



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

IBC Case Law Capsule

Number 242

(September 22, 2025)

Gagandeep Dudh Sankalan Kendra Vs. Kute Sons Dairys Limited

C.P. (IB)/161/MB/2025

Date of NCLT Judgement, 15 September 2025

Facts of the Case: -

The present application was filed by Mr. Pramod Anandrao Gawade, Sole Proprietor of M/s Gagandeep Dudh Sankalan Kendra, (hereinafter referred as 'the Operational Creditor') against M/s Kute Sons Dairys Limited, (hereinafter referred as 'the Corporate Debtor (CD)') 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 seeking initiation of Corporate Insolvency Resolution Process (CIRP). The Applicant claims a default amount of Rs. 1,55,84,847/- with a default date of 03.05.2024

The Applicant, engaged in supplying milk, has been regularly providing goods to the Corporate Debtor (CD), which is involved in dairy product manufacturing. The Applicant had 26 post-dated cheques from the CD, totaling ₹1,30,00,000/-, issued between 15.01.2024 and 26.03.2024, which were dishonored despite being recorded as cleared in the CD's ledger. Additionally, Milk Supply Bills issued by the CD incorrectly reflect full payments for goods supplied, although the Applicant has only received partial payments, with some ledger entries showing payments that were never received. The CD acknowledged the outstanding debt in a letter dated 18.04.2024, promising repayment within 15 days, but failed to do so. A Demand Notice was issued on 23.10.2024, which was refused by the CD. The Applicant, having filed its Income Tax Return for the FY 2023-2024, claimed the default amount and considered 09.11.2024 as the date of default due to the CD's failure to settle the dues. Furthermore, the Applicant filed multiple affidavits to clarify that the correct date of default is 03.05.2024, correcting earlier typographical errors where they were mistakenly stated as 09.11.2024, and submitted an amended Form 5 along with a CA certificate confirming outstanding dues.

The Applicant claims that cheques issued by the CD to secure payment were dishonoured, yet the CD's ledger falsely records them as paid. Despite partial payments, the CD's records inaccurately show full settlements, supported by the Applicant's bank statements and a Chartered Accountant's certificate. The CD contests the claim, arguing the Applicant failed to provide crucial documents such as invoices and delivery notes, and highlights discrepancies in ledgers, leading to a pre-existing dispute. The CD further disputes the date of default, the acknowledgment of debt, and the statutory threshold required for maintaining the application, citing several judgments, including *SFO Technologies Pvt. Ltd. v. Vanu India Pvt. Ltd.* and *Sabarmati Gas Ltd. v. Shah Alloys Ltd.*, among others.



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NCLT's Observations:

After reviewing the documents and hearing both parties, the Tribunal found that the Applicant had been regularly supplying milk to the CD from 2019 to 2024 and held 26 post-dated cheques issued by the CD's group company, M/s Tirumalla Trademarts India Pvt. Ltd., to secure payment. The CD failed to file its reply by the deadline and was set ex-parte on 07.05.2025. The Applicant's claim that the CD's ledger falsely recorded payments based on dishonoured cheques was supported by bank statements and a Chartered Accountant's certificate. The Tribunal found the CD's dispute unsubstantiated, stating that vague, after-the-fact disputes cannot be considered "pre-existing" under Section 8(2)(a) of the IBC.

Further, the Tribunal dismissed the CD's argument about the statutory threshold of ₹ 1 crore, as the Applicant's own ledger and documents proved the debt exceeded the threshold. The CD's reliance on its inaccurate ledger was found to be unreliable. The Tribunal also clarified that the date of default was properly established as 03.05.2024, based on a consistent course of dealings and the Applicant's affidavits. Additionally, the Tribunal held that minor clerical errors, such as the misnaming of the CD, were not fatal to the Application. As a result, the Application was admitted under Section 9 of the IBC, 2016.

Order/Judgement:

The Tribunal has admitted the CIRP application filed by Gagandeep Dudh Sankalan Kendra (OC) against Kute Sons Dairys Limited (CD) under Section 9 of the IBC, 2016. A moratorium has been imposed, halting legal actions, asset transfers, and recoveries against the CD. The OC is required to deposit Rs. 3,00,000 to cover the initial CIRP costs, which will be repaid from the Committee of Creditors' funds.

Case Review: CIRP Application allowed.