

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2



ITEM No.301
TP/02(AHM)2022
(CP 240 of 2004)

Proceedings under Section 433 & 434 r.w 439 of Co. Act, 1956

IN THE MATTER OF:

M/S Falcon Industries

.....Applicant

Vs

Geeta Prints Limited

.....Respondent

Order delivered on: 13/01/2026

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed before pronouncement of order.

The order is pronounced in open court vide separate sheet.

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

CHITRA HANKARE
MEMBER (JUDICIAL)



**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)**

**TP No. 02 of 2022
(CP No. 240 of 2004)**

(Filed under Rule 6 of the Insolvency & Bankruptcy Code, 2016)

M/s FALCON INDUSTRIES
293, Naperol Tower;
Kidwai Marg, Wadala(West),
Mumbai-400031, Maharashtra

... Applicant/
Operational Creditor

Versus

GEETA PRINTS LIMITED
[CIN: U22211GJ1988PTC010905]
Plot No. 150 GIDC, Pandesara,
Surat-394221, Gujarat

... Respondent/
Corporate Debtor

Order pronounced on 13.01.2026

CORAM:
MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)

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

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Appearance:

For the Applicant
For the Respondent

:Mr. Pavan Godiawala, Adv.
:Mr. Saurabh Soparkar, Senior Advocate
a.w. Mr. Siddhrath Kheskhani, Adv

JUDGEMENT

1. This Transfer Petition from Hon'ble High Court of Gujarat is an application filed under Sec 433 and 434 of the Companies Act 1956, by the applicant which is a partnership firm in Company Petition No. 240 of 2004 filed on 20.09.2004 seeking winding up of the respondent CD. It is submitted that the debt is due on non-payment of invoices due for a principal amount of Rs.7,62,500/- with an additional liability on account of tax at the rate of 10% payable by petitioners amounting to Rs.6,61,100 (in respect of sale and supply of products after 1 June 2002) and penalty under the provisions of Bombay sales tax and due amount claimed is Rs.11,04,322 with interest thereon at 24% per annum. It is further submitted by the applicant that a demand notice was issued on 9th September 2004 duly received by the respondent CD on 13 Sept 2004, but not replied and hence this application is filed. The applicant has vide affidavit (in Form 5) dated 24 Feb 2022 filed this application under Sec 9 of IBC 2016 the order dated 25.11.2021 of the Hon'ble High Court of Gujarat transferring this petition to this tribunal. Vide orders passed on 25.11.2021, the Hon'ble High Court of Gujarat had transferred the petition to NCLT duly observing that while the original petition/s (both) filed against the CD was admitted

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vide order dated 11 Dec 2006 and directed publication of order of admission and hearing in local newspapers. There after the respondent/s filed an appeal before the Division bench of Hon'ble High Court of Gujarat which was dismissed in OJ Appeal No.6 of 2007 on 19 Sept 2008 and directed that fresh advertisements in two news papers be issued in Company Petition 241/2004 vide order of even date, it was directed that no separate advertisement be given in view of order passed in Company Petition No.240/2004. The order also observes that the matter was adjourned repeatedly at the request of parties and never heard on merits and the petitioners submitted that efforts to resolve failed, while the respondent quoted certain judgments to transfer the matter to NCLT to do the needful and accordingly these matters were transferred to this tribunal as per orders of the Hon'ble High Court of Gujarat. The order further states that the matter has been heard, admitted and notices issued but the court had not appointed a provisional liquidator and it has relied upon the judgment in Action Ispat and Power Pvt Ltd vs Shyam Metalics and Energy Ltd (supra), thereby transferring this petition to NCLT Ahmedabad. The prayers sought in the application are summarised below:

- a) *Geeta Prints Limited, the company be wound up by and under the orders and directions of this Hon'ble Court;*
- b) *That the official liquidator attached to this Hon'ble Court or some other fit and person, be appointed as the liquidator of Geeta Prints Limited, with all powers under the Companies Act, 1956 including power to take charge of all the assets of Geeta Prints*

Limited to conduct its affairs the course of winding up and to distribute its assets in accordance with law;

- c) *Pending the admission and hearing and final disposal of this Petition, the Official Liquidator attached to this Hon'ble Court or some other fit and proper person be appointed as the Provisional Liquidator of Geeta Prints Limited to take charge of all the assets of the Company with all powers under the Companies Act, 1956;*
- d) *Pending the admission and hearing and final disposal of this Petition, Geeta Prints Limited, its Director, Officers, Servants and agents be restrained by an order and injunction of this Hon'ble Court, from in any manner whatsoever disposing off, transferring, encumbering, alienating or parting with the possession of its assets;*
- e) *For ad interim reliefs in terms of prayers (c) & (d);*
- f) *The cost of this Petition be provided for;*
- g) *Such further and other reliefs as the nature and circumstances of the case may be granted.*

2. Further the applicant has filed an affidavit on 28 Feb 2022 stating that “Considering the inability to pay the debts as become due and payable and the default got committed, it has become incumbent that the CIRP be undertaken in the overall interest of the creditors and exchequer.” This application is thereby filed by the applicant being operational creditor under Section 9 of the IBC, 2016.

3. The petitioner being a partnership firm has filed this application through the constituted attorney to the NCLT vide affidavit dated 24 Feb 2022. From the submissions it is observed that the respondent approached the petitioner for

FIPB and FIS products which were supplied and both had shared a cordial relationship and based on mutual understanding goods were supplied, before this debt became due and as common practice 30 day credit period from date of bill was given to the respondent. It is submitted that between the period 06.05.2002 to 01.04.2003, the respondent stopped making payments of goods which were already supplied. It is submitted that the respondent had issued a letter of confirmation of accounts on 3.3.2004, but after that on 24.5.2004 raised issues stating that the invoices were raised at exaggerated rates. The applicant has submitted a confirmation of accounts signed by respondent that an amount of Rs.7,62,500 was due out of the total received and payable (Op balance of Rs.8,96,000 and closing balance of Rs.7,62,500). It is also submitted that the petitioner had asked the respondent to issue Form C in lieu of the goods supplied to it from June 2002 which was not complied and neglected resulting in additional tax liability on the petitioner to pay 10% of the sum of Rs.6,61,100/- (amount of the goods sold) along with the penalty as leviable on such goods where the petitioner can claim input tax credit and seek exemption from paying the duty. As the repayment was not forthcoming, the applicant issued a demand notice on 09.09.2004 demanding the outstanding payment which fell since the first invoice dated 6.5.2002(due 6.6.2002) and last invoice dated 1.4.2003(fell due on 1.5.2003). The applicant has also

produced the relevant invoices. The applicant has relied on the letter dated 24.5.2004 and demand notice sent on 9.09.2004 and the application before the Honble High Court was filed within the limitation period admissible in Oct 2004 (signed and delivered on 4 Nov 2004). The applicant further vide further additional affidavit dated 9 August 2022, submitted various orders passed by the Honble High Court of Gujarat, stating that the order of admission is dated 11.12.2006 which is self-explanatory, the respondent CD has raised various loans and disposed of assets, diversion of assets as other part of allegations pressing for admission of CD in to CIRP.

4. The Ld Counsel for respondent appeared and made his submissions after filing his reply affidavit dated 31 Jan 2023. While denying the debt due, the respondent submitted that there were pre-existing disputes as objected in letter dated 24.05.2004 as there were no written communications/purchase orders placed for availing/purchasing the goods, maintainability of the petition as the CD owed the principal amount purportedly Rs7,62,500 while the interest component of Rs.4,35,51,929 is calculated at 24% compound interest, whereas there is no agreement for charging compound interest which is not specified in the invoice (which should only be simple interest) and hence when combined of the actual due will be less than the threshold pecuniary for maintaining this application as the claim is inflated. Further, the applicant has not issued mandatory

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notice under Sec 8 of the IBC 2016 and the notice issued is not on the registered office of the company, further the invoices were issued to "Geeta Prints P Ltd", and issued at the address 150, GIDC, Pandesara, Surat which is not the registered office but 122/123, JJ Air Conditioned Market, Ring Road, Surat. Further the respondent has stated that the CD is highly credit worthy, is a going concern and has a major market presence in the business of ready-made garments, with good revenue earnings. This application does not have a purchase contract, lacks jurisdiction before NCLT and is to be proceeded before civil court, the applicant is proceeding on a dubious account confirmation. The respondent has also filed various other documents like valuation report, audited balance sheet of the CD for the period ended 31 March 2021 and 31 March 2022. It is submitted that the financial status of the respondent has been wilfully suppressed.

5. Both parties have filed their written submissions. The petitioner vide pursis dated 7 August 2025 given the applicable provisions of Companies Act, Contract Act, 1872, Indian Partnership Act, 1932 and further submitted that under Sec 434 of the erstwhile Companies Act, 1956 if demand notice is issued and within 3 weeks if the claim is not secured the company is said to be unable to pay its debts. It has also submitted copies of various pleadings completed before the Honble High Court of Gujarat (order dated 11.12.2006 of Mr Justice M R Shah) and petition has become

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“in rem” and even the OJ appeal filed by respondent was dismissed and an order of admission in two petitions of same group becomes final. Thereby the company petition u/s 433 of Companies Act 1956 was akin to the provisions of Sec 9 of the IBC 2016 no further affidavit can be filed and default u/s 3(12) of the IBC 2016 is committed by the respondent. It has also relied on the rejoinder submitted in the petition dated 14.3.2005 before the honble High Court (page 60-65) –“no dispute has ever been raised by the respondent company as to the quality of the goods supplied by the petitioners during the said period of supply and as a matter of fact, a certificate dated 12 feb 2004 was issued by the Dyeing Master of the Respondent Company confirming that the respondent company has been procuring various textiles processing chemicals from petitioners since Nov 2000 and that they found the petitioners quality always consistent as per the specification and also gave excellent performance during application”. Further, the applicant has justified the computation of interest up to the date 22.02.2022 on filing this application to be Rs.4,43,14,429/-, non-supply of Form C by the respondent amounting to penalty of additional 6% on the goods supplies under sales tax rules, serious irregularities of the CD having created shell companies and the order of Hon’ble High Court of Gujarat dismissing the appeal of the CD vide order dated 19.9.2008.

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6. The respondent filed his written submissions vide pursis dated 6 March 2025, which reiterates only the points mentioned in the reply which include that the attorney has not produced any authorisation on behalf of m/s Falcon Industries, maintainability of the petition on threshold limit and pre existing dispute and not serving the respondent at the correct registered office.

7. Observations & Conclusions:

a) We have gone through the pleadings, submissions and documents. This transfer petition has already been allowed and the appeals dismissed by Hon'ble High Court vide orders dated 11.12.2006 and the appeal vide order dated 19.09.2008 and was pending as notices were to be issued and possibility of settlement between both parties. Since the matter was finally disposed of by appointment of provisional liquidator, at that stage the matter has been transferred to this tribunal for adjudication of a matter which acquired its finality.

b) However as the application been filed with all the aforementioned facts, we examine two factors as to whether the application was filed within the period of limitation, whether the invoices and interest raised were applicable to show cause the debt, whether there was any genuine pre existing dispute and whether the threshold limit can be a point of considering admission of this

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application. There is no doubt that the application was filed within the period of limitation as the matter has been appropriately pleaded allowed and admitted before the Hon'ble High Court and orders were passed for recovery through winding up process and the appeal made (stated to be on two applications) by respondent was rejected. We have perused the various invoices issued by the applicant which clearly states that the applicant would charge 24% if payment is not received within 30 days from the date of the bill and no claims are entertained unless brought to their notice in writing within 48 hours on receipt of goods. The invoices also spells out that the order is "Verbal". There is a provision for interest to be charged if not paid and the applicant has given a detailed statement of the computation along with the application (page 0). The matter of dispute cannot be whether it has to be simple interest or compound interest as the invoice very clearly specifies that the payment due after 30 days will be charged at 24% and the invoices are received. The applicant has also filed a confirmation of accounts by the respondent. As regards the dispute dated 24.05.2004, the letter states that the invoices are exaggerated and not commensurate with the items and their quality and final payment upon final verification of contents thereof. The respondent has apparently not replied to the demand notice dated 9th Sept 2004. We also go through the sur

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rejoinder filed before the Hon'ble High Court wherein the respondent has denied all the facts that the goods were ever received including the stated confirmation of accounts, but is silent on the dispute raised in the letter raised by the applicant before the Hon'ble High Court. If the respondent denies anything, then it cannot take the stand now that the demand raised had a pre-existing dispute. Hence there is a wrong statement by affidavit denying the entire debt, while also taking grounds that there is a pre existing dispute with the applicant before NCLT. If it is a mere fact that the respondent was financially sound by submitting relevant records or valuation statements does not address a question of an Operational Creditor who has filed an application for the non-payment of bills. It is observed that the dispute raised is also frivolous and if the bills are doubted on its rates (it accepts delivery of goods) which is by affidavit sur rejoinder before Hon'ble High Court is totally denied. Further the matter is admitted and the order is "in rem" with further orders not passed for liquidation of the CD, possibly to explore if the matter could be settled between parties. Even before this tribunal it is recorded in daily order dated 20.06.2024 that both parties sought adjournment on the ground of settlement and as per the order dated 25.07.2024 the Ld Counsel for applicant submitted that the settlement failed. The partnership firm

being applicant is well within its rights and is not prohibited under partnership Act to file a suit for recovery. Respondent has not proved any fraud on the invoices as back and forth contradictory statements are made by confirmation certificate and the other acknowledgments. As regards the eligibility to file on the operational creditor in terms of Sec 8 of IBC 2016 a copy of invoice is sufficient to prove the debt. Since this is a transfer petition, the matter need not be started fresh and the matter is to be adjudicated on the documents submitted before the erstwhile competent authority who has transferred this petition and this matter is not a civil dispute a commercial leading to insolvency if not paid in terms of provisions of IBC 2016. When the IBC 2016 was enacted, the threshold limit for a Sec 7 or 9, 10 application was Rs.1 Lakh (which limit applies to this matter also) which was increased to Rs 1 crore w e f March 24, 2020 which makes this petition, irrespective of the interest claim (which is admissible as per this adjudication order) to be within the eligible limit for filing (as on date matter was subject to the jurisdiction of Hon'ble High court, Gujarat).

c) Conclusion: It is observed that the respondent has used the process of transfer petition to drag the process of repayment, having no further grounds to deny the debt. In a commercial contract which is supported by certain tax compliance and records of Form C not deliberately

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submitted by respondent, the applicant gains his grounds for claiming his due amount. The respondent has not provided any evidence with proof of dispute which can be genuine and accepted. We feel this is if not a tactical delay, moonshine defence, agrees both before the Hon'ble High Court and this bench for settlement by the respondent and the judgment of Hon'ble Supreme Court in Mobilox Innovations Pvt Ltd vs Kirusa Software Pvt Ltd gives us the necessary support to adjudicate such matters.

8. In view of the above, we pass the following orders:

ORDER

- I. TP 02 of 2022 (CP No. 240 of 2004) is allowed.
- II. The Corporate Debtor – Geeta Prints Limited is hereby admitted into Corporate Insolvency Resolution Process under section 9(5) of the Code.
- III. The order of moratorium under section 14 of the Code shall come to effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of the corporate debtor under Section 33 of the IBC 2016, as the case may be.
- IV. However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the corporate

debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period.

- V. We hereby appoint from the panel suggested by IBBI, Mr. Rajendra Sanghi, Registered Insolvency Professional having IBBI registration no. as IBBI/IPA-001/IP-P-01973/2019-2020/13011, email id- rajendra.sanghi@yahoo.co.in, under section 13 (1)(c) of the Code to act as Interim Resolution Professional (IRP). He shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.
- VI. The IRP so appointed shall make a public announcement of the initiation of Corporate Insolvency Resolution Process and call for submissions of claims under section 15, as required by Section 13(1)(b) of the Code.
- VII. The IRP shall perform all his functions as contemplated, inter-alia, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel connected with the corporate debtor, its promoters, or any other person associated with the management of the corporate debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the corporate debtor, its promoters, or any other person required to assist or co-operate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with



a prayer for passing an appropriate order.

VIII. The IRP is expected to take full charge of the corporate debtor's assets, and documents without any delay whatsoever. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.

IX. The IRP shall be under a duty to protect and preserve the value of the property of the 'corporate debtor company' and manage the operations of the corporate debtor company as a going concern as a part of obligation imposed by section 20 of the Code.

X. The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.

XI. We direct the Operational Creditor to pay IRP a sum of Rs.2,00,000/- (Rupees Two Lakh Only) in advance within a period of 7 days from the date of this order to meet the cost of CIRP arising out of issuing public notice and inviting claims till the CoC decides about his fees/expenses.

XII. The Registry is directed to communicate this order to the Operational Creditor, corporate debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days and upload the same on the website

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TP No. 02 of 2022
(CP No. 240 of 2004)

immediately after pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Corporate Debtor in MCA portal specific mention regarding admission of this Application and shall forward the compliance report to the Registrar, NCLT.

XIII. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

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

CHITRA HANKARE
MEMBER (JUDICIAL)