NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

4. IA(LIQ.)/82/2024 C.P. (IB)/4108(MB)2019

IN THE MATTER OF

Reliance AIF Management Company Limited and others

VS

Bharucha And Motivala Infrastructure Private Limited

U/s 7 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 24.08.2026

CORAM:

SH. VINAY GOEL MEMBER (J)	SH. CHARANJEET SINGH GULATI MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:
For the Petitioner: -
For the Respondent: -

ORDER

IA(LIQ.)/82/2024: - The above **IA(LIQ.)/82/2024** is listed for pronouncement of orders. The same is pronounced in open court vide a separate order

Sd/- VINAY GOEL Member (Judicial)	Sd/- CHARANJEET SINGH GULATI Member (Technical)

//Anmol//

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, V

IA (LIQ) No. 82 OF 2024

Order under Section 33 of the Insolvency and Bankruptcy Code, 2016

<u>IN THE MATTER OF:</u>

Kedar Parshuram Mulye

Resolution Professional of Bharucha & Motivala Infrastructure Private Limited

<u>Having its registered address at:</u>

1301, Chaitanya Residency, Jayprakash Nagar, Road No. 2, Goregaon (E), Mumbai - 400063

… Applicant

<u>IN THE ORIGINAL MATTER OF:</u>

CP (IB) No. 4108 of 2019

Reliance AIF Management Company Limited

… Petitioner/Financial Creditor

Versus

Bharucha and Motivala Infrastructure Private Limited

…Respondent/ Corporate Debtor

Order Delivered on: 24.08.2026

Coram:

Sh. Vinay Goel
Member (Judicial)

Sh. Charanjeet Singh Gulati
Member (Technical)

Appearance through VC/Physical/Hybrid Mode:

For the Applicant: - Adv. Yahaya Batatawala a/w Adv. Krushi Shah (PH)

ORDER

IA (IBC) NO. 82 OF 2024

1. The present Interlocutory Application has been filed on 08.07.2024 (refilled on 20.08.2024) by Kedar Parshuram Mulye Resolution Professional of the Corporate Debtor, Bharucha & Motivala Infrastructure Private Limited **('the Applicant'**) under Section 33 of the Insolvency and Bankruptcy Code, 2016 **("Code"),** seeking following prayers:
    a. *To allow Liquidation of the Corporate Debtor – Bharucha and Motivala Infrastructure Private limited under Section 33 of the IBC, 2016;*
    b. *To pass such Order or Orders as this Hon'ble Tribunal may deem expdient*

Brief Facts of the Application

2. By order dated 06.05.2021 passed in Company Petition (IB) No. 4108 of 2019, this Tribunal admitted the Corporate Debtor into Corporate Insolvency Resolution Process **("CIRP")** on a petition filed under Section 7 of the Code and appointed the Applicant as Interim Resolution Professional.

3. Pursuant thereto, Applicant made a Public Announcement in Form A on 16.05.2021 in the Financial Express (English) and Loksatta (Marathi) Pune Edition, in terms of Section 15 of the Code read with Regulation 6 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016,

calling upon the creditors of the Corporate Debtor to submit their claims. The last date for submission of claims was 26.05.2021. The Appellant accordingly collated the claims and constituted the Committee of Creditors as under:

S.No	**Name of Creditor**	**Amount Claimed (Rs in Lakhs)**	**Amount Admitted (Rs in Lakhs)**	**% of Voting**
1	Nippon Life India AIF Management Limited	7283.08	7283.08	87.02%
2	Nippon Life India Asset Management Limited	536.82	536.82	6.42%
3	Axis Bank Ltd	374.89	374.89	4.48%
4	HDFC Bank Ltd	174.45	174.45	2.08%
	Total	**8369.25**	**8369.25**	**100.00%**

4. In its 1st meeting held on 08.06.2021, the Applicant was confirmed as Resolution Professional by the CoC.

5. It is submitted that aggrieved by the Order dated 06.05.2021, one of the Suspended Directors, Zubin Bharucha preferred an Appeal bearing no. 504 of 2021 before Hon'ble NCLAT, New Delhi. The Hon'ble NCLAT passed an Interim Order dated 20.07.2021 thereby staying the CIRP process.

6. In compliance with the aforesaid Interim Order, the Applicant refrained from undertaking the CIRP of the Corporate Debtor, while continuing to monitor its affairs. Thereafter, the Hon'ble NCLAT, New Delhi, vide its Order dated 12.04.2023, dismissed the Appeal.

7. Following the dismissal of the Appeal, the Applicant resumed the CIRP of the Corporate Debtor with effect from 13.04.2023. The Applicant thereafter preferred I.A. No. 2158 of 2023 seeking exclusion of 640 days attributable to the pendency of the proceedings. The said Application was allowed by the Tribunal vide order dated 03.07.2023.

8. Prior to the commencement of the stay on the CIRP, the Applicant had issued Form G on 19.07.2021, inviting Expressions of Interest **("EOIs")** from Prospective Resolution Applicants **("PRAs")** for submission of Resolution Plans. Upon resumption of the CIRP, in the 3rd Meeting of the CoC held on 04.05.2023, the Chairperson placed before the CoC members, the responses received pursuant to the Form G published on 19.07.2021. The following parties had expressed their interest:

SN.	**Interested Parties**
1	M/s UY Scuti Infratech Private Limited
2	Prabhatam Investment
3	Kundan Group
4	A.C. Gupta & Associates
5	M/s Yashvi Construction
6	M/s Renaissance Capital Advisors Private Limited

9. In view of the substantial lapse of time since publication of the earlier Form G and the intervening stay of the CIRP, the Chairperson proposed republication of Form G to provide an opportunity to prospective resolution applicants to participate in the CIRP. Accordingly, the CoC unanimously approved for the republication of Form G in the *Financial Express* (All India Edition), *Navrashtra* (Pune Edition) and *Navkal* (Mumbai Edition) on 05.05.2023.

10. The Resolution Professional pursuant to the publication of Form G received expression of interest in 4th meeting of CoC. Thereafter, the RP, on 14.06.2023 issued the final list of Eligible Resolution Applicant as under:

SN.	Interested Parties
1	Bunty Properties Unit No. XI
2	Lake District Realty Private Limited
3	Bharucha & Motivala Infrastructure Pvt Ltd – Through its promoters Zubin Bharucha & Rustom Bharucha

11. In the 6th Meeting of the CoC held on 19.07.2023, it was noted that as per RFRP, the last date for submission of Resolution Plans was 04.07.2023. However, upon the request of two out of the three PRAs, the CoC agreed to grant a further extension of 15 days. Accordingly, the last date for submission of Resolution Plans was extended to 03.08.2023.

12. It is submitted that only one Resolution Plan was received, jointly submitted by Mr. Rustom Bharucha and Mr. Zubin Bharucha, promoters of the Corporate Debtor, on 03.08.2023, and was subsequently revised on 25.08.2023.

13. The Applicant submits that discussions and deliberations between PRAs and CoC were held during the 8th to 14th meeting, convened between 13.09.2023 and 28.03.2024.

14. It is submitted that the 15th Meeting of CoC was convened on 01.07.2024, wherein the Applicant apprised the CoC members that Nippon Life India AIF Management Limited and Nippon Life India Asset Management Limited assigned their debt to M/s. Renaissance Fiscal Services Private Limited vide Transfer Deed dated 14.05.2024. The Applicant received the

claim of Renaissance Fiscal Services Private Limited on 28.06.2024 and, accordingly, reconstituted the Committee of Creditors. Pursuant thereto, the Applicant filed I.A. No. 3758 of 2024 placing on record its report regarding the reconstitution of the Committee of Creditors. The CoC as reconstituted above passed the following resolutions:

Resolution No.1: To approve the Resolution Plan submitted by the Promoters of the Corporate Debtor

"**RESOLVED THAT** pursuant to Section 30(4) of Insolvency and Bankruptcy Code, 2016 read with Regulation 39 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and in accordance with any other provisions, rules and regulations made thereunder, approval of the members of the Committee of Creditors of Bharucha & Motivala Infrastructure Private Limited be and is hereby accorded to the Resolution Plan dated 25.08.2023 read with addendums and the annexures submitted by the Promoters of Bharucha & Motivala Infrastructure Private Limited.

RESOLVED FURTHER THAT the Resolution Professional of Bharuch & Motivala Infrastructure Private Limited be and is hereby authorized to take such steps as may be necessary in relation to the above, if required and to settle all matters arising out of and incidental thereto and sign and execute all documents and writings that may be required and generally to do all acts, deeds, make payments and things that may be necessary, proper, expedient or incidental for the purpose of giving effect to the aforesaid resolution including filing necessary applications with the Hon'ble NCL T for the same."

S.N	**Financial Creditors**	**Voting Share**	**For**	**Against**	**Abstained**
1	Renaissance Fiscal	93.44%	-	Yes	-

	Private Limited				
2	Axis Bank	4.48%	-	-	Yes
3	HDFC Bank	2.08%	-	Yes	-
	Total	**100.00%**	**-**	**95.52%**	**4.48%**

The resolution is voted against by 95.52% of the voting share of financial creditors.

<u>Resolution No.2: To approve the Liquidation of the Corporate Debtor as discussed in agenda item A-5.</u>

"RESOLVED THAT pursuant to Section 33(2) of lnsolvency and Bankruptcy Code 2016 and amendments thereof including the Regulations made there under, the liquidation of the Corporate Debtor be and is hereby approved by the Committee of Creditors of *Mis* Bharucha & Motivala Infrastructure Private Limited."

FURTHER RESOLVED THAT the Resolution Professional is hereby authorized to file the necessary memo/application with the Adjudicating Authority for the approval of the Liquidation of the Corporate Debtor."

S.N	**Financial Creditors**	**Voting Share**	**For**	**Against**	**Abstained**
1	Renaissance Fiscal Private Limited	93.44%	Yes	-	-
2	Axis Bank	4.48%	-	-	Yes
3	HDFC Bank	2.08%	Yes	-	-
	Total	**100.00%**	**95.52%**	**-**	**4.48%**

The resolution is voted in favour by 95.52% of the voting share of financial creditors.

15. Additionally, the following mandatory requirements were also approved and voted with 95.52% in favour during the 15th CoC Meeting:

> *"**Resolution No. 3 - To consider an approve the estimated liquidation process cost in accordance with Regulation 39B of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), Regulations, 2016***
>
> ***RESOLVED THAT** pursuant to Section 30 of lnsolvency and Bankruptcy Code, 2016 read with Regulation 39B of the Insolvency and Bankruptcy Board of lndia (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and in accordance with any other provisions, rules and regulations made thereunder, the members of the Committee of Creditors of Bharucha & Motivala Infrastructure Private Limited, approve the estimated liquidation process cost over and above liquid assets.*
>
> ***RESOLVED FURTHER THAT** the Resolution Professional of Bharucha & Motivala Infrastructure Private Limited be and is hereby authorized to take such steps as may be necessary in relation to the above, if required and to settle all matters arising out of and incidental thereto and sign and execute all documents and writings that may be required and generally to do all acts, deeds, make payments and things that may be necessary, proper, expedient or incidental for the purpose of giving effect to the aforesaid Resolution."*
>
> ***Resolution No. 3 – To consider and approve the sale of the corporate debtor as a going concern in accordance with Regulation 39C of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016***
>
> ***RESOLVED FURTHER THAT** the Committee of Creditors hereby approves the recommendation of the member of the Committee of Creditors that in case of liquidation, the liquidator should first consider the sale of the corporate debtor*

as a going concern in accordance with regulation 39C of the Insolvency and Bankruptcy Board of lndia (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and in accordance with any other provisions, rules and regulations made thereunder.

***RESOLVED FURTHER THAT**, the Resolution Professional of Bharucha & Motivala Infrastructure Private Limited be and is hereby authorized to take such steps as may be necessary in relation to the above, if required and to settle all matters arising out of and incidental thereto and sign and execute all documents and writings that may be required and generally to do all acts, deeds, make payments and things that may be necessary, proper, expedient or incidental for the purpose of giving effect to the aforesaid Resolution."*

<u>Resolution No. 4 – To consider and approve the sale of the corporate debtor as a going concern in accordance with Regulation 39C of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016</u>

***RESOLVED FURTHER THAT,** the Committee of Creditors hereby approves the recommendation of the member of the Committee of Creditors that in case of liquidation, the liquidator should first consider the sale of the corporate debtor as a going concern in accordance with regulation 39C of the Insolvency and Bankruptcy Board of lndia (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and in accordance with any other provisions, rules and regulations made thereunder.*

***RESOLVED FURTHER THAT**, the Resolution Professional of Bharucha & Motivala Infrastructure Private Limited be and is hereby authorized to take such steps as may be necessary in relation to the above, if required and to settle all matters arising out of and incidental thereto and sign and execute all documents and writings that may be required and generally to do all acts, deeds, make payments and things that may be* *necessary, proper, expedient or incidental for the purpose of giving effect to the aforesaid Resolution!"*

16. The Applicant has also placed on record all minutes of the meeting of COC from 1st to 15th vide Additional affidavit dated 15.07.2024. The Applicant has also filed a Chronology of Events vide Additional Affidavit dated 29.09.2025.

17. In the 16th Meeting of Creditors held on 11.03.2025 the CoC considered the appointment of Liquidator for the Corporate Debtor Renaissance shared the profile of IP Mr. Nitin Om Kothari for appointment as Liquidator of the Corporate Debtor. M/s. Renaissance Fiscal Services Private Limited, a member of the CoC proposed the name of Mr. Nitin Om Kothari for appointment of Liquidator. Thereafter the CoC passed a resolution approving the appointment of Mr. Nitin Om Kothari as the Liquidator, with 93.44% voting share in favour.

Resolution No.2: To consider appointment of the liquidator in as discussed in Agenda Item A-6

> *"**RESOLVED THAT,** the Committee of Creditors hereby approves the recommendation with respect to the appointment of Mr. Nitin Om Kothari as liquidator as per Regulations of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for C01porate Persons) Regulations, 2016 and in accordance with any other provisions, rules and regulations made thereunder.*
>
> ***RESOLVED FURTHER THAT** the fees payable to Liquidator be decided by the Stakeholders Committee formed under Liquidation Regulation.* "

18. The CoC was later reconstituted due to assignment of debt by M/s Renaissance Capital Advisors Private Limited to M/s Maa Pahari Mercantiles Private Limited.

19. The Applicant has placed the Minutes of the 16th Meeting of CoC and the consent of Mr. Nitin Om Kothari on record vide additional affidavit dated 10.04.2025

<u>Analysis & Findings</u>

20. Heard the Learned Counsel for the Applicant and perused the documents available on record.

21. It is noted that, in the 15th Meeting of CoC held on 01.07.2024, the CoC, with 95.52% voting share, resolved to initiate the liquidation of the Corporate Debtor on the ground that only one Resolution Plan was received from the Promoters of the Corporate Debtor, and the same was rejected by the CoC with 95.52% voting share.

22. In view of the aforesaid resolution passed by the CoC, the provisions of Section 33(2) of the Code are clearly attracted. The relevant extract of Section 33(2) is reproduced below for the ready reference:

> ***<u>"Section 33 - Initiation of liquidation</u>***
>
> *(2) Where the resolution professional, at any time during the corporate insolvency resolution process but before confirmation of resolution plan, intimates the Adjudicating Authority of the decision of the committee of creditors approved by not less than sixty-six percent of the voting share to liquidate or dissolve the corporate debtor, the Adjudicating Authority shall pass a liquidation order as referred to in sub-clauses (i), (ii) and (iii) to liquidate (ii), (iii), (iv) and (v) of clause (b)of sub-section (1) or a dissolution order under subsection (2A) of section 54, as the case may be.*
>
> *[Explanation- For the purposes of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate or dissolve the corporate debtor, any time after its constitution under sub-section (1) of section 21 and before the*

confirmation of the resolution plan, including at any time before the preparation of the information memorandum.]"

23. In the facts and circumstances of the case and discussions herein above, this bench of the considered opinion that the present Interlocutory Application is in consonance with Section 33(2) of the Code. Therefore, the liquidation of the Corporate Debtor in the manner laid down in Chapter III of the Code is ordered considering the fact that the CoC passed a resolution for rejection of the resolution plan and thereafter have passed a resolution for initiation of the liquidation proceedings of the Corporate Debtor with 95.52% voting share. Accordingly, the following order is passed in I.A. (Liq.) No. 82 of 2024 in C.P. (IB) No. 4108 of 2019.

ORDER

a. The Corporate Debtor, **Bharucha and Motivala Infrastructure Private Limited** is directed to be liquidated in accordance with the provisions of Chapter III of the Code and applicable regulations. Consequently, the Applicant/RP stands relieved subject to procedural/necessary compliances under Section 34(5) of the Code.

b. As proposed by the CoC, we hereby appoint, **Mr. Nitin Om Kothari,** bearing Registration No. **IBBI/IPA-001/IP-P-02310/2020-2021/13477,** having address at 3A-303, Whispering Palms Building no 3 CHS Ltd, Lokhandwala Township, Kandivali (east), Mumbai City, Maharashtra ,400101**,** Email id: **cakotharico[at]gmail[dot]com** having AFA valid upto 30.06.2027, to act as the Liquidator in terms of Section 34 of the Code.

c. The Liquidator shall initiate the liquidation process as envisaged under Chapter III of the Code and the Liquidation Process Regulations applicable on the date of passing of this order. He shall take control of all the assets of Corporate Debtor and also continue or institute proceedings in respect of an avoidance transactions or fraudulent or wrongful trading, if any, as per section 35(1)(l) of the Code.

d. The liquidator for conduct of the Liquidation proceedings will be entitled to the fees as per the Regulation 4 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, applicable on the date of passing of this order.

e. The Committee of Creditors constituted under section 21 shall continue to function during the liquidation process as per Regulation 8 of the IBBI (Liquidation Process) Regulations, 2016.

f. A fresh moratorium shall commence in terms of provision of Section 33(1)(iv) of the Code.

g. The Liquidator shall issue public announcement stating that the Corporate Debtor is in liquidation.

h. This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor.

i. The Liquidator shall submit a Preliminary Report to the Adjudicating Authority within 30 days from the liquidation commencement date as per Regulation 13 of the Insolvency and Bankruptcy (Liquidation Process) Regulations, 2016. The Liquidator shall also submit progress reports as per Regulation 15 of the Liquidation Process Regulations.

j. The Liquidator is hereby authorised to represent the Corporate Debtor before the Government Authorities, if required.

k. Registry shall furnish a copy of this Order within seven days from the passing of this Order to the following:

    i. Insolvency and Bankruptcy Board of India;
    ii. Regional Director (Western Region), Ministry of Corporate Affairs;
    iii. Registrar of Companies, Mumbai-I;
    iv. Official Liquidator attached to Bombay High Court;
    v. Erstwhile Resolution Professional, Mr. Kedar Parshuram Mulye;
    vi. Liquidator, Mr. Nitin Om Kothari.

24. Accordingly, the I.A. (LIQ.) No. 82 of 2024 is **allowed** in above terms and stands **disposed of**.

Sd/-	**Sd/-**
VINAY GOEL	**CHARANJEET SINGH GULATI**
Member (Judicial)	Member (Technical)

Smeet - LRA