IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.304

IA(Liq.)/7(AHM)2025 in CP(IB)/258(AHM)2022

Proceedings under Section 33(2) & 34 of IBC,2016

IN THE MATTER OF:

Mohit Bipinchandra Adatiya RP of Byindia Creations Private Limited ....**Applicant**

V/s ....**Respondent**

Praveen Kumar Daruka Suspended Board of Director Byindia Creations Private Limited & Another

Order delivered on: 29/07/2026

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet.

Sd/-

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

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

SJ/AD/AP

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT -I

I.A. No. 7 of 2025
IN
CP(IB) No. 258(AHM) 2022

[An Application is filed under Section 33 & 34 of the Insolvency & Bankruptcy Code, 2016]

In The Matter of:

Mohit Bipinchandra Adatiya
Resolution Professional of
Byindia Creations Private Limited
406, B M Square 2, Above HDFC Bank
Rajlaxmi Park, Motibaug road, Junagadh
Gujarat, India-362001

....Applicant

Order Pronounced on: 29/07/2025

Coram:

MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)

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

Present:

For the Applicant : Mr. Vishwas V Shah, Advocate
Mr. Nipun Singhvi, Advocate
RP present in person

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For the Respondent : Mr. Ravi Pahwa, Advocate (Suspended management)
Ms.Hirva Dave Advocate

ORDER

1. The present Interlocutory Application is filed by the Resolution Professional ("RP") under Section 33 & 34 of the Insolvency & Bankruptcy Code,2016 ("IBC, 2016") seeking order of liquidation of Corporate Debtor namely Byindia Creations Private limited.

2. The Corporate Debtor was admitted into Corporate Insolvency Resolution Process ("CIRP") vide order dated 23.06.2023 in CP(IB)/258(AHM)2022 passed by this Adjudicating Authority on an application filed by Petitioner M/s. Byindia Creations Private Limited under Section 10 of the IBC, 2016 and Mr. Mohit Bipinchandra Aditya having Registration No. (IBBI/IPA-001/P-01966/2019-2020/13004) was appointed Interim Resolution Professional ("IRP").

3. The Corporate Debtor is incorporated on 24.03.2013 under the provisions of Companies Act, 1956 (CIN – U17291GJ2013PTC075257) registered office at 4,

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Bhumika Ind. Estate, Bhatar Char Rasta Majura, S.Y. No. 43/2, Surat, Gujarat-395007.

4. As per Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016, the IRP made public announcement and invited claims from the creditors of the Corporate Debtor in Form- A dated 25.06.2025 in two newspapers “Financial Express” English and Gujarati Edition, the last date of submission of claim was 07.07.2025. Pursuant to that, one claim was received from the financial creditor i.e. Punjab National bank. Further, IRP has received two claims from Operational Creditor i.e. (i) State Tax Department, GOG, office of Assistant Commissioner of State Tax (ii) Assistant Director, ESIC Surat.

5. An IA No. 842(AHM)2025 in CP(IB) 258(AHM)2022 was filed before this Tribunal intimating regarding constitution of COC along with report.

6. The 1st CoC meeting was held on 23.07.2025 under the Chairmanship of the Petitioner, wherein the representative of the sole financial creditor, Punjab National Bank, was present. The CoC, with 100% voting

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share, approved all agenda items relating to the appointment of legal counsel, ratification of the IRP's costs and expenses, reduction of the notice period, and extension of the interval between CoC meetings. However, the agenda items pertaining to the appointment of registered valuers, appointment of the Resolution Professional under Section 22 of the Insolvency and Bankruptcy Code, 2016, and filing of an application under Section 19(2) of the Code were deferred to the next CoC meeting.

7. In the 2nd CoC meeting, the Applicant proposed the initiation of the EOI process and publication of Form G. However, considering the absence of information regarding the Corporate Debtor's assets and the possibility of liquidation, the CoC deferred the agenda relating to the publication of Form G. In the 3rd CoC meeting held on 16.10.2025, the CoC, with 100% voting share, resolved to liquidate the Corporate Debtor, considering that it had no assets. Accordingly, the CoC decided not to issue the EOI or publish Form G and

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approved the necessary resolutions for liquidation, including those under Regulations 39B, 39BA, and 39D.

8. Pursuant to the CoC's decision, the Applicant filed IA No. 1029/2025 under Section 19(2) of the Code for the Corporate Debtor's non-cooperation. By order dated 12.12.2025, this Hon'ble Tribunal directed the Respondents to remain personally present on 19.01.2026. In view of the above facts the Petitioner preferred the present application.

9. This Tribunal vide order dated 13.05.2026 directed to RP file written submissions, on the basis of asset value of the Corporate Debtor two years prior to last audited balance sheet and the asset value post admission of CIRP. He was also directed to file reasons why there were no action was initiated to examine the financial transactions prior to CIRP and file appropriate report under IBC with the approval of COC. In pursuance of the above order the RP has filed compliance affidavit dated 01.07.2026 stating that:

I. The last audited financial statements of the Corporate Debtor pertain to the financial year ended

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31.03.2021 and were signed on 01.02.2022. No audited financial statements or annual statutory filings have been made by the Suspended Board of Directors for any period subsequent to FY 2020-21. Consequently, the assessment of the asset position and financial affairs of the Corporate Debtor has necessarily been undertaken on the basis of the financial statements for the years prior to FY 2020-21 available on the records of the Ministry of Corporate Affairs (MCA), the last available audited financial statements for FY 2020-21, the provisional financial information for FY 2021-22 annexed to the application filed under Section 10 of the Insolvency and Bankruptcy Code, 2016, the bank statements furnished by the Financial Creditor, the GST & Income Tax credentials and records subsequently shared by the Suspended Board of Directors.

II. The movement in the assets of the Corporate Debtor, based on the available financial records, is shown in the table below. The analysis is based on the audited

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financial statements up to FY 2020-21 and the provisional financial information for FY 2021-22.

Particulars	31.03.2019	31.03.2020	31.03.2021	FY 2021-22 (Prov.)
Property plant & equipment	1,80,67,240	1,56,50,556	1,31,45,721	-
Inventories	12,29,13,469	12,22,21,309	1,89,28,838	1,89,28,838
Trade Receivables	3,04,06,540	1,97,42,097	2,19,64,942	66,05,875
Deferred tax assets	2,58,285	2,59,001	2,59,001	2,59,001
Long terms loans and advances	12,22,970	12,22,970	12,22,970	84,720
Short term	83,14,148	93,47,771	85,06,851	56,84,099
Cash & Cash equipments	4,92,714	4,97,750	2,00,018	2,00,018
Total	18,16,75,366	16,89,41,454	6,42,28,341	3,17,62,551
Reserves & surplus	61,86,972	64,78,737	9,89,61,208	11,14,86,598

III. The available records indicate that the Corporate Debtor's asset base declined substantially from approximately ₹18.17 crore as on 31.03.2019 to NIL realisable assets as on the Insolvency Commencement Date (23.06.2025). The reduction was primarily attributable to the write-off of damaged inventories of approximately ₹9.57 crore during FY 2020–21 and the subsequent disposal of the remaining inventories and Property, Plant & Equipment (PPE), aggregating to approximately

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₹3.20 crore, to a related entity for a stated consideration of ₹50 lakh on 06.01.2022. Upon commencement of CIRP, no identifiable or realisable assets were available, and the Suspended Board of Directors confirmed that the Corporate Debtor had remained non-operational for several years and possessed no physical or movable assets.

Reasons stated by the RP for not initiation examination of financial transactions prior to CIRP :

IV. The Applicant was appointed as the Interim Resolution Professional pursuant to the admission of the Corporate Debtor into CIRP on 23.06.2025 and has since been functioning as the Deemed Resolution Professional. Despite repeated requests, multiple Committee of Creditors ("CoC") meetings, and proceedings under Section 19(2) of the Insolvency and Bankruptcy Code, 2016, the Suspended Board of Directors ("SBOD") failed to provide the books of account, Tally data, financial statements, and other essential records required for the conduct of CIRP and transaction audit.

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Consequently, the Applicant could not appoint an external Transaction Auditor and was constrained to prepare a transaction audit report based on the limited records available. After exhausting all available remedies and with the approval of the CoC, the Applicant filed the present Avoidance Application to safeguard the assets of the Corporate Debtor. The delay, if any, in filing the application was solely on account of the persistent non-cooperation of the SBOD despite repeated requests and directions of this Tribunal.

10. IA 1029(AHM) 2025 in CP(IB) 258(AHM) 2022 filed under Section 19(2) of the Insolvency and Bankruptcy Code 2016 r/w Rule 11 of the NCLT Rules, 2016 by Mohit Bipinchandra Adatiya Interim Resolution Professional of Byindia Creations Private Limited seeking appropriate orders/directions from the Adjudicating Authority against the Respondents herein for not providing necessary information/documents as required by the Applicant in accordance with the provisions of the Code is still pending for adjudication.

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11. We have heard Ld. Counsel for the Applicant as well as RP present in person.

12. Observations & Conclusions:

a) It appears from the application that the RP could not further progress in the liquidation as there were only two operational creditors representing the state government and the ESIC. Further there are no assets which seem to have been disposed of, written off before the Application was filed under Sec 10 by the CD. The suspended management has not also cooperated and there is Section 19 application also pending.

b) The tribunal views seriously the non-cooperation of the CD, but allowing the CIRP process to continue at this stage is of no use. The RPs fees are to be paid by the suspended management which has moved this application under Section 10 of IBC 2016 and has not cooperated.

13. In view of the same, we allow the application and take the CD in to liquidation, new liquidator to further examine and process the pending claim to proceed against the suspended management and the auditor of the company.

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It also appears that PNB is one of the creditors who did not file any claim before the RP. The suspended management was directed to pay the fees to the RP which has not been complied. Further guidelines will be issued to the liquidator in the Sec 19 application which is listed for next hearing on 12.08.2026 for appearance of the suspended management.

14. A copy of this order is issued by the Registry to the suspended management in the name of its Directors (R1 and R 2) and through their legal counsel Mr Ravi Pahwa in the Sec 19 matter and to PNB. R 1 and R2 (Mr Praveen Kumar Daruka and Mr Ransingh B Dagur) are directed to within 7 days of this order remit an advance amount of Rs. 5 lakhs each to the RP/liquidator and appear before this tribunal for hearing on IA 1029 of 2025 listed for hearing on 12th August 2026. In view of the above we pass following order:

ORDER

i. The corporate debtor M/s. Byindia Creations Private Limited shall be put into liquidation in terms of the

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provisions of Section 33(2) of the Code r.w. Regulations made thereunder which shall be effective from the date of this order.

ii. The Moratorium declared under Section 14 of the Code shall cease to have effect from the date of the order of liquidation.

iii. We hereby appoint Mr. Kiran Chinubhai Shah having Registration No: IBBI/IPA-001/IPP00480/2017-18/10868 Email: dhruvitks@gmail.com as per the panel suggested by IBBI for this Bench for the period of July, 1 to December 31, 2026, as the Liquidator of the Corporate Debtor to carry the liquidation process subject to the following terms of the directions :

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 power henceforth vest with the liquidator.

v. The personnel of the corporate debtor are directed to extend all cooperation to the liquidator as required

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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.

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ix. It is directed that 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.

x. The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the corporate debtor, 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.

xi. The present resolution professional is directed to hand over the relevant documents and control of the corporate debtor to the newly appointed liquidator forthwith.

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xii. Accordingly, the present I.A. No. 7 of 2025 in CP (IB) 258 of 2022 is allowed and stands disposed of.

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

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CHITRA HANKARE
MEMBER(JUDICIAL)

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