

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

COURT-V

IA-2956/2026

IN

COMPANY PETITION NO. (IB)-76/(ND)/2026

IN THE MATTER OF:

**M/S S.B.E ENGINEERING AND INFRASTRUCTURE PRIVATE
LIMITED**

... OPERATIONAL CREDITOR

VERSUS

M/S HC JAIN PIPES PRIVATE LIMITED

...CORPORATE DEBTOR

AND IN THE MATTER OF:

M/S HC JAIN PIPES PRIVATE LIMITED

...CORPORATE DEBTOR/APPLICANT

VERSUS

**M/S S.B.E ENGINEERING AND INFRASTRUCTURE PRIVATE
LIMITED**

... OPERATIONAL CREDITOR/ RESPONDENT

Order under Section 9 IBC, 2016

Order Delivered on: 21.08.2026

CORAM:

**SHRI MANNI SANKARIAH SHANMUGA SUNDARAM,
HON'BLE MEMBER (JUDICIAL)**

IA No. 2956/2026

IN

CP IB. 76/(ND)/2026

Order Pronounced on: 21.08.2026

**MS. REENA SINHA PURI,
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Applicant : Mr. Utkarsh Misra, Adv
For the Respondent : Mr. Gaurav Mitra, Sr. Adv., Mr. Himanshu Gupta,
Mr. Jai Bhardwaj, Mr. Saurabh Balwani, Adv.

ORDER

1. The present Application has been filed by the Applicant/Corporate Debtor under Rule 11 of the National Company Law Tribunal Rules, 2016 read with Section 424 of the Companies Act, 2013, seeking recall of the order dated 12.06.2026 passed in CP (IB) No. 76/ND/2026, whereby the Applicant was called absent, set ex-parte and its right to file reply was closed. The Applicant further seeks permission to place its reply along with the supporting documents on record and to contest the Company Petition on merits.
2. The captioned Company Petition has been instituted by M/s S.B.E. Engineering and Infrastructure Private Limited, the Operational Creditor, under Section 9 of the Insolvency and Bankruptcy Code, 2016, against M/s H.C. Jain Pipes Private Limited, the Applicant/Corporate Debtor, alleging default in payment of an operational debt. Vide order dated 12.02.2026, notice was issued to the Corporate Debtor and directions were issued regarding filing of response and proof of service. The matter was thereafter listed before this Tribunal on 07.04.2026.
3. On 07.04.2026, learned counsel appeared on behalf of the Corporate Debtor. The order passed on the said date records the appearance of learned counsel for the Corporate Debtor and specifically states that the matter be listed on 28.05.2026. The Applicant states that, acting upon

the date recorded in the judicial order, it understood 28.05.2026 to be the next date fixed in the matter.

4. The Applicant has further placed on record that its previous counsel, Ms. Nikita Tiwari, had also informed the Applicant that the matter was fixed for 28.05.2026 and that the office diary maintained by the counsel's office recorded the same date. It is stated that, in the meantime, Ms. Nikita Tiwari left the office of GDC Lawyers Chamber. The Applicant further states that the office of counsel checked the cause list on 28.05.2026, but the cause list was not available on that date and the case status was also not updated on the website. According to the Applicant, it was therefore unaware that the matter had in fact been taken up on 27.05.2026.
5. The order dated 27.05.2026 records that no one appeared on behalf of the Respondent/Corporate Debtor. The Tribunal, in the interest of justice, nevertheless granted three days' time as a last and final opportunity to file the reply, with a stipulation that, in the event of non-compliance, the right to file reply would stand closed and the matter would proceed on the basis of the documents available on record. The matter was thereafter listed for 12.06.2026.
6. The Applicant's case is that, having proceeded on the basis of the date recorded in the order dated 07.04.2026, it remained unaware of the proceedings on 27.05.2026 and, consequently, was also unaware of the direction contained in the order dated 27.05.2026 granting three days' time to file the reply. It is on this basis that the Applicant states that it could neither comply with the said direction nor arrange representation on 12.06.2026.
7. On 12.06.2026, this Tribunal, noting that the direction contained in the order dated 27.05.2026 had not been complied with and that no one appeared on behalf of the Corporate Debtor even upon repeated calls,

called the Corporate Debtor absent and set it ex-parte. Its right to file reply was closed and the Operational Creditor was directed to file an affidavit affirming that the Company Petition was non-collusive. The matter was thereafter listed for 20.07.2026.

Analysis and Findings

8. We have heard the submissions made on behalf of the Applicant and perused the Application and the material placed on record, including the orders dated 07.04.2026, 27.05.2026 and 12.06.2026 and the documents relied upon by the Applicant.
9. The question which arises for consideration is whether the Applicant has disclosed sufficient cause for its non-appearance on 27.05.2026 and 12.06.2026 so as to warrant recall of the order dated 12.06.2026, particularly when the effect of the said order is to deprive the Applicant of an opportunity to place its defence on record in a proceeding under Section 9 of the Code.
10. Rule 11 of the NCLT Rules, 2016 preserves the inherent powers of this Tribunal to pass such orders as may be necessary for securing the ends of justice or preventing abuse of the process of the Tribunal. Such power is required to be exercised judiciously and not as a matter of course. At the same time, where the circumstances demonstrate that a party's absence was occasioned by a bona fide and sufficient cause, and the consequence of non-recall would be to shut out the party from an opportunity of being heard on merits, the inherent jurisdiction may appropriately be exercised to prevent failure of justice.
11. In the present case, the explanation offered by the Applicant is not founded merely upon a general plea of inadvertence. There is a material circumstance on the record, namely, that the order dated 07.04.2026 recorded the next date of hearing as 28.05.2026, whereas the matter was taken up on 27.05.2026. The Applicant's explanation that it proceeded

on the basis of the date recorded in the judicial order therefore cannot be said to be inherently implausible.

12. It is also relevant that the Applicant had not remained wholly absent from the proceedings prior thereto. Its counsel had appeared on 07.04.2026. and the order of that date records such appearance. Thus, the conduct reflected from the record does not indicate that the Applicant had abandoned the proceedings or had consciously chosen not to participate in the matter.
13. The Applicant has also relied upon the office diary maintained by its counsel, which, according to the Application, recorded 28.05.2026 as the next date. While an office diary cannot override a judicial order, in the facts of the present case it assumes relevance as corroborative material supporting the Applicant's explanation that it was proceeding bona fide on the basis of 28.05.2026 as the date fixed for hearing. The Applicant has further stated that its previous counsel had communicated the same date to it and that, when the office subsequently checked the cause list on 28.05.2026, the cause list was not available and the case status was not updated on the website.
14. An additional circumstance has also been placed on record regarding the affairs of the Applicant during the relevant period. The Applicant's authorised representative/director, Mr. Vikas Jain, was arrested on 12.03.2026 and remained in judicial custody until he was enlarged on bail on 13.04.2026. The Applicant states that the incarceration and its aftermath disrupted the affairs of the Company, including continuity of instructions and coordination with counsel. The order dated 13.04.2026 relied upon by the Applicant confirms the fact of arrest and subsequent release on bail.
15. We do not consider it necessary to examine or express any opinion on the allegations forming the subject matter of the criminal proceedings

referred to by the Applicant. The relevance of the said circumstance, for present purposes, is limited to the explanation offered by the Applicant regarding the disruption in communication and conduct of its affairs during the period in question.

16. The sequence of events is also material. On 07.04.2026, the Applicant was represented through counsel and the order recorded 28.05.2026 as the next date. The matter was, however, taken up on 27.05.2026 in the absence of the Applicant, whereupon three days' time was granted as a final opportunity. The Applicant's case is that it had no knowledge of either the hearing on 27.05.2026 or the consequential direction contained in that order. Thereafter, on 12.06.2026, in the continued absence of the Applicant, its right to file reply was closed and it was set ex-parte.
17. In our considered view, the subsequent non-compliance on 12.06.2026 is required to be considered in the factual context of the Applicant's asserted lack of knowledge of the order dated 27.05.2026. The Applicant cannot be treated as having deliberately disregarded a direction of this Tribunal without first considering the circumstances in which it claims to have remained unaware of the hearing on which such direction was passed.
18. We are also mindful that the present Application does not seek adjudication of the merits of the Section 9 Petition. The Applicant only seeks restoration of its right to place its reply and supporting documents on record and to participate in the adjudication. Whether the defence raised by the Applicant is ultimately sustainable is a matter to be considered at the appropriate stage and cannot form the basis for determination in the present Application.
19. The balance of prejudice also weighs in favour of recall. If the order dated 12.06.2026 is not recalled, the Applicant would remain deprived of its

opportunity to place its defence on record in the insolvency proceedings. On the other hand, if the order is recalled, the Operational Creditor would not be deprived of any substantive right and would retain full opportunity to oppose the reply, advance submissions and establish its case in accordance with law. Recall would therefore restore procedural parity between the parties rather than confer any adjudicatory advantage upon the Applicant.

20. Procedural timelines are intended to ensure orderly and expeditious adjudication and not to defeat the right of a party to be heard where sufficient cause is established. In the present case, the Applicant's prior appearance on 07.04.2026, the date 28.05.2026 expressly recorded in the order dated 07.04.2026, the matter having been taken up on 27.05.2026, the Applicant's reliance upon the contemporaneous office diary, and the circumstances concerning disruption in the affairs of its authorised representative, taken cumulatively, constitute sufficient cause for the Applicant's non-appearance.
21. We accordingly find that the ends of justice would be better served by recalling the order dated 12.06.2026 and restoring the Applicant's right to file reply. Such recall would neither determine the merits of the Section 9 Petition nor prejudice the rights of the Operational Creditor. It would merely ensure that the Company Petition is adjudicated after affording the Corporate Debtor a reasonable opportunity to place its defence before this Tribunal.
22. At the same time, it cannot be overlooked that the Applicant's non-appearance and subsequent filing of the present Application have resulted in avoidable proceedings and consumption of judicial time. Therefore, while granting the indulgence of recall in the interest of justice, we deem it appropriate to impose costs so as to balance the equities and ensure procedural discipline.

23. Accordingly, **IA No. 2956/2026** is **allowed** subject to payment of cost of Rs. 50,000 to the Prime Minister's National Relief Fund.
24. The cost shall be paid within one week from the date of pronouncement of this order, and proof of payment shall be filed on record.
25. List the matter for compliance on 22.09.2026

Sd/-

REENA SINHA PURI
MEMBER (TECHNICAL)

Sd/-

MANNI SANKARIAH SHANMUGA SUNDARAM
MEMBER (JUDICIAL)