

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 72 of 2021**

**IN THE MATTER OF:**

**Pushpam Foods and Beverages Pvt. Ltd.**

Having Registered Office at:  
SR. No. 34, Lokmat Bhawan,  
Sinhagad Road, Vadgaon Khurd  
Pune-411041, Maharashtra, India

**...Appellant.**

**Versus**

**Manpasand Beverages Ltd.**

Having Registered Office at  
1768 and 1774 Patki – 1,  
Village Manjusar Taluka Savli,  
Vadodara – 391775, Gujarat

**...Respondent.**

**Present:**

**For Appellant: Ms. Surekha Raman and Shrenik Gandhi,  
Advocates.**

**For Respondent: Mr. Swaroop George, Advocate (Caveator)**

**ORDER**  
**(Virtual Mode)**

**09.03.2021** The Learned Counsel for the Appellant/Operational Creditor is submitting that the Impugned Order wrongly held that the person who was authorized to issue Notice under Section 8 of Insolvency and Bankruptcy Code, 2016 (IBC in short) and the person who filed Section 9 Petition were not the same and thus questioned the authorization and on such basis rejected the Application.

2. At this stage, Mr. Swaroop George, Advocate who appeared last time on caveat for the Corporate Debtor submits that after the such date of 08.02.2021, the Adjudicating Authority has in a separate proceeding initiated Corporate Insolvency Resolution Process (CIRP in short) against the Corporate Debtor. The

Learned Counsel electronically sent copy of the Order. It is stated that the C.P. (IB) No. 503/9/NCLT/AHM/2019 has been admitted on 01<sup>st</sup> March, 2021. The Parties are Huhtamaki PPL Limited Versus M/s. Manpasand Beverages Ltd. The Copy of the Order electronically sent by Mr. Swaroop George, Advocate is taken on record and marked 'X' for identification.

3. It appears that on Application by another Operational Creditor CIRP has been initiated against the present Respondent. This being so, the Appellant is at liberty to file claim in the CIRP against the Respondent. The Learned Counsel for the Appellant makes a request that in case the Respondent settles with that Applicant Huhtamaki PPL Limited before Committee of Creditors (CoC in short) is constituted, the Appellant should be protected so as to agitate this Appeal.

4. For reasons mentioned above, the present Appeal is disposed with liberty to the Appellant to file claim with the CIRP initiated in C.P. (IB) No. 503/9/NCLT/AHM/2019. The Appeal is disposed with further liberty to the Appellant to seek restoration of the present Appeal, in case before CoC is formed the Respondent Corporate Debtor settles with the Operational Creditor in C.P. (IB) No. 503/9/NCLT/AHM/2019 before CoC is formed.

The Appeal is disposed accordingly.

**[Justice A.I.S. Cheema]**  
**Member (Judicial)**

**[Dr. Alok Srivastava]**  
**Member (Technical)**

Basant B./md