

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**COURT - 2**

ITEM No.301  
CP(IB)/258(AHM)2022

**Proceedings under Section 10 IBC**

**IN THE MATTER OF:**

Byindia Creations Pvt Ltd

.....Applicant

.....Respondent

**Order delivered on: 23/06/2025**

**Coram:**

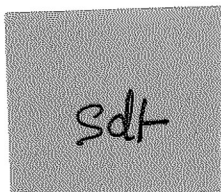
Mrs. Chitra Hankare, Hon'ble Member(J)

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

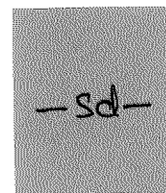
**ORDER**

The case is fixed for 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 BENCH, COURT-II**

**CP (IB)/258/10/NCLT/AHM/2022**

*(Under Section 10 of the Insolvency & Bankruptcy Code, 2016 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)*

**In the Matter of:**

**M/s. Byindia Creations Private Limited**

Having its address at:

4, Bhumika Ind. Estate,  
Bhatar Char Rasta, Majura,  
S.Y. No.43/2, Surat, GJ 395007, IN.

..... Petitioner

**Order Pronounced On: 23.06.2025**

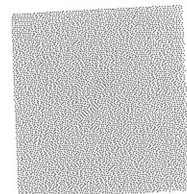
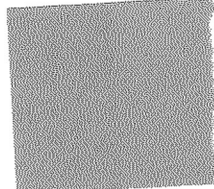
**Coram:**

**MRS. CHITRA HANKARE  
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY  
HON'BLE MEMBER (TECHNICAL)**

**Presence:**

For the Petitioner	: Ms. Nitu Chaturvedi, Advocate a.w. Mr. Aditya Raval, Advocate.
For the Respondent	: Ms. Hirva Dave, Advocate a.w. Mr. Jaimin Dave, Advocate for PNB.



**JUDGEMENT**

1. This application is filed under Section 10 of IBC, 2016 by the applicant who is the Corporate Debtor. The CD was incorporated on 24.03.2013 with UIN No. U17291GJ2013PTC 075257 by ROC Gujarat, with registered address at 4, Bhumika Ind Estate, Bhatar Char Rasta Majura, Surat. The CD had 2 directors who authorised Mr Praveen Kumar Daruka for submission of this application in its board meeting dated 30.6.2022 for filing Insolvency under Section 10 of the IBC, 2016. The CD has submitted its balance sheet as on 31 March 2022.
2. It is submitted that the applicant defaulted in payment of its debt due to its financial creditor, namely Punjab National Bank and various Operational creditors (71). It is submitted that the applicant owed an amount of Rs.230.74 lakh to the sole financial creditors and various amounts to the operational creditors. The last renewal of the credit facility was on 02.01.2020 in favour of Oriental Bank of Commerce (Merged with PNB) and mortgage documents were created in favour of the financial

creditor on 14.03.2016. The FC had issued various demand notices dated 04.01.2021, 15.12.2021, 16.02.2022 and 01.06.2022 and the account was declared NPA on 11.04.2022. A list of securities mortgaged with the charge created in records of ROC and the valuation reports have been annexed to the application. Copy of demand notices, reminders from FC and a copy of the bank statement is submitted by the applicant. A copy of the financial accounts statements for period ended 31.03.2020, 31.03.2021 and provisional financial accounts for the period ended 31.03.2022 are submitted along with a copy of e-court status and memo of criminal case No.76714 of 2021 filed under section 138 of NI Act, 1881 before Hon'ble Metropolitan Magistrate Calcutta. The applicant has also submitted that it is a MSME unit dealing in manufacturing activities relating to leather products. The sole financial creditor and all the operational creditors to whom an amount of Rs.5,32,17,057.78 is stated to be due have been arrayed as respondents. The applicant after providing proof of service also placed a paper publication



in compliance of order dated 15.12.2022 to respondents. Necessary ledger records are provided as exhibits by applicant as proof of debt due to be paid.

3. The financial creditor filed his vakalatnama and appeared on various hearings and only stated that he has no objection to the application filed. Respondent No.62 appeared and stated that the date of default being 04.01.2021, thus no application for CIRP of the CD be initiated as it falls under the suspended period and the application is liable to be dismissed. Admitting the application will cause loss to the respondent if admitted and the applicant being an MSME has to invoke the pre-packaged CIRP. The applicant has further not complied with the provisions of Section 54 A to Section 58 of IBC and is liable to be dismissed. Further the respondent has initiated certain action against the applicant before the MSME Counsel New Delhi which has been concealed by the applicant. As per the documents submitted by the applicant, the respondent No.62 had 04.01.2021 issued a demand notice for repayment of operational debt due. A notice was also sent to the GST department as per our

order dated 26.11.2024 as they were dues as per balance sheet but none appeared.

4. Vide order dated 15.04.2025 the respondent PNB was directed to file reply with copy to the other side. Even though on hearing dated 01.01.2025, the FC had stated that he had no objections to this application, there was no reply filed. The LD counsel for Income Tax department filed an affidavit stating that they had an outstanding due amount of Rs.3,06,490/- for the year 2011-12.

5. Observations:

It appears from documents submitted that the applicant is eligible to file this application under Section 10 of IBC, 2016. The dues to debtors including financial creditors have not been paid and the outstanding debt is more than the threshold amount for admitting the application. Further the date of NPA is stated to be reckoned only as per the letter dated 11.04.2022 by financial creditor as the earlier letters were mere demand notices to regularise the account. Hence the submissions of the respondent No.62 do not gain validity that the debt was due during the suspended period (Section 10A of IBC, 2016) even if

the same of a particular creditor was due during that period. The threshold amount of due has occurred after 11.04.2022 by FC who is a respondent in the matter as per documents submitted. Further the applicant has not chosen to file this application under Section 54A does not mean that this application filed under Section 10 of IBC 2016 is not to be admitted. As per the evident statements submitted by affidavit the GST registration has been cancelled on 26.10.2021 and there are no dues to be paid. Further, there are no documents submitted as to whether there has been any initiation of proceedings before the DRT and this application has been filed within the permissible period under limitation seeking insolvency of the CD under Section 10 of IBC, 2016.

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

**ORDER**

- I. The CP (IB) 258 of 2022 is allowed.
- II. The Corporate Debtor – M/s Byindia Creations Private Limited is admitted in 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 the Resolution Professional from the panel suggested by IBBI, Mr. Mohit Bipinchandra Aditya, registered insolvency professional having IBBI registration no. IBBI/IPA-001/IP-P-01966/2019-2020/13004, email- camohitaditya@gmail.com 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.

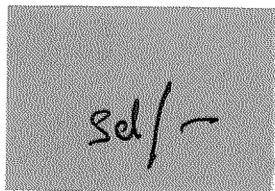
- VI. The IRP so appointed shall make a public announcement of the initiation of Corporate Insolvency Resolution Process and call for submissions of claims under section 15, as required by Section 13(1)(b) of the Code.
- VII. The IRP shall perform all his functions as contemplated, inter-alia, by sections 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.

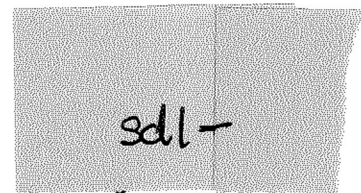
- IX. The IRP shall be under a duty to protect and preserve the value of the property of the 'corporate debtor company' and manage the operations of the corporate debtor company as a going concern as a part of obligation imposed by section 20 of the Code.
- X. The IRP or the RP, as the case may be shall 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 applicant to pay IRP a sum of Rs.1,00,000/- (Rupees One 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 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 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.



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



**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**