 2026

Coram:

MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)

DR. V. G. VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)

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Present:

For the Applicant : Mr. Rashesh Sanjanwala, Sr. Adv. and Mr. Rushabh Shah, Adv.

For the Respondent : Mr. Manish Bhatt, Sr. Adv. and Mr. Yash Dadhich, Adv.

JUDGEMENT

1. This Petition has been filed under Section 9 of the Insolvency and Bankruptcy code, 2016 ("IBC") read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by M/s. Annapurna Pet Private Limited seeking to initiate Corporate Insolvency Resolution Process against M/s. Manpasand Beverages Limited for having default of an amount of Rs. 4,40,48,567/- The default had occurred on and from 29.02.2019.

2. The factual backdrop averred by the applicant is as under:

a. The Operational Creditor is manufacturer of "Pet Preform". The Corporate Debtor is manufacturer/dealer of Fruit juice and Cold Drinks. The Operational creditor has supplied the goods in the nature of "Pet Preform" to . Corporate Debtor since 22.07.2014.

b. The terms of the sales are included on the tax invoice

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which include among other terms, the credit period and the rate of interest for delayed payment at the rate of 24% per annum which is charged in the present application for default in making the payment of the overdue operational debt.

c. Tax Invoices were raised by the Operational Creditor for the sale of goods in the nature of "Pet Preform" to the Corporate Debtor. The debt fell due on the due date as per the credit period of 60 days mentioned in all the Tax Invoices. Therefore, the part of the debt first arising out of the invoice dated 30.3.2019 fell due on 29.05.2019 and thereafter all the invoices raised by the Operational Creditor from 03.04.2019 to 21.05.2023 are fully unpaid and are in default.

d. The Corporate Debtor had issued 32 postdated cheques aggregating to Rs. 2,76,67250 in favor of the Applicant towards the overdue operational debt but all these cheques were Dishonored.

e. It is submitted that the claim of Operational Creditor for the Principal Amount of Rs. 2,48.23,845 was admitted by the IRP during CIRP of Corporate Debtor CP(IB)

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503/9/NCLT/2019. The intimation in this regard was received by the Applicant from the IRP though email. Demand Notice in Form-3 dated May 30. 2023 issued to Corporate Debtor. Copy of NeSL Certificate is attached in the petition.

f. It is submitted that the Corporate Debtor made part payments towards the outstanding dues, namely, Rs. 25,00,000/- on 11.01.2024, Rs. 10,00,000/- on 15.01.2024, Rs. 2,00,000/- on 19.01.2024, and Rs. 2,00,000/- on 24.01.2024. It is stated that all the aforesaid payments were adjusted against the earlier unpaid invoices.

g. The applicant submitted that the application is within the limitation period after considering the exclusion of time /period during which the Corporate Debtor was in CIRP.

h. The applicant/operational creditor has relied on the following document

   i. The copy of Demand Notice

   ii. The copy of all the unpaid invoices raised during the period from March 25, 2019 to May 21, 2023

   iii. The Ledger of the Corporate Debtor in the Books of

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the Operational Creditor,

iv. The statement of Bank Account of Operational Creditor,

v. Copy of forms of GSTR-1 and GSTR-3B filed by the Operational Creditor for the default period

vi. The copy of 32 postdated cheques

vii. The copy of mail received regarding admitting claim of Operational Creditor in CP(IB) 503/9/NCLT/2019.

3. The respondent filed affidavit in reply and submitted that there is inconsistency in the date of default and the amount of default mentioned in the demand notice and the petition. It is further submitted that the demand notice was issued in Form-3 instead of Form-4 hence, the Demand Notice sent by the OC is contrary to the provision contained under Rule 5 (1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. The Board Resolution was held on 11.07.2024 i.e. the date after the Demand Notice dated 30.05.2023 has been served. There is no record to show that the signatory of the Demand Notice was authorised to issue the same

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4. It is further submitted that there exists a bona fide pre-existing dispute between the parties. The Respondent contends that substantial payments were made even after issuance of the demand notice and that several payments made by the Respondent have either been incorrectly reflected or omitted by the Operational Creditor while computing the alleged outstanding dues. It is also argued that the bank statements where deposits were made on 11.01.2024, 15.01.2024, 19.01.2024 and 24.01.2024 however the same aren't reflected and certificates required under Form-5 have not been properly placed on record, thereby rendering the computation of the alleged default unreliable. The Respondent had already paid the amount due before the Petition has been filed that is total of Rs. 3,19,63,115 since 14.03.2019 and that w.r.t. the invoice dated 30.03.2019 (which was considered for default in the present Petition) had been already paid total of Rs. 2,53,20,146

5. It is further contended that in light of the present dispute between the parties there are 20 cases filed on 19.04.2024 against the applicant before the Hon'ble High Court of

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Gujarat. These disputes between the parties were already pending before the Hon'ble High Court of Gujarat vide order dated 01.05.204 and 02.09.2024 wherein interim orders had been passed.

6. It is further contended that the claim towards interest is wholly unsustainable as neither the purchase orders nor the invoices stipulate payment of interest for delayed payment. It is also submitted that the invoices relied upon by the Petitioner do not bear any acknowledgment of the Corporate Debtor is unsupported by any delivery challan or proof of supply and, therefore, no contractual liability towards interest can be fastened upon the Respondent.

7. It is also contended that certain invoices relied upon by the Operational Creditor either pertain to purchase orders requiring 100% advance payment, which already stood paid, or do not contain any valid reference to the corresponding purchase orders, rendering the claim untenable.

8. Further it is submitted that the petition is barred by limitation. According to the Respondent, the alleged date of default is 29.05.2019 whereas the present petition has

-SD- -SD-been instituted only in the year 2024, beyond the prescribed period of limitation under Article 137 of the Limitation Act, 1963. Reliance is placed upon the judgment of the Hon'ble Supreme Court in *B.K. Educational Services Pvt. Ltd. v. Parag Gupta & Associates in Civil Appeal No. 23988 of 2017* to contend that the right to apply accrues from the date of default. It is further alleged that the invoice dated 21.05.2023 has been introduced only to overcome the bar of limitation. Accordingly, it is prayed that the petition be dismissed as being barred by limitation, devoid of merit and an abuse of the insolvency process.

9. The Respondent additional affidavit to place on record the fact that it is further submitted that the Applicant company, M/s. Annapurna Pet Pvt. Ltd., stood dissolved pursuant to the Scheme of Amalgamation approved by the Hon'ble NCLT, Mumbai vide order dated 27.08.2024, whereby it amalgamated with Waterproof Corporation Private Limited. It is contended that the Applicant has suppressed this material fact and, consequent upon such amalgamation, the Board Resolution dated 11.07.2024

-SD- -SDauthorising Mr. Krishan Murari Tulsi ceased to have any legal effect. Accordingly, it is contended that the present petition and the affidavit filed on behalf of the Applicant are without valid authorisation and are not maintainable. The Respondent has filed the pursis placing on record the subsequent developments concerning the Corporate Debtor. It is submitted that the Corporate Debtor was admitted into CIRP by the NCLT, Ahmedabad, Court-I vide order dated 19.11.2025; however, the said order has been stayed by the Hon'ble NCLAT in appeal. It is further submitted that though this Tribunal also admitted the Corporate Debtor into CIRP in another Section 9 petition vide order dated 12.01.2026, the said order has likewise been stayed by the Hon'ble NCLAT in view of the pendency of the earlier CIRP proceedings. Accordingly, the Respondent has prayed that the present matter be adjourned till the Hon'ble NCLAT decides the issue relating to the CIRP initiated against the Corporate Debtor.

10. Both the parties have filed written submissions. The applicant submitted that Annapurna has amalgamated with WACO pursuant to the NCLT Mumbai order dated

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27.08.2024, whereby WACO became its successor-in-interest and succeeded to all its rights and claims, including the operational debt in question. Accordingly, WACO preferred an Interlocutory Application under Section 60(5) of the IBC seeking substitution of its name in the Memo of Parties in place of Annapurna, which is merely a consequential amendment and does not alter the debt or default. The Respondent submitted that upon its dissolution pursuant to the Merger, the Petitioner lost its independent legal personality and could neither institute nor continue proceedings in its own name. The unexplained and inordinate delay in seeking substitution, even after the Respondent's objection, demonstrates that the Application is a belated attempt to overcome the Respondent's objections rather than a bona fide correction. The respondent relied on the following judgements:

a. *Neeraj Jain v. Cloudwalker Streaming Technologies Pvt. Ltd. (2020) 10 Comp Cas-OL 266 (NCLAT)*
b. *Mass Metals (P) Ltd. v. Sunflag Iron & Steel Co. Ltd. (2019) 212 Comp Comp Cas-OL 629 (NCLAT)*

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c. *Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd Civil Appeal No. 9405 of 2017*

d. *Ramesh Kymal v. Siemens Gamesa Renewable Power Pvt. Ltd. (2021) 3 Supreme Court Cases 224*

e. *B.K. Educational Services Pvt. Ltd. v. Parag Gupta & Associates (2019) 11 Supreme Court Cases 633*

f. *Pramod Kumar Jain v. Mangesh Vitthal Kekre (IRP of Aryan Ispat & Power Pvt. Ltd) Comp. App. (AT) (Ins) No. 617 of 2024 & I.A. No. 2231, 2232, 2233, 3223 of 2024*

g. *S.S. Polymers v. Kanodia Technoplast Ltd. 2019 SCC OnLine NCLAT 1310*

11. Perused the documents on record alongwith written submissions of the parties & heard their arguments.

12. Observations and Conclusion:

a. The petitioner stated in the written submissions that the NCLT, Mumbai approved the scheme and amalgamation between the Waterproof Corporation Private Limited and Operational Creditor. However no date of amalgamation is In the written submissions it is further mentioned. mentioned that in CP(CAA)

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227/MB/III/2023 vide order dated 27.08.2024, the order of amalgamation was passed. The appointed date was 01.04.2022. By operation of Law, WACO, is the successor in interest of Annapurna and stands vested with all rights etc.

b. Now on 10.07.2026 the application seeking substitution is filed for amendment. It is submitted that mere change in the name of corporate identity will not render a petition not maintainable. There is delay in seeking substitution

c. The respondent stated in their written statement that the stated petitioner company is amalgamated with another company and ceased to exist as a separate legal entity under Companies Act 2013. Despite such dissolution, the petitioner suppressed this material fact and continued petition in the name of non-existed entity. When only after bringing this suppression to the notice of this Tribunal, the applicant filed substitution application dated 10.07.2026. Upon dissolution the board resolution authorization ceased to survive in law. The belated board resolution dated 15.09.2025 of

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the VCPL cannot cure petition instituted in the name of non-existing entity. The petition itself was defective. It was re-filed on 29.08.2024 and registered on 03.09.2024. At that time at least the defect should have been removed.

d. From the dates mentioned it appears that when this petition was filed, the petitioner Annapurna Pet Private Limited was already under the process of merger with waterproof Corporation Private Limited. That application was filed in the year 2023. In spite of that this application was filed in the year 2024. This fact is suppressed by the applicant. It appears that when this petition was re-filed, due to defects, at that time the order of merger was already passed by the NCLT. Still the petitioner chooses to file application in its own name which was no more in existence in the eyes of law. The petitioner has not given any satisfactory explanation why the petition was filed in the name of Annapurna Pet Private Limited. It has not even given explanation regarding not filing any substitution application. Thereafter the substitution application

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was came to be filed only when the arguments made by the respondent objecting the application while making final submissions. In such circumstances, the petition itself is defective and the applicant being a non-existing entity cannot file the application against the respondent. The application itself is not maintainable.

e. This application was filed on 08.08.2024. The first date of hearing of the matter was on 04.09.2024. However, it appears that the applicant company has merged with another entity M/s Waterproof Corporation Private Limited and on 27.08.2024 the NCLT Mumbai passed necessary orders of amalgamation. Hence on the date of listing of this petition the applicant company was amalgamated in to another entity and this application should have been amended and filed to prove the debt and default.

f. When this application was filed, the persons who signed the application and affidavit had no authority to sign it. The authorized representative of applicant company have no authority to depose on behalf of the applicant company as the company was already

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dissolved. It has no locus to file present application.

g. Hence we pass the following order:

ORDER

CP(IB) 267 of 2024 is rejected and disposed of.

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

CHITRA HANKARE
MEMBER (JUDICIAL)

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