

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-I, CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **17.11.2025** THROUGH VIDEO CONFERENCING

CORAM: HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

IN THE MATTER OF : Fast Track Consultants
Vs
AKR Home Depot Pvt. Ltd.

MAIN PETITION NUMBER : IBA/1469/2018

(IA/MA) APPLICATION NUMBERS

IA(DIS)/28(CHE)/2024, IA/158/CHE/2021

COMMON ORDER

IA/158/CHE/2021

Present: Shri. B. Ramana Kumar, Ld. Counsel for the
Applicant/Liquidator.
Shri. Mayan H Jain, Ld. Counsel for R1, R5 & R6.
Liquidator in person.

Vide separate order pronounced in the Open Court, application is **disposed of**.

IA(DIS)/28(CHE)/2024

Present: Shri. N. Kumar, Liquidator in person.

Arguments heard.

List the application for clarifications on **17.12.2025**.

Sd/-
VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

Sd/-
SANJIV JAIN
MEMBER (JUDICIAL)

vs

Date: 17.11.2025

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – I, CHENNAI**

IA/158/CHE/2021

in

IBA/1469/IB/2018

(Filed under Section 49 & 66 of the Insolvency and Bankruptcy Code, 2016)

In the matter of AKR HOME DEPOT PVT. LTD.

N. Kumar,

Liquidator : M/s. AKR Home Depot Pvt. Ltd.

Old No. 8, New No.3,

3rd Street, Race View Colony,

Guindy, Chennai-600 032

..... Liquidator/Corporate Debtor

-Vs-

1. **Mrs. P.M.A. Saleema,**
Personal Guarantor / Director
No. 64, MKN Road,
Guindy, Chennai-600 032
2. **Mr. Nagoor Mohideen,**
Personal Guarantor / Director
No. 64, MKN Road,
Guindy, Chennai-600 032
3. **Mr. Abdul Salam Farook,**
No. 64, MKN Road,
Guindy, Chennai-600 032
4. **Mr. Abdul Khadar Ghulam Mohideen,**
No. 64, MKN Road,
Guindy, Chennai-600 032
5. **Mr. A M Farook,**
No. 64, MKN Road,
Guindy, Chennai-600 032

6. **Ms. Najmath Saliga,**
No. 64, MKN Road,
Guindy, Chennai-600 032

7. **Mr. Balasubramaniam Ramiah,**
No. 64, MKN Road,
Guindy, Chennai-600 032

..... *Directors of the Corporate Debtor*

Present:

For Applicant/Liquidator : *Shri. B. Ramana Kumar, Advocate*
Shri. S. Harish Kumar, Advocate

For Respondents : *Shri. Mayan H Jain , Advocate for R1, R5 & R6*

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

Order Pronounced on 17th November, 2025

ORDER

(Heard through Video Conferencing)

1. This application under Section 49 and 66 of IBC has been filed by the Liquidator against the Promoter / Suspended Directors of the Corporate Debtor AKR Home Depot Private Limited alleging fraudulent diversion and siphoning of funds to the extent of Rs. 2,93,05,500/-.
2. It is stated that the Corporate Debtor was admitted into CIRP vide an order dated 04.02.2019. The Applicant was appointed as the IRP, later

confirmed as RP and then appointed as Liquidator. It is stated that the erstwhile Directors during the CIRP did not provide the books of accounts nor co-operated with him. He had moved an application MA/397/2019 but did not get any documents.

3. It is stated that the Applicant by his own initiative obtained the bank statements of the Corporate Debtor maintained with Karur Vysya Bank Account No. 1614115000001940 and Axis Bank Account No. 911020062232976 and determined that the Respondents siphoned off the funds to the tune of Rs. 2,93,05,500/-, details mentioned as under:-

Details of Transacion - Suspected Related party
 Bank Axis Bank Alandur
 AKR Home Depot Private Limited

Account No : 911020062232976

Date	Transaction	Amount	Remarks
13.1.2015	trf to Najmath Saliga	1,41,000	Respondent director (R6)
15.4.2015	Mohamed Farook	1,00,000	family member
9.6.2015	trf to Mohamed Farook	3,00,000	family member
19.8.2015	trf to Mohamed Farook	1,98,000	family member
4.9.2015	trf to Mohamed Farook	50,000	family member
8.10.2015	trf to Mohamed Farook	4,00,000	family member
4.11.2015	trf to Mohamed Farook	1,27,000	family member
5.11.2015	trf to Mohamed Farook	3,40,000	family member
7.11.2015	trf to Mohamed Farook	14,00,000	family member
7.11.2015	trf to Mohamed Farook	7,40,000	family member
13.11.2015	trf to Mohamed Farook	5,00,000	family member
13.11.2015	trf to Mohamed Farook	1,36,000	family member
21.11.2015	trf to Mohamed Farook	3,00,000	family member
14.12.2015	trf to Mohamed Farook	1,20,000	family member
17.12.2015	trf to Mohamed Farook	8,00,000	family member
6.2.2016	trf to Mohamed Farook	10,00,000	family member
24.6.2016	PMA Saleema	9,50,000	Respondent director (R1)
24.6.2016	Aalan paul	6,00,000	Respondent director in AKR Holdings Private Limited However subsequently returned Rs.2,52,000 on 17.10.16(2lacs), 18.10.16 Rs.2K and 3.12.16 Rs.50K
11.11.2016	trf to Najmath saliga	9,50,000	Respondent director
	Total	91,52,000	
	Returned by Aalan Paul	2,52,000	
	Total	89,00,000	

Details of Transactions - Suspected Related party

Bank KVB Madipakkam
Account No 161411500001940

AKR Home Depot Private Limited

Date	Transaction	Amount	Remarks
20.4.2016	Transfer to AKMF	62,000	Abdul Khadar Mohamed Farook family member
23.11.2016	Transfer to AMF	2,89,000	AM Farook Respondent director
23.11.2016	Transfer to AMF	60,000	AM Farook Respondent director
23.11.2016	Transfer to Vinojini	3,00,000	
23.11.2016	Transfer to Vince	3,00,000	
23.11.2016	transfer to Grotto Unisex Saloon	1,00,000	
23.11.2016	transfer to AMF	4,85,000	AM Farook Respondent director
24.11.2016	transfer to AMF	5,25,000	AM Farook Respondent director
25.11.2016	transfer to AMF	5,00,000	AM Farook Respondent director
27.11.2016	transfer to AMF	90,000	AM Farook Respondent director
29.11.2016	transfer to AMF	8,00,000	AM Farook Respondent director
3.12.2016	transfer to AM Farook	2,00,000	AM Farook Respondent director
08.12.2016	transfer to AMF	4,00,000	AM Farook Respondent director
15.12.2016	transfer to AMF	4,25,000	AM Farook Respondent director
19.12.2016	transfer to AMF	40,000	AM Farook Respondent director
26.12.2016	transfer to AMF	7,30,000	AM Farook Respondent director
30.12.2016	transfer to AMF	1,00,000	AM Farook Respondent director
31.12.2016	transfer to AMF	8,00,000	AM Farook Respondent director
31.12.2016	transfer to AMF	3,00,000	AM Farook Respondent director
3.1.2017	transfer to AMF	12,00,000	AM Farook Respondent director
3.1.2017	transfer to AMF	70,000	AM Farook Respondent director
25.09.2017	transfer to AMF	5,00,000	AM Farook Respondent director
1.12.2017	Transfer to PMAS -Cash with drawal	53,000	PMA Salema Respondent director
4.12.2017	transfer to AMF cash withdrawal	50,000	AM Farook Respondent director
24.1.2018	transfer to AMF	25,000	AM Farook Respondent director
24.1.2018	transfer to AMF	65,000	AM Farook Respondent director
10.4.2018	transfer to AMF	1,00,000	AM Farook Respondent director
15.5.2018	transfer to anton engineering	25,00,000	
15.5.2018	transfer to anton engineering	25,00,000	

16.5.2018	transfer to anton engineering	25,00,000	
16.5.2018	transfer to anton engineering	9,00,000	
16.5.2018	transfer to AMF	40,000	AM Farook Respondent director
16.5.2018	transfer to AMF	1,60,000	AM Farook Respondent director
16.5.2018	transfer to anton engineering	2,00,000	
22.5.2018	transfer to amf	2,00,000	AM Farook Respondent director 4 transactions on same day
8.6.2018	transfer to amf	86,500	AM Farook Respondent director
11.6.2018	transfer to amf	1,35,000	AM Farook Respondent director
30.6.2018	transfer to amf	45,000	AM Farook Respondent director
6.11.2015	transfer to amf	5,00,000	AM Farook Respondent director
7.11.2015	transfer to amf	4,70,000	AM Farook Respondent director
3.3.2016	transfer to Aallan Paul	16,00,000	Respondent director in AKR Holdings Private Limited family member
		TOTAL	2,04,05,500

4. The Liquidator has also filed the statement of bank accounts forming basis of the application vide Sr. No. 1049 dated 13.03.2025. The Liquidator has filed the synopsis vide Sr. No. 2406 dated 19.06.2025 stating that despite bailable warrants and continuous efforts made by him, the Respondents did not provide him the books of accounts. It is stated that the Applicant has filed the application under Section 66 of IBC since the transactions are fraudulent in nature.
5. Notice of the application was given to the Respondents / Suspended Directors.

6. Respondents No. 1, 5 and 6 filed a common reply alleging that the application is not maintainable. It is stated that Section 49 of IBC cannot be independently invoked without following the mandatory statutory scheme envisaged under Section 45 to Section 49 of IBC. An application under Section 49 is consequential in nature and comes into play only after the Tribunal at the first instance determines under Section 48 that a transaction is undervalued as per Section 45. In the present case, the Liquidator has not filed any application under Section 45 of IBC seeking a declaration that the alleged transactions fall within the ambit of undervalued transactions within the meaning of Section 45(2) of IBC. Further, there is no order to be effect that the alleged transactions are indeed the undervalued transactions. It is stated that determination, whether a transaction is undervalued requires a distinct and detailed enquiry under Section 45 and Section 46 involving examination of valuation, consideration and comparative arm's length parameters which has not been undertaken by the Liquidator. Section 49 also requires a specific finding that the undervalued transaction was with the intent to defraud the Creditors. In the present case, there is no averment, no material and no factual foundation to sustain the allegation of fraudulent intent under Section 49. Only bald assertions

have been made. The scope of enquiry under Sections 45, 46 and 49 is entirely different as that in Section 66. The provisions under Section 49 empowers the Tribunal to make two types of orders i.e. restoring the position as existed before the transaction and protecting the interests of the persons who are the victims of such undervalued transactions. In the present case, there is no determination of an undervalued transaction. It is stated this application is merely an attempt to short circuit the statutory process.

7. The Respondents denied the allegations made in the application and stated that they had not indulged in any fraudulent diversion or siphoning off funds to the tune of Rs. 2,93,05,500/-. They ceased to be the Directors of the Corporate Debtor w.e.f. 09.06.2016 (Respondent No. 1 Ms. P.M.A. Saleema), 20.12.2014 (Respondent No. 5 Mr. A.M. Farook) and 01.10.2012 (Respondent No. 6 Mr. Najimuth Saliga) respectively, however they continued to be the Shareholders in the Corporate Debtor. It were only the Respondent No. 3 and 4 namely Mr. Abdul Salam Farook and Mr. Abdul Khadar Ghulam Mohideen who were acting as the Directors of the Corporate Debtor since 2016. It is stated that the statements of accounts of the Corporate Debtor

furnished by the Liquidator do not establish any undervalued transactions as per Section 45 much less one defrauding the Creditors of the Corporate Debtor. Wild allegations have been made in the application by referring the transactions which were made in the usual course of business of the Corporate Debtor. It is stated that the Applicant has failed to establish any culpability against the Respondents. It is stated that since the Respondents ceased to be the Directors of the Corporate Debtor much before the initiation of CIRP, there was no question of alleged non-cooperation by them.

8. It is alleged that the Liquidator did not understand the business model of the Corporate Debtor, how it used to obtain short term loans at arm's length from its Shareholders and repay the same in a timely manner. It is stated that not even one transaction can be termed as undervalued. A fishing expedition has been made by the Liquidator for the transactions from 2014, beyond the look back period provided under Section 46 of IBC. It is stated that the Respondents never indulged in undervalued transactions.

9. We have heard Ld. Counsel Shri. Ramana Kumar for the Applicant / Liquidator and Shri. Mayan H Jain, Ld. Counsel for Respondents No. 1, 5 and 6.
10. Section 49 of IBC provides that where the Corporate Debtor has entered into an undervalued transaction as referred to in Section 45(2) and the Adjudicating Authority is satisfied that such transaction was deliberately entered into by the Corporate Debtor for keeping the assets of the Corporate Debtor beyond the reach of any person who is entitled to make a claim against the Corporate Debtor or in order to adversely affect the interest of such person in relation to the claim, the Adjudicating Authority shall make an order restoring the position as it existed before such transaction as if the transaction has not been entered into protecting the interests of the persons who are victims of such transaction.
11. Section 45 of IBC provides that if the Liquidator or the RP as the case may be on examination of the transactions of the Corporate Debtor determines that certain transactions were made during the relevant period under Section 46 (one year preceding the insolvency commencement date with any person and two years preceding the

insolvency commencement date with the related party), he shall make an application to the Tribunal to declare such transactions as void and reverse the effect of such transaction. A transaction shall be considered undervalued where the Corporate Debtor makes a gift to a person or enters into a transaction with a person which involves the transfer of one or more assets by the Corporate Debtor for a consideration, the value of which is significantly less than the value of consideration provided by the Corporate Debtor and such transaction has not taken place in the ordinary course of business of the Corporate Debtor.

12. In the present case, the CIRP against the Corporate Debtor was initiated vide an order dated 04.02.2019. This application has been filed on 09.03.2021. It was initially filed under Section 49 R/w Section 60(5) of IBC but later Section 60(5) was substituted with Section 66 of IBC after obtaining the order on 21.06.2022.
13. Section 66 of IBC provides that if during the CIRP or liquidation process, it is found that any business of the Corporate Debtor has been carried on with an intent to defraud the Creditors of the Corporate Debtor or for any fraudulent purpose, the Adjudicating Authority may on the application of the RP pass an order that any persons who were

knowingly the parties carried on of the business in such manner shall be liable to make such contributions to the assets of the Corporate Debtor as it may deem fit if before the insolvency commencement date, such Director knew that there was no prospect of avoiding the commencement of CIRP or that such Director did not exercise due diligence in minimizing the potential loss to the Creditors of the Corporate Debtor.

14. In the present case, the Liquidator has filed the statement of accounts showing the transactions for the period from 13.01.2015 till 22.05.2018. A perusal of the transactions shows that there were transfer of amounts to the family members of the Directors (R1, R5 & R6). The maximum transfers were made to A.M. Farook (Respondent No. 5). Though, Ld. Counsel for Respondent No. 5 has submitted that Respondent No. 5 ceased to be the Director in the Corporate Debtor w.e.f. 20.12.2014 but he failed to explain why these transfers were made to Respondent No. 5 from the account of the Corporate Debtor. Admittedly, these transfers were beyond the look back period as provided under Section 47 of IBC but in the absence of any explanation from the Respondent No. 5, the beneficiary of the alleged transactions,

these transfers can also be said to be the fraudulent transactions which have been carried out to defraud the Creditors of the Corporate Debtor or for fraudulent purpose. It is not the case that the RP or the Liquidator had not given the opportunity to the Respondents to explain the transactions as alleged in the statement of accounts filed with the application. The record shows that the Promoter Directors even did not cooperate during the process nor provided the information / records despite the application under Section 19 of IBC. Further, the Respondents have not given any explanation about these transactions in the reply / counter and stated only to the effect that these transactions were made in the usual course of business of the Corporate Debtor. It is not understood what was the usual course of business. As regards contention that transactions are beyond the look back period, Section 66 is very clear that for a fraudulent transaction there is no look back period.

15. Admittedly in the fraudulent transactions, the onus to prove these transactions is initially on the RP / Liquidator but once the Liquidator has discharged the onus which in the present case has been discharged by submitting the statement of accounts of the Corporate Debtor

maintained with two banks showing the transfers to the Respondents, the burden shifts on the Respondents to explain these transactions. It were the Respondents who could explain the transactions whether these transactions were made in the ordinary course of business or not.

16. In the absence of any explanation, these transactions can well be said to be the fraudulent transactions made by the Respondents to defraud the Creditors. In the present case, the Creditor is the Bank.
17. As regards the contention, no transaction / forensic audit was got conducted and there is no material showing the formation of opinion by the Liquidator, the explanation of the Liquidator shows that he is a Chartered Accountant by profession, he himself verified the accounts and assessed the transactions. There is no requirement for these applications that there should be transaction / forensic audit of the accounts of the Corporate Debtor.
18. In the present case, the sale of the Corporate Debtor has already taken place. The Liquidator has filed an application for closure of the liquidation process. The beneficiary as per the averments / proceedings dated 30.05.2025 is the Financial Creditor.

19. Having considered the facts in entirety, we allow the application and direct the Respondents to pay a sum of Rs. 2,93,05,500/- as prayed for in the application within four weeks from the date of the order. The amount be paid to the Financial Creditor, the beneficiary of the PUFEE transactions.

20. In terms of the above, IA/158/CHE/2021 is accordingly **disposed of**.

Sd/-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

Sd/-

SANJIV JAIN
MEMBER (JUDICIAL)