IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.303
C.P.(IB)/224(AHM)2025

Proceedings under Section 9 IBC

IN THE MATTER OF:

Tina Marketing Private Limited ....**Applicant**
V/s
Anjali Stainless Private Limited ....**Respondent**

Order delivered on: 30/07/2026

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)

SJ/AD/AP

IN THE NATIONAL COMPANY LAW TRIBUNAL

AHMEDABAD BENCH, COURT - II

CP (IB) No. 224 of 2025

(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:

TINA MARKETING PRIVATE LIMITED
CIN: U51100GJ1989PTC012470
Registered Address: 183,
Manekbag Socity, Lane No. 15,
Ambawadi, Ahmedabad,
Gujarat -380015
Email ID: advdgpartners@gmail.com

...Applicant/
Operational Creditor

V/s.

ANJALI STAINLESS PRIVATE LIMITED
CIN: U45200GJ2010PTC062169
Registered Address: 301, Third Floor,
Neelgagan Plaaza, Opp. Police Commissioner Office,
Shahibag Road, Ahmedabad,
Gujarat, India – 380004
Email ID: anjalistainless86@gmail.com

...Respondent/
Corporate Debtor

Order pronounced on 30.07.2026

Coram:

MRS. CHITRA HANKARE

HON'BLE MEMBER (JUDICIAL)

Sd/-

-SD-

DR. V. G. VENKATA CHALAPATHY

HON'BLE MEMBER (TECHNICAL)

Present:

For the Applicant : Mr. Dheeraj Garg, Adv.
For the Respondent : Mr. Dhaval K. Shah, 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 Tina Marketing Private Limited ("Operational Creditor/ OC") seeking to initiate Corporate Insolvency Resolution Process against Anjali Stainless Private Limited ("Corporate Debtor/CD") for having default of an amount of Rs. 1,71,48,787/-. The dates of default stated in application is 09.11.2022.

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

   a. The Applicant/Operational Creditor submits that the operational debt has arisen on account of the supply of goods, namely C.R.S.S. cut sheets, S.S. flats, and S.S. flat cut tukdas, covered under the corresponding e-invoices and e-way bills. It is stated that pursuant to the purchase orders placed by the Corporate Debtor, the Operational

Sd/-

-SD-

Creditor supplied the said raw materials, which were directly dispatched from the factory premises of its processor/vendor to the Corporate Debtor. The Applicant further submits that, in terms of Section 32 of the Sale of Goods Act, 1930, unless otherwise agreed, delivery of goods and payment of the price are concurrent obligations, and therefore, the Corporate Debtor was liable to make payment upon delivery of the goods

b. The applicant/operational creditor issued demand notice in form 3 under section 8 of the IBC, 2016 dated 01.04.2025. The Corporate Debtor sent undated reply to the operational creditor on 31.08.2019, therefore, this petition. The Corporate Debtor neither issued any reply to the Demand Notice nor raised any dispute in terms of Section 8(2) of the Insolvency and Bankruptcy Code, 2016. The Applicant further contended that several legal notices had also been issued to the Corporate Debtor prior thereto, to which no denial or dispute in respect of the claims has been made by the Corporate Debtor till date.

c. The applicant/operational creditor has relied on the

-SD-

Sd/-

following documents

i. copy of demand notice dated 01.04.2025
ii. Affidavit by the Operational Creditor as required under section 9(3)(b) of the Insolvency & Bankruptcy Code, 2016,
iii. Copy of invoices along with e way bills, for supply of goods,
iv. Ledger Account Statement of the Corporate Debtor from the Books of the Accounts of the Operational Creditor ledger statement etc.
v. GST returns
vi. Copy of legal notices sent by the operational creditor on 01.03.2024 and 16.05.2024
vii. copy of email/certificate of NeSL, the status of default as, "deemed to be authenticated".

3. The Respondent/Corporate Debtor has filed its Reply opposing the present application and has, at the outset, contended that the application is not maintainable, being based on incorrect facts and unsupported allegations. It is submitted that the Applicant has failed to establish the existence of an operational debt or default within the meaning of the Insolvency and Bankruptcy Code, 2016.

4. The Respondent has specifically denied the alleged liability and contended that the Applicant has failed to prove the actual delivery of goods under the invoices relied upon in the

-SD- Sd/-

petition. It is submitted that the invoices, e-way bills, GST returns, NeSL report, and ledger account are unilateral documents generated by the Applicant and do not constitute proof of delivery or acknowledgment of liability. According to the Respondent, no delivery challans, lorry receipts, goods received notes (GRNs), weighbridge receipts, or acknowledged invoices evidencing receipt of the goods have been produced by the Applicant.

5. It is further submitted that the Respondent follows a prescribed procedure for receipt of goods, whereby delivery documents are verified, goods are weighed, and acknowledgements are issued only upon actual receipt. In the absence of any such acknowledgements in respect of the alleged supplies, the Respondent disputes that any goods were delivered under the invoices in question.

6. The Respondent has also disputed the computation of the alleged operational debt and the date of default, contending that there was no purchase order or agreement on record prescribing the contractual terms relating to payment. It is, therefore, submitted that the Applicant has failed to establish the existence of an operational debt and default,

Sd/- Sd/-

and the present application under Section 9 of the Insolvency and Bankruptcy Code, 2016 deserves to be dismissed.

7. In rejoinder, the Applicant contended that the Reply filed by the Corporate Debtor is not maintainable as the same has not been filed by a duly authorised person and is unsupported by any Board Resolution or valid vakalatnama. The Applicant further submitted that the objections raised by the Corporate Debtor regarding delivery challans, purchase orders and allied issues are beyond the scope of Section 9(5)(ii) of the Insolvency and Bankruptcy Code, 2016 and are, therefore, irrelevant for deciding the maintainability of the present application. It is contended that none of the statutory grounds for rejection of an application under Section 9(5)(ii) exist in the present case, as there is neither any payment of the operational debt nor any pre-existing dispute raised prior to the issuance of the demand notice. The Applicant contended that the dispute regarding non-delivery of goods has been raised for the first time in the Reply and, therefore, does not constitute a pre-existing dispute under the Code.

8. The Applicant has further submitted that the operational debt stands substantiated by invoices, e-way bills, GST

Sd/- Sd/-

returns and the record maintained with the Information Utility (NeSL). It is contended that the supplies were effected under the recognised "Bill-to-Ship-to" model, whereby the goods were dispatched directly from the vendor's premises to the Corporate Debtor at the instructions of the Operational Creditor, and that such transactions are duly recognised under Section 10(1)(b) of the Integrated Goods and Services Tax Act, 2017, read with Rule 46(o) of the CGST Rules, 2017. According to the Applicant, the e-way bills, invoices and transport documents sufficiently establish the supply and delivery of goods. Further, the NeSL report is duly supported by the accompanying invoices, GST Returns and Demand Notice. The Applicant/had also paid a substantial GST amount of Rs. 26,15,917/- on the sales made to the CD, which is duly reflected in the statutory returns of the OC namely GSTR-1 and GSTR-3B returns.

9. The Applicant has also disputed the documents relied upon by the Corporate Debtor, contending that the alleged stock inward register is merely a summary of purchases and that The GSTR-3B return relied upon and produced by the Corporate Debtor pertains to the tax period of December

Sd/- Sd/-

2022, whereas the invoices and supplies forming the basis of the Operational Creditor's operational debt relate to the period August to November 2022. Consequently, the said return does not correspond to the period of transaction in question and is therefore irrelevant to the present dispute.

10. The Applicant further submitted that there is no statutory requirement for a written purchase order under the Insolvency and Bankruptcy Code, 2016 or the Sale of Goods Act, 1930. It is contended that, in the absence of any contrary agreement, payment became due upon delivery of the goods in terms of Section 32 of the Sale of Goods Act, 1930.

11. The applicant relied on the following judgements:

    a. *Ashok Kumar Bhasin vs. ABB Power Products and Systems India Limited Company Appeal AT)(Insolvency) No. 414 of 2023.*
    b. *Beacon Trusteeship Ltd. v. Earthcon Infracon Pvt. Ltd.- (2019) ibclaw.in 143 NCLAT*
    c. *Rajratan Babulal Agarwal vs. Solartex India Pvt. Ltd. & Ors.- Civil Appeal No. 2199 of 2021*
    d. *Gopal Krishnaji Ketkar vs Mahomed Haji Latif & Ors. (1968 SCR (3) 862)*
    e. *V.S. Krishnan and Ors. vs Westfort Hi-Tech Hospital Limited [2007]136COMPCAS699(CLB), [2007]76SCL301(CLB)*
    f. *Metals and Metal Electric Pvt. Ltd. v. Prince Foundations Ltd.-*

Sd/- Sd/-

(2025) ibclaw.in 891 NCLAT

12. The Respondent filed sur rejoinder and contended that the Applicant has sought to improve its original case by introducing a new plea regarding the "Bill-to-Ship-to" model, which was not pleaded in the Section 9 application. According to the Respondent, the dispute raised is not merely regarding the quantum of debt but pertains to the very existence of the operational debt itself, which depends upon proof of delivery of goods. The Respondent submitted that the dispute pertains to the very existence of the operational debt and therefore constitutes a pre-existing dispute under Section 9(5)(ii)(d) of the IBC. The Respondent contended that GSTR-2A is merely an auto-populated statement and does not establish receipt of goods. It is further submitted that reversal of ITC through GSTR-3B and GSTR-9 demonstrates that the alleged supplies were disputed.

13. It is further submitted that prior to introduction of the Invoice Management System (IMS) with effect from 01.10.2024, there existed no facility on the GST portal enabling a recipient to reject wrongly uploaded invoices, and therefore reversal of ITC through GSTR-3B and GSTR-9 was the only available statutory mechanism to dispute such

Sd/-

Sd/-

invoices. It is also contended that payment of GST by the Applicant is a unilateral act and cannot create liability upon the Corporate Debtor in the absence of actual supply of goods.

14. It is further contended that the transporter's invoices relied upon by the Applicant merely evidence transactions between the transporter and a third party and do not establish delivery to the Corporate Debtor. The reliance placed by Applicant on Section 32 of the Sale of Goods Act, 1930, is premature. The said section presumes that a valid contract of sale with an agreement for delivery exists. In the present case, the very fact of delivery is disputed. Further submitted that liability of a buyer arises only on receipt of goods.

15. The Respondent relied on the following judgements:

    i. *Mohinder Kumar Gandhi Vs. Praveen Kumar 2025 SCC OnLine Del 6374*
    ii. *Spik Enviro Management Pvt Ltd Vs. Vision Earthcare Pvt. Ltd 2025 SCC OnLine NCLAT 317*
    iii. *Band Realty Services Ltd Vs. Sir John Bakeries India 2022 SCC NCLAT 290*
    iv. *Avdhut Agency Vs. Yellow Spun and Linens Pvt Ltd CP (IB) No. 1146/MB-IV/2021 Order dated 11.07.2023*
    v. *Malik Traders Vs. State of U.P. (2023) 11 Centax 285 (All)*
    vi. *State of Karnataka Vs. Ecom Gill Coffee Trading Pvt Ltd. (2023)*

Sd/-

Sd/-

4 Centax 223 (S.C.)

16. In compliance with the order dated 01.04.2026 regarding GST issue The Applicant filed affidavit and submit Circular No. 170/02/2022- GST dated 06.07.2022 as released by GST Policy Wing, Central Board of Indirect Taxes and Customs placed on record. The Respondent also filed affidavit on the same issue and deal with the arguments of applicant of said affidavit.

17. Both the parties have filed written submissions. Perused the documents on record alongwith written submissions of the parties.

18. **Observations & Conclusions:**

    a. The applicant for proving his debt due as evidence has relied mainly upon the GST compliance and the e way bills. But as contended by the respondent, there has been no proof of delivery. The respondent denies receipt of an invoice and or goods as claimed in the present petition. He has also submitted of an evidence from page 43 of the petition issued by Exclusive Steel and Casting Limited to the petitioner and stated to have been shipped to the address of the CD. It is submitted that neither the name of the respondent nor GSTN of the respondent has been

Sd/- Sd/-

mentioned and only address is shown.

b. This tribunal directed the GST officials to be present on 3.07.2026 of the respective zone to reflect the delivery of goods as per the portal. The GST officials only confirmed that the GST compliance is made but expressed no concern with whether the goods were supplied or not.

c. It is submitted by the applicant that the goods were sent directly from the factory premises of the processor/vendor of the OC and hence sale of goods act, 1932 applies. There are no purchase or sale order between partier and the supply is mentioned to be done through truck to the address mentioned to be as Old Survey No.990, Block No.82, Kubadthal, Tal Daskoi Gujarat. The invoices are stated to have been due between 16.8.2022 to 8.11.2022 and default is reckoned 1 month subsequent to that date. A legal notice is issued on 1.04.2025 in form 3 & 4, but to an address of the respondent at 183, Manekbag Society Lane No. 15, Ambawadi, Ahmedabad, Gujarat 380015. No where in the invoice the address of the respondent mentioned in the demand notice is mentioned. The e- way bills mention that the goods are dispatched from one

-SD- Sd/-

Exclusive Steel and Casting Limited to Tina Marketing in Gujarat and ship to an address in Kubadthal, Daskol, Gujarat 382430.

d. Apparently, the Applicant has filed this application, without a valid and legally enforceable document, merely giving his GST compliance and e way bill which are not supported by delivery to the respondent and does not seem to be a valid commercial transaction. The respondent contends that there are no signed delivery challans, acknowledged lorry receipts, weighment slips, GRN, purchase orders and any acknowledgement of invoices by the respondent. There are no prior communications made by applicant to the respondent and the matter is known only after demand notice is issued which apparently is used as a formality to file Sec 9 application. It apparently appears that the invoices could have been created on GST portal, the genuineness of trade is not established, the regulatory authority is not confirming whether it tantamount to delivery also. The applicant seems to be only relying on GST return and E way bill. This does not mean that any applicant complying

Sd/- Sd/-

with GST return can claim a debt on obnoxious or illegal demand on a respondent as proof of trade in valid law are to be supported by relevant documents. Whether both the applicant and respondent have used the process to abuse of law and did a trading for mere record is beyond the purview as the debt apparently is not genuine. The respondent submitted that there was erroneous entry seen in the ITC claimed which was subsequently reversed. It is up to the GST authorities to investigate whether such entities are involved in bogus trading without valid documents based on its technicalities. This tribunal cannot consider any of such invoices without proper sale and purchase order/s, delivery challan with proof of acceptance. If the same is not there it is a dispute, which exists on the date on which such transaction has not taken place.

e. In this regard, we also rely on a judgment of Hon'ble Delhi High Court which rejects GST e-way bills as conclusive evidence of 11.10.2025. The debt due in delivery in commercial suits commercial transactions are not mere entries shown by applicant, also proof of such delivery

Sd/- Sd/-

especially when reliance is made on sale of goods to the respondent. Mere GSTR returns cannot form the basis of claiming any due from respondent. When the delivery of goods itself is disputed, it merely becomes a paper transaction on which the applicant is not able to legally prove the debt.

f. Further, the applicant has not claimed any interest even after two years of issue of demand notice on invoices, which apparently does not provide for the same, and the paid up capital of the applicant is only Rs. 1 lakh as against authorised capital of Rs.2 lakhs whereas the respondent submits that he has sufficient net worth an entity established in 2010 and has disputed the entire transaction, legally not sustainable and is a void transaction. We rely also on the judgment in the matter before Hon'ble High Court of Delhi in RFA(COMM)489/2025 CM appl 51518/2025 *(Mohinder Kumar Gandhi Vs Praveen Kumar)* in rejecting the application for lack of proper and legal evidence provided to prove the debt by the applicant.

g. It is also becoming serious matter of concern, if GST

Sd/-   Sd/-

authorities do not look in to irregularities if any when certain entity with just Rs 1 lakh of capital is involved in various trades using GST returns/e-way bills. A copy of the order be marked to the GST authorities by as we are not satisfied with the reply of both registrar officials who appeared in the matter.

h. As the requirements of Section 9 of the Insolvency & Bankruptcy Code, 2016, are not fulfilled the application is liable to be rejected.

19. Hence we pass following order

ORDER

CP(IB) No. 224 of 2025 is rejected and disposed of.

-SD-

sd/-

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

CHITRA HANKARE
MEMBER (JUDICIAL)

KJ-LRA