

IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.304

IA(Liq.)/20(AHM)2024 in CP(IB)/322(AHM)2022

Proceedings under Section 33 r/w 34 of the IBC,2016

IN THE MATTER OF:

Mr.Rajendra Devidas Puranik RP of M/s.Yours Ethnic Foods Private Limited

.....Applicant

.....Respondent

ITEM No.305

IA/1579(AHM)2024 in CP(IB)/322(AHM)2022

Proceedings under Section 60(5) of the IBC,2016 r/w Rule 11 of NCLT Rules,2016

IN THE MATTER OF:

Sandip N.Patel Suspended Management of M/s.Your Ethic Food Pvt

.....Applicant

V/s

.....Respondent

Rajendra D Puranik RP of M/s.Yours Ethic Food Pvt.Ltd And Another

ITEM No.306

IA/702(AHM)2024 in CP(IB)/322(AHM)2022

Proceedings under Section 60(5) of IBC,2016 r/w rule 11 of NCLT Rules,2016

IN THE MATTER OF:

Mr.Sandip N.Patel

.....Applicant

V/s

.....Respondent

Rajendra D Puranik RP for M/s.Yours Ethinc Foods Orivate Limited

Order delivered on: 05/06/2025

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

Sdt

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

Sdt

CHITRA HANKARE
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)**

IA 20 (liq.) of 2024

In

CP (IB) No. 322 of 2022

(Filed under Section 33 r.w Section 34 of the IBC, 2016 seeking initiation of Liquidation Process against the Corporate Debtor)

IN THE MATTER OF:

Mr. Rajendra Devidas Puranik
Resolution Professional of
M/s. Yours Ethnic Foods Private Limited
Flat No. -54 Goregaon East Prathmaesh
Co-Op Housing Society Limited,
Vanrai Colony, Opp. Hub, Goregaon East,
Mumbai- 400 065

... Applicant

alongwith

IA 702 of 2024

In

CP(IB) No. 322 of 2022

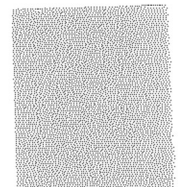
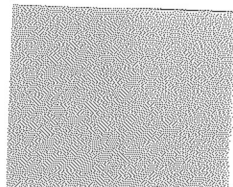
(Filed under Section 60(5) of the IBC, 2016 r.w. Rule 11 of the National Company Law Tribunal Rules, 2016 for consideration of Resolution Plan)

Mr. Sandip N Patel
3 D, Nidhishri Corporation, Nr. Vimal House,
Vithalbhair Patel Colony, Stadium Road,
Navrangpura, Ahmedabad-380013

....Applicant

Versus

1. Mr. Rajendra Devidas Puranik
Resolution Professional of
M/s. Yours Ethnic Foods Private Limited
C-601, Dindoshi Onkar CHS Ltd.,



Shivdham Complex,
Gen A K Vaidya Marg,
Malad East, Mumbai- 400097
Mumbai- 400 065

...Respondent No. 1

2. Committee of Creditors of
M/s. Yours Ethnic Foods Private Limited
Through HDFC Bank Ltd.
HDFC Bank House,
Senapati Bapat Marg, Lower Parel (w)
Mumbai- 400 013, Maharashtra India
Regional office at:
Department of Special Operations
3rd Floor, Shivalik,
III Drive in Cinema,
Bodakdev, Ahmedabad ,
Gujarat-380054

...Respondent No. 2

alongwith

IA 1579 of 2024

In

CP(IB) No. 322 of 2022

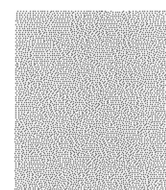
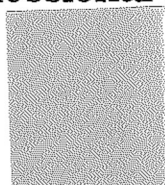
(Filed under Section 60(5) of the IBC, 2016 r.w. Rule 11 of the National Company Law Tribunal Rules, 2016 for consideration of Resolution Plan)

Mr. Sandip N Patel
Suspended Management of
M/s. Yours Ethnic Foods Private Limited
3 D, Nidhishri Corporation, Nr. Vimal House,
Vithalbhai Patel Colony, Stadium Road,
Navrangpura, Ahmedabad-380013

....Applicant

Versus

1. Mr. Rajendra Devidas Puranik
Resolution Professional of



M/s. Yours Ethnic Foods Private Limited
C-601,Dindoshi Onkar CHS Ltd.,
Shivdham Complex,
Gen A K Vaidya Marg,
Malad East, Mumbai- 400097
Mumbai- 400 065

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Mumbai- 400 013, Maharashtra India
Regional office at:
Department of Special Operations
3rd Floor, Shivalik,
III Drive in Cinema,
Bodakdev, Ahmedabad ,
Gujarat-380054

...Respondent No. 2

Order pronounced on 05.06.2025

Coram:

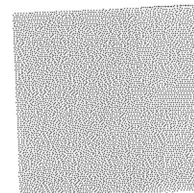
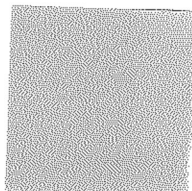
MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)

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

Present:

For the Applicant : Mr. Jaimin Dave, Adv. Ms. Hirva Dave

For the Respondent : Mr. Tirth Nayak, Adv. a.w. Mr. Kuldeep
Adesara, Adv.



COMMON JUDGEMENT

IA 20 (Liq.) of 2024

1. The present Application is filed by Resolution Professional (“RP”) under Section 33 read with Section 34 of the Insolvency & Bankruptcy Code, 2016 (“IBC”, 2016) seeking order of liquidation of Corporate Debtor namely M/s. Yours Ethnic Foods Private Limited.
2. The Financial Creditor Svakarma Finance Private Limited filed an application under Section 7 of the IBC, 2016 seeking initiation of CIRP of the Corporate Debtor i.e. M/s. Yours Ethnic Foods Private Limited. The said application was admitted into CIRP vide order dated 09.10.2023 in CP(IB) No. 322/7/NCLT/AHM/2022 and IRP Mr. Rajendra Devidas Puranik was appointed as the Interim Resolution Professional of the Corporate Debtor.
3. The Corporate Debtor Company incorporated under the relevant provisions of the Companies Act, 2013 bearing CIN No. U15490GJ2014PTC078368 engaged in the business of manufacturing, exporting and supplying blended spices, masalas & other food products.

4. The Applicant submits that as contemplated Under Section 15 of the Code r.w. Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016, the IRP made public announcement in Form 'A' on 13.10.2023 and invited the claims from all the creditors.
5. It is stated that prior to constitution of CoC on 27.10.2023, the suspended management of the Corporate Debtor had preferred an appeal bearing no. Company Appeal (AT) (Insolvency) No. 1419 of 2023 against the said CIRP admission order dated 09.10.2023. Vide order dated 30.11.2023, the Hon'ble NCLAT vacated the stay granted on constitution of CoC, hence, the CoC comprising of following members as per relevant provisions of IBC, 2016 :

Sr. No.	Name of the Member	Nature of Debt	Amount of claim Admitted (in Rs.)	Voting share (in%)
1	HDFC Bank Limited	Secured	16,08,99,829.59/-	66.16
2	ICICI Bank Limited	Secured	6,23,41,807.40/-	25.64
3	Svakarma Finance Private Limited	Unsecured	1,99,41,128/-	8.20
		Total	9,83,72,924.99/-	100

Vide an order dated 18.12.2023, this Tribunal allowed IA

No. 1398 of 2023 and take on record the certifying the constitution of CoC.

6. In the first meeting of CoC held on 12.12.2023, CoC had unanimously resolved to continue the Interim Resolution Professional. Applicant herein had also requested the suspended management of the Corporate Debtor to handover possession of the assets, inventory, etc. belonging to the Corporate Debtor in accordance with the provisions of the IBC, 2016. The CoC had resolved unanimously to file an application under Section 19(2) of the IBC, 2016 for taking suitable directions from this Tribunal. In the second meeting of CoC held on 27.12.2023, the CoC was apprised with regards to reconstitution of CoC by treating ICICI Bank limited as unsecured financial creditor due to non-receipt of any evidence with regards to holding of any security interest.
7. In the third meeting of CoC held on 02.02.2024 wherein it was decided (i) the appointment of the registered valuers for carrying out valuation of land & building, Plant and machinery as well as security and financial assets (ii) the appointment of the Transaction Auditor and (iii) issuance of

official letter to the statutory auditor of the Corporate Debtor for complying with the provisions of IBC, 2016. The CoC has also approved invitation of EOI to submit Resolution Plan, Eligibility Criteria, request for resolution plan and Evaluation Matrix.

8. In the 4th meeting of CoC it was decided to appoint second registered valuers for carrying out valuation of Land & Building and Plant and Machinery and (ii) the appointment of the Transaction Auditor. Further the CoC had also ratified and approved (i) the turnover criteria relaxed for Resurgent Property Ventures Private Limited (ii) the publication of final list of Prospective Resolution Applicants; and (iii) the revised RFRP with certain corrections and modification.
9. The Form-G published on 09.01.2024, the last date of submission of the Resolution plan was 24.03.2024. On 17.02.2024, M/s. Moneywise Financial Services Private Limited had filed its claim before the Applicant herein as an Unsecured Financial Creditor of the Corporate Debtor for an amount of Rs. 32,07,808/-, the applicant herein provisionally admitted the claim. Vide order dated

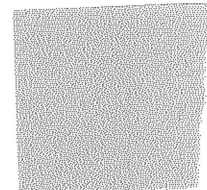
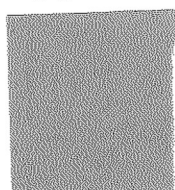
17.04.2024, record of reconstitution of CoC taken on record. The Corporate Debtor had filed an application being IA No. 549 of 2024 inter-alia challenging the Form -G published on 09.01.2024 by the Applicant herein. On 24.04.2024, the suspended management of the Corporate Debtor had also filed an application being IA No. 702 of 2024 inter-alia praying for submission of a Resolution plan. Reply has been filed by the Applicant in both the applications. Since, the last date of resolution plan expired on 24.04.2024, a 6th meeting of the CoC was held, wherein the CoC had unanimously resolved to grant a further extension of 30 days to the prospective Resolution Applicants for submission of Resolution Plan, which was extended from 24.04.2024 to 24.05.2024. In 7th meeting of CoC it was resolved with regards to consideration of the proposal and request of the suspended management of the Corporate Debtor to submit a Resolution plan being MSME, the said plan was rejected unanimously by the members of the CoC. In the 8th meeting of CoC it was resolved to extend date of submission of resolution plan, which was extended from 24.05.2024 to 24.06.2024. Vide order dated

12.06.2024, this Tribunal permitted the Applicant to arrange visit to the premises of the Corporate Debtor in presence of the suspended management and their concerned Advocate. The Suspended management of the Corporate Debtor requested for visit to the premises of the Corporate Debtor and send reminders. The prospective Resolution Applicant send an email to the Applicant and seek withdrawal of its interest from the CIRP and also seeking refund of EMD tune of Rs. 25,00,000/- another prospective Resolution Applicant sought further extension till 20.07.2024 for submitting a resolution plan, since the inspection of the premises was till awaited. On 09.07.2024, the Applicant visited the premises and inspected the assets of the Corporate Debtor.

10. In the 9th meeting of CoC held on 25.06.2024, the CoC by 100% voting resolved to liquidate the Corporate Debtor, and this application is filed by the RP.
11. The pending IA filed against the liquidation of the CD are briefed below.

IA No. 1579 of 2024

12. The instant application is filed by the Suspended



Management for challenging the Resolution of liquidation passed by the CoC as well as for placing the resolution plant submitted by the Suspended Management before the CoC for voting. In pursuance of discussion held in 10th CoC meeting, the suspended management proposed One Time Settlement proposal on 01.11.2024 to the RP. The said proposal was put for vote in the 11th meeting of CoC held on 18.11.2024. In the 12th meeting of CoC held on 22.11.2024 the said proposal was approved, however despite granting time for payment and several fresh proposals, the same has not been succeeded. Thereafter, the meeting of CoC was duly convened on 11.04.2025, wherein it was resolved that :

“Rs. One crore to be deposited with Hon’ble NCLT Ahmedabad or CIRP account of Resolution Professional of Corporate Debtor before the Closure of business hours of 15th April 2025 and One Time Settlement Proposal to be deliberated with CoC members not later than 21st April, 2025 is hereby approved”.

However, suspended management had miserably failed to deposit the amount of Rs. 1 Crore and the same is duly recorded in the order dated 15.04.2025. Ultimately, CoC decided to liquidate the Corporate Debtor.

IA No. 702 of 2024

13. This application is filed for submission of resolution plan.

In view of the 7th meeting of CoC the suspended management to submit a Resolution Plan being MSME was put to vote, however after detailed discussion and deliberation as well as in commercial wisdom the said resolution was unanimously rejected by the members of CoC. The RP had informed the Suspended Management that last date of submission of expression of interest was 24.01.2024 and the final list of PRAs was already prepared. The RP had relied upon the judgement of Hon'ble NCLAT *Jindal Power Ltd. vs. Dhiren Shantilal Shah, RP of Tuticorn Coal Terminal (P.) ltd.*,

It is stated that the Suspended management could have submitted their expression of interest beforehand and provided a feasible and viable Resolution plan by fairly competing with other PRAs who were genuinely interested in submitting a Resolution Plan and had even deposited EMD, in the present case the suspended management had not deposited the single penny despite several opportunities by the CoC. Moreover, the Suspended Management had

filed frivolous application being 1579 of 2024, despite the fact that the CoC was already considering the settlement proposal of the suspended management of the Corporate Debtor pursuant to the order dated 10.09.2024 passed by this Tribunal. It is to state that both the applications are nothing but an abuse of process of law and deserved to be rejected.

14. Heard the Counsels for both the sides and also the documents submitted and the IA pending in the matter.
15. It appears from the submissions and documents submitted that even though the suspended management showed interest to repay the debt through OTS did not comply with the same. Further, there are various other legal cases (14) pending under litigation against the CD prior to commencement of CIRP which include civil and criminal cases as submitted by the RP to the COC in the 3rd meeting of COC. The suspended management offered a OTS proposal as observed from minutes of meetings submitted by RP which was to settle the debt of 90% of creditors (HDFC Bank, ICICI Bank, Svakarma finance Pvt Ltd) to be paid by 10 Dec 2024 which was not met by the suspended

management including payment of 25 of the OTS amount. On 16.1.2025, the COC decided by an approval of 99.698% cancelled the OTS proposal submitted by the suspended management to the RP. This process has continued even after the 9th meeting held on 25.6.2024 wherein COC had approved by 100% voting in favour to liquidate the CD under Section 33 of the IBC, 2016. The contention of the applicant being an MSME to bring a resolution plan cannot be the ground for rejection of the application filed with the approval of COC for liquidation of the CD which has already run through CIRP process which was initiated on 09.10.2023. The RP has also not filed any Section 19 application or of preferential transactions which were mentioned in the COC minutes and approved till date. There is no point in further continuing the CIRP process as there would be further erosion in valuation of assets, with many pending litigations and we do not see from submissions whether a valuation report was obtained to decide whether this CD can be allowed to continue by resolution of the entity. Further, due to such non-cooperation by suspended management, its delay and not

committing funds under OTS no further offer needs to be made to the suspended management and the liquidation of the CD would be the only option available to repay the creditors.

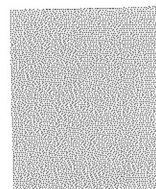
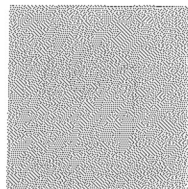
16. In view of the above, we pass the following orders:-

COMMON ORDER

- I. The application IA 20 (liq.) of 2024 is allowed.
- II. The Liquidation of Corporate Debtor- Yours Ethnic Foods Private Limited, is effective from the date of this order and the Moratorium declared *vide* order dated 09.10.2023 in CP(IB) No. 322/7/NCLT/AHM/2022, henceforth ceases to exist from the date of the order of liquidation.
- III. We hereby appoint Ms. Niharika Maheshwari having IBBI registration no. IBBI/IPA-001/IP-P-02725 and email id niharikamaheshwari2011@gmail.com as per the panel suggested by IBBI for this Bench as the Liquidator of the Corporate Debtor to carry the liquidation process. The Liquidator so appointed shall complete the Liquidation process as per the provisions of the Insolvency and

Bankruptcy Code, 2016 r.w. Insolvency and Bankruptcy Board of India (Liquidation process) Regulation, 2016.

- IV. All the powers of the Board of Directors, key managerial persons, and the partner of the Corporate Debtor, as the case may be, hereafter cease to exist. All these powers henceforth vest with the Liquidator
- V. The personnel of the Corporate Debtor are directed to extend all cooperation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- VI. The Liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and same shall be paid to the Liquidator from the proceed of the liquidation estate under section 53 of the Code.
- VII. Once the liquidation process is initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor. The Liquidator has the liberty to institute a suit and other legal proceedings on behalf of the Corporate Debtor



with the prior approval of this Adjudicating Authority, as provided in sub-section (5) of section 33 of the Code.

- VIII. This liquidation order shall be deemed to be notice of discharge to the officers, employees, and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.
- IX. The CoC is directed to contribute to the liquidation cost if any short fall occurs from the liquidation value of the Corporate Debtor.
- X. This Adjudicating Authority directs the Liquidator to issue a public announcement stating that the Corporate Debtor is in liquidation. The Liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the Corporate Debtor so that the authorities concerned are informed of the liquidation order timely. The Liquidator will also provide a copy of this order to the trade unions/employee associations of the Corporate Debtor so that the

workmen/employees could also be informed of this liquidation order through their association.

- XI. The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section - 35(1) of IBC, 2016 read with relevant rules and regulations and also filed its response for disposal of any pending Company Applications during the process of liquidation.
- XII. The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed liquidator forthwith.
- XIII. The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the Corporate Debtor, IBBI, the resolution professional, and the Liquidator by speed post as well as e-mail within one week from the date of this order, after completion of all the formalities.
- XIV. Accordingly, the present I.A. (Liq.) No. 20 of 2024 in CP (IB) 322 of 2022 stands disposed of.
- XV. The two IAs bearing IA No.1579 of 2024 and IA No. 702 of 2024 filed by the suspended management which are

briefed above is disposed of, being infructuous on account of admission of the liquidation application filed under Section 33 and 34 of IBC, 2016.

Sdl-

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

VC

Sdl-

CHITRA HANKARE
MEMBER (JUDICIAL)