

**NATIONAL COMPANY LAW TRIBUNAL**  
**INDORE SPECIAL BENCH**

ITEM No.2  
CP(IB)/25(MP)2024



**Order under Section 9 IBC**

**IN THE MATTER OF:**

M/s Delhi Liquors  
V/s  
Raisen Marketing Pvt Ltd

.....Applicant

.....Respondent

**Coram:**

Mohan P. Tiwari, Hon'ble Member(J)  
Sanjeev Sharma, Hon'ble Member(T)

**PRONOUCEMENT ORDER**

**Delivered on 30/01/2026**

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

Sd/-

**SANJEEV SHARMA**  
**MEMBER (TECHNICAL)**

Neeraj

Sd/-

**MOHAN P. TIWARI**  
**MEMBER (JUDICIAL)**

IN THE NATIONAL COMPANY LAW TRIBUNAL

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C.P. (IB) No. 25 of 2024



**In the matter of:**

M/s Delhi Liquors  
Having office at: House No. 90,  
Panki Katra Near Panki Hanuman Mandir,  
Pankabahadur Nagar, Kanpur,  
Uttar Pradesh- 208020

**....Operational Creditor/ Petitioner**

**Versus**

**Raisen Marketing Private Limited**  
Having office at: G-II, 119 A,  
Gulmohar Colony, Bhopal,  
Madhya Pradesh- 462039  
Also At: 1-A, Zee Plaza, Arjun Nagar,  
Kamal Cinema Road, Safdarjung Enclave,  
New Delhi- 110029

**....Corporate Debtor/ Respondent**

**Coram:**

Hon'ble Sh. Mohan Prasad Tiwari Member (Judicial)  
Hon'ble Sh. Sanjeev Sharma (Technical)

**Appearance:**

**For the Applicant : Mr. Sunil Fernandes Sr. Adv. a.w.  
Mr. Abhishek Prasad, Adv**  
**For the Respondent : Mr. Vijayesh Atre, Adv a.w.  
Ms. Aarya Chhangani, Adv**

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**ORDER**

**Order delivered on: 30.01.2026**

**C.P. (IB) No. 25 of 2024**

1. This Company Petition has been filed on 12.04.2024 under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “**the Code**” or “**IBC**”) by M/s Delhi Liquors (“**the Operational Creditor**”), seeking initiation of the Corporate Insolvency Resolution Process (**CIRP**) against Raisen Marketing Private Limited, (“**the Corporate Debtor**”), on account of default in payment of operational debt amounting to Rs.12,24,75,104.69/- as on 31.01.2024.

**Facts of the Case**

2. The Operational Creditor is a joint venture entity constituted under a Joint Venture Agreement dated 30.09.2021 and was holding a valid L-1 wholesale licence under the Delhi Excise Policy 2021–22, authorising it to supply alcoholic beverages in the National Capital Territory of Delhi.
3. The Corporate Debtor, Raisen Marketing Private Limited, is a company incorporated under the Companies Act, 1956, having its registered office at G-II, 119-A, Gulmohar Colony, Bhopal, Madhya Pradesh – 462039.
4. It is the case of the Operational Creditor that pursuant to orders placed by the Corporate Debtor through the ESCIMS portal of the Delhi Excise Department, it supplied alcoholic beverages manufactured by Som Distilleries Limited and Wave Distilleries & Breweries Limited. During the relevant period, the Operational Creditor raised 2271 tax invoices aggregating to Rs.17,87,73,026/-. All such invoices were acknowledged by the Corporate Debtor through the statutory ESCIMS portal maintained by the Delhi Excise Department. Out of the total supplies, goods valued at Rs.8,84,691/- were returned by the Corporate

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Debtor. The Corporate Debtor made intermittent payments amounting to Rs.8,50,00,000/- during the course of business transactions.

5. After adjustment of returns and payments on first in first out basis, an outstanding principal amount of Rs.9,28,88,335/- remained unpaid. The Operational Creditor further calculated interest invoice-wise up to 31.01.2024 amounting to Rs.2,95,86,769.69/-. Accordingly, the total operational debt claimed to be in default stood at Rs.12,24,75,104.69/-.
7. The Operational Creditor issued a legal notice dated 10.01.2023 demanding payment of the outstanding dues. Despite receipt of the said notice, no payment was made by the Corporate Debtor. Thereafter, a statutory demand notice under Section 8 of the Code dated 10.02.2024 was issued to the Corporate Debtor by speed post at its registered office address as well as to its directors. Postal tracking records confirm delivery of the said notice. The Corporate Debtor neither replied to the demand notice nor made payment of the operational debt within the statutory period of ten days.

**Submissions of the Corporate Debtor**

9. The Corporate Debtor opposed admission of the petition contending, inter alia, that the Applicant is not a “person” within the meaning of Section 3(23) of the Code and that its legal status is unclear. It was further contended that the petition has been filed without proper authorisation.
10. It is submitted that there exists no written agreement stipulating payment terms and therefore no default can be said to have occurred. The Corporate Debtor alleged existence of a pre-existing dispute based on its letter dated 16.11.2022 wherein it purportedly raised claims towards credit notes, breakages and expenses.

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1. It is further contended that the statutory demand notice was not properly served, that the documents annexed to the petition were defective, affidavits were improperly verified, bank statements were not certified under the Banker's Books Evidence Act, record of default from NeSL was also not produced and the affidavits were insufficiently stamped, and that the Corporate Debtor is solvent and running a substantial turnover.

**Rejoinder of the Operational Creditor**

12. The Operational Creditor denied all allegations raised by the Corporate Debtor in its reply and submitted that it is a duly constituted joint venture firm under a written Joint Venture Agreement dated 30.09.2021. It is further submitted that authorisation in favour of Mr. Amit Kumar to institute the present proceedings has been duly executed by both joint venture partners.
13. It is contended that Section 69 of the Partnership Act does not bar initiation of proceedings under the Code. The supplies, invoices, delivery acknowledgements and part-payments are admitted and reflected in statutory records. It is further submitted that the alleged dispute letter dated 16.11.2022 is fabricated, unsupported by any proof of service, vague in nature and raised as an afterthought. The Operational Creditor also submitted that electronic records are supported by Section 65B certificate. The filing of NeSL record is directory and not mandatory, and that any alleged stamp deficiency has already been cured.

**Issues for Determination**

15. From the pleadings and submissions, the following issues arise for determination:

- (i) Whether operational debt exists and exceeds the statutory threshold;*
- (ii) Whether default has occurred;*

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*(iii) Whether any pre-existing dispute exists under Section 8(2) of the Code;*

*(iv) Whether the petition has been filed within the period of limitation.*

**Discussion and Findings**

16. The Operational Creditor has disclosed its status as a Joint Venture entity, supported by the Joint Venture Agreement dated 30.09.2021. The objection raised under Section 69 of the Partnership Act is untenable. The Hon'ble NCLAT in *Rourkela Steel Syndicate v. Metistech Fabricators Pvt. Ltd. (2023 SCC OnLine NCLAT 1101)* has categorically held that the Hon'ble NCLAT held that an application under section 9 of IBC cannot be said to be a suit and the analogy of the Hon'ble Supreme Court in *Gaurav Hargovind Bhai Dave Vs Asset Reconstruction Company (India) Limited &Anr, Civil Appeal no. 4952 of 2019* is fully applicable to the applications filed under Section 9 of the IBC also.
17. Further, also it is well settled by the judgment of the Hon'ble Supreme Court in *B.K. Educational Services (P) Ltd. v. Parag Gupta and Associates, Civil Appeal No.23988 Of 2017* that provision of Section 5 Limitation Act are also fully applicable in Section 7 & 9 IBC applications. Section 5 Limitation Act is not applicable in a suit which is also a clear indication that Application under Section 7 & 9 are not a suit. Since proceedings under Sections 7 and 9 of the Code are not "suits", and therefore the bar under Section 69 of the Partnership Act is not applicable.
18. The authority letter executed by both joint venture partners authorising Mr. Amit Kumar to institute the present proceedings has been placed on record. No material has been produced by the Corporate Debtor to rebut the same. Accordingly, the petition has been filed with valid authorisation and is maintainable.

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9. The operational debt is established through documentary evidence including tax invoices, ESCIMS portal acknowledgements, delivery documents, ledger accounts and bank statements evidencing part-payments.
20. The Corporate Debtor has admittedly made payments amounting to ₹8.50 crore, which itself constitutes acknowledgment of liability. Consequently, the existence of operational debt well above the statutory threshold prescribed under Section 4 of the Code stands conclusively established.
21. In the absence of specific contractual payment terms, commercial practice recognises that payment becomes due upon demand. Despite repeated reminders, issuance of legal notice dated 10.01.2023 and statutory demand notice dated 10.02.2024, the Corporate Debtor failed to clear the outstanding dues. The default therefore stood crystallised prior to filing of the present petition.
22. The alleged dispute dated 16.11.2022 is unsupported by any credible proof of service, does not specify invoice numbers, quantities, amounts or periods, and was never pursued through any legal proceedings. The alleged dispute is further contradicted by continued payments made thereafter by the Corporate Debtor.
23. The Hon'ble Supreme Court in **Mobilox Innovations Private Limited v. Kirusa Software Private Limited (2017) 5 SCC 525** has held that the dispute must be real, substantial and pre-existing, and not illusory, spurious or hypothetical. The vague allegations relating to credit notes and breakages do not constitute a genuine dispute under Section 8(2) of the Code.
24. The demand notice was dispatched to the registered office address of the Corporate Debtor as reflected in MCA records. Postal tracking confirms delivery. Service of demand notice is therefore duly effected in accordance with law.
25. The objections relating to affidavits, certification of bank statements, non-production of NeSL record, stamp duty and verification are procedural in nature.

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Electronic records are supported by Section 65B certificate. NeSL record is directory and not mandatory. Any stamp deficiency is curable and has already been rectified. None of these objections go to the root of maintainability.

26. The invoices pertain to the year 2022 and continuous part-payments made up to 2023 constitute acknowledgment of debt under Section 18 of the Limitation Act, 1963. The petition filed on 12.04.2024 is therefore well within limitation.
27. Upon consideration of the entire material on record, this Tribunal is satisfied that:
  - (i) operational debt exceeding the statutory threshold exists;
  - (ii) default has occurred;
  - (iii) the debt is due and payable;
  - (iv) no pre-existing dispute exists; and
  - (v) the petition is complete, maintainable and filed within limitation.
28. Accordingly, Company Petition (IB) No. 25 of 2024 is admitted under Section 9(5) of the Insolvency and Bankruptcy Code, 2016. Since no Insolvency Professional has been proposed by the Operational Creditor, we appoint Mr. Amrish Kumar Chourasia, with registration no. IBBI/IPA-002/IP-N00843/2019-2020/12687 having email address of [amrishchourasia@gmail.com](mailto:amrishchourasia@gmail.com) as the Interim Resolution Professional for carrying out the functions of the IRP.
29. In terms of Section 14 of the Code, moratorium is hereby declared prohibiting the institution or continuation of suits or proceedings against the Corporate Debtor, transfer or disposal of its assets, enforcement of any security interest and recovery of property by owners or lessors.
30. The moratorium shall remain in force until completion of the Corporate Insolvency Resolution Process or approval of a resolution plan or passing of liquidation order, as the case may be.

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31. The Operational Creditor shall deposit a sum of Rs.2,00,000/- towards initial CIRP expenses with the Interim Resolution Professional within three days of this order.
32. The Interim Resolution Professional shall perform duties as prescribed under Sections 15, 17 and 18 of the Code and shall file the progress report before this Tribunal within twenty days.
33. The powers of the Board of Directors of the Corporate Debtor shall stand suspended with immediate effect and shall vest in the Interim Resolution Professional.
34. The Registry is directed to communicate this order to the Interim Resolution Professional forthwith.
35. **Company Petition (IB) No. 25 of 2024 stands allowed.**

Sd/-  
**Sanjeev Sharma**  
**Member (Technical)**

Sd/-  
**Mohan Prasad Tiwari**  
**Member (Judicial)**