NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

3. IA(LIQ.)/55/2024 C.P. (IB)/102(MB)2019

IN THE MATTER OF

Transport Corporation Of India Limited
Vs
Thakkarsons Roll Forming Private Limited

U/s 9 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 28.08.2026

CORAM:
SH. VINAY GOEL
MEMBER (J)

SH. CHARANJEET SINGH GULATI
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Applicant: Adv. Ajinkya Kurdukar (VC)

For the FC: Adv. Gajendra A. Rajput (VC)

ORDER

IA(LIQ.)/55/2024: The above IA(LIQ.)/55/2024 is listed for pronouncement of the order. The same is pronounced in open court, vide a separate order.

Sd/-
VINAY GOEL
Member (Judicial)

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)

//Rahul//

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, V

IA (LIQ) No. 55 OF 2024
Order under Section 33 of the Insolvency and Bankruptcy Code, 2016

IN THE MATTER OF:

Mr. S. Gopalakrishnan

Interim Resolution Professional of M/s Thakkarsons Roll Forming Private Limited

Having its registered address at:

Office No. 203, The Ghatkopar Nilkanth CHS, Jethabhai Lane, Ghatkopar (East), Mumbai – 400 077

… Applicant

IN THE ORIGINAL MATTER OF:

CP (IB) No. 102 OF 2019

Transport Corporation of India

… Operational Creditor

Versus

M/s Thakkarsons Roll Forming Private Limited

…Corporate Debtor

Order Delivered on: 28.08.2026

Coram:

Sh. Vinay Goel
Member (Judicial)

Sh. Charanjeet Singh Gulati
Member (Technical)

Appearance through VC/Physical/Hybrid Mode:

For the Applicant: - Adv. Ajinkya Kurudukar (PH)

For Canara Bank – Adv. Gajendra Rajput (VC)

ORDER

IA (IBC) NO. 55 OF 2024

1. The present Interlocutory Application has been filed on 11.02.2024 (refilled on 11.06.2024) by Mr. S. Gopalakrishanan Interim Resolution Professional of the Corporate Debtor, M/s Thakkarsons Roll Farming Private Limited **('the Applicant'**) under Section 33 and 34 of the Insolvency and Bankruptcy Code, 2016 **("Code"),** seeking following prayers:
    a. *To allow the present liquidation application of the Corporate Debtor as CoC with 100% Voting Share has approved the liquidation of the CD under Section 33(2) of the IB Code, 2016 pursuant to 17th Meeting of CoC at page no___;*
    b. *To pass necessary order under Section 34 of the Insolvency and Bankruptcy Code for appointment of Mr. S. Gopalakrishnan, IP as a Liquidator whose IBBI Registration Number is IBBI/IPA-002/IP-N00151/2017-18/10398 pursuant to the 17th CoC Meeting.*
    c. *To pass any other necessary orders as deem fit by the Hon'ble Adjudicating Authority in the interest of justice.*

Brief Facts of the Application

2. The Corporate Insolvency Resolution Process **("CIRP")** of M/s Thakkarsons Roll Forming Private Limited **("Corporate Debtor")** was initiated by this Tribunal vide order dated 19.02.2021 in CP (IB) No. 102 of 2019 under Section 9 of the Code filed by Transport Corporation of India (**"Operational Creditor"),** and Mr. S Gopalkrishnan was appointed as the Interim Resolution Professional **("IRP")** of the Corporate Debtor.

3. Pursuant thereto, the IRP made a Public Announcement in Form A on 25.02.2021, inviting claims from the creditors of the Corporate Debtor on or before 10.03.2021. Upon receipt of claims, the Applicant constituted the Committee of Creditors **("CoC")** of the Corporate Debtor on 17.03.2021. The report of certifying the constitution of CoC along with the list of creditors was filed with this Adjudicating Authority on 21.03.2021. The details of the claims are as under:

(Amount in Rs)

Name of Claimant	**No. of Claims**	**Amount Claimed**	**Amount Admitted**
Financial Creditor (Canara Bank) Sole CoC	1	44,25,67,483	44,25,67,483
Operational Creditors (Government Dues)	1	84,070,411	84,070,411
Operational Creditors (other than Workmen & Employee Dues)	12	144,927,130	124,881,740
Total	**14**	**67,15,65,024**	**65,15,19,634**

4. In 2nd Meeting of CoC held on 08.06.2021, the CoC resolved to appoint Mrs. Rekha K. Shah as the Resolution Professional ('RP') with 100% voting share. An application for appointment of Mrs. Rekha K Shah as the Resolution Professional bearing IA No. 2308 of 2021, was filed on 07.10.2021 and the same remain pending before this Adjudicating Authority. Accordingly, pursuant to Section 16(5) of the Code read with Regulation 17(3) of the CIRP Regulations, the IRP continued to perform the functions of RP from 04.04.2021 and was the "Deemed RP" for the entirety of CIRP.

5. In compliance with the CIRP Regulations, the IRP appointed registered valuers for ascertaining the fair and liquidation value of assets of the Corporate Debtor. The details of the valuation are as under:

(Amount in RS)

Particulars	**Fair Value (INR)**	**Liquidation Value (INR)**
Land & Building	7,95,64,000	4,77,78,000
Plant & Machinery	1,80,59,000	1,11,77,500
Security & Financial Assets	1,19,830	1,19,830
Stock	13,73,007	7,84,503
Total	**9,91,15,836**	**5,98,59,833**

6. The IRP issued invitation for Expression of Interest ("EOI") and Form G was published on 25.08.2021 in two newspapers the Free Press Journal (English) and Navshakti (Marathi). In response, the IRP received EOIs from several entities. The final list of prospective Resolution Applicants included:

Sr.No	**Name of the Resolution Applicant**
1	RKG Asset Management LLP
2	Naresh Sirimal Chandan
3	AR Thermosets Pvt Limited
4	Devang Thakkar jointly applied with Mansi Thakkar & Vatsal Thakkar
5	Arco Steel Private Limited

7. The IRP received Resolution Plans from two Resolution Applicants: (i) Mr. Narsh Kumar Chandan; and (ii) Consortium of Mr. Devang Thakkar, Mr. Vatsal Thakkar and Ms. Mansi Thakkar.

8. The resolution plan submitted by Mr. Naresh Kumar Chandan was found to be non-compliant with the rules and regulations of the IB Code, 2016 and was not put for voting. The resolution plan submitted by the Consortium of Mr. Devang Thakkar, Mr. Vatsal Thakkar and Ms. Mansi Thakkar was put for voting and was rejected by 100% voting share in the 8th meeting of CoC dated 14.12.2021.

9. Considering the above, the CoC in its 9th Meeting held on 27.01.2022, resolved and approved the liquidation of the Corporate Debtor pursuant to Section 33 of the IB Code 2016 with 100% voting share by the sole CoC member i.e. Canara Bank. The CoC also resolved to appoint the IRP as the Liquidator of the Corporate Debtor.

10. The IRP filed an application for liquidation of the Corporate Debtor bearing IA No. 565 of 2022 on 01.03.2022. The suspended management filed an application bearing IA No. 944 of 2022 on 06.04.2022 seeking consideration of the resolution plan and objecting to the liquidation of the Corporate Debtor.

11. During the hearing of both the IAs on 23.08.2023, the RP and CoC showed their willingness to take into consideration the resolution plan of the suspended board one more time. The suspended board was allowed to submit the revised resolution plan. Accordingly, IA 565 of 2022 was withdrawn by the RP and IA 944 of 2022 was allowed and disposed of by this Tribunal, giving a chance to the suspended board of Management to submit their resolution plan again to CoC.

12. Pursuant to the order dated 23.08.2023, the IRP convened the 11th CoC Meeting on 28.08.2023 and placed before the CoC the order of this Tribunal dated 23.08.2023.

13. The IRP convened the 12th Meeting of CoC on 13.09.2023 and the Resolution Applicant was intimated to submit the Resolution Plan by 25.09.2023. However, the Resolution Plan was submitted on 10.10.2023.

14. The IRP convened the 14th CoC meeting on 11.10.2023 and placed the resolution plan which was received without the Earnest Money Deposit of Rs. 50 Lakh as per the Request for Resolution Plan. The plan was not compliant as per the RFRP. Time was given to Mr. Devang Thakkar and its consortium to deposit the EMD of Rs. 50 lakhs on or before 15.10.2023.

15. The IRP convened the 15th CoC Meeting on 19.10.2023 and placed before CoC the detailed analysis of the Resolution plan by the legal consultant Adv. Manisha Purohit. The legal compliance report clearly stated that EMD of Rs. 50 lakhs was not submitted. The entire resolution plan was majorly non-compliant considering the provisions of the IB Code, 2016.

16. The IRP convened the 16th CoC meeting on 04.12.2023 and the suspended management requested for further 2 days' time for submission of revised offer. In the 17th Meeting of CoC convened on 08.12.2023, since there was no revised plan/offer, the CoC resolved for liquidation of the Corporate Debtor with 100% voting share.

> **To consider and approving liquidation of the Corporate Debtor**
>
> **RESOLVED THAT** *consent of members of CoC be and is hereby accorded to approve the Liquidation of the Corporate Debtor M/s. Thakkarsons Roll Forming Private Limited u/s 33 (2) of the Insolvency and Bankruptcy Code, 2016 and any other applicable provisions.*
>
> ***RESOLVED FURTHER THAT*** *the Committee of Creditors hereby authorises the Resolution Professional to apply and intimate to Hon'ble Adjudicating Authority decision of the*

Committee of Creditors to liquidate the Corporate Debtor and obtain the order of liquidation.

RESOLVED FURTHER THAT *the Authorised Representative of the Committee of Creditors is hereby authorized to take such steps as may be necessary, in relation to the above, to the extent required and to settle all matters arising out of and incidental thereto sign and execute all applications, documents and writings that may be required and generally to do all acts, deeds and things that may be necessary, proper, expedient or incidental for the purpose of giving effects to the aforesaid resolution.*

17. Additionally, following resolutions were also approved by the CoC member with 100% voting share:

To approve appointment of Liquidator of the Corporate Debtor

*"**RESOLVED THAT** pursuant to continuation to the resolution passed for liquidation of Thakkarsons Roll Forming Private Limited and the provisions of Section 34(1) of the Insolvency and Bankruptcy Code, 2016 and any other applicable provisions, consent of the members of Committee of Creditors be and is hereby accorded to appoint the RP Shri S Gopalakrishnan having registration number IBBI/IPA-002/IP-N00151/2017-2018/10398 (AFA Valid Till 6th November, 2024) to act Liquidator of the Corporate Debtor."*

To approve the fees payable to the Liquidator during Liquidation of the Corporate Debtor

RESOLVED THAT pursuant to proposition for liquidation, the provisions of Section 34(1) of the Insolvency and Bankruptcy Code, 2016 and any other applicable provisions, consent of the members of Committee of Creditors be and is hereby accorded to approve fees to be payable to Shri S. Gopalakrishnan during liquidation of the Corporate Debtor at Rs. 75,000/- per month and 50% of the rates specified in Regulation 4 of the Liquidation Regulation plus applicable taxes and out of pocket expenses.

To assess Sale of Corporate Debtor as a Going Concern under Liquidation Process

*"**RESOLVED THAT** consent of the members of Committee of Creditors be and is hereby accorded to Liquidate Thakkarsons Roll Forming India Pvt. Ltd as going concern.*

***RESOLVED FURTHER THAT** the Committee of Creditors shall endeavour to liquidate Thakkarsons Roll Forming India Pvt. Ltd as a going concern entity on a best-efforts basis."*

To Consider exploring Compromise or Arrangement

*"**RESOLVED THAT** consent of the members of Committee of Creditors be and is hereby accorded for compromise or arrangement for Thakkarsons Roll Forming Pvt. Ltd.*

***RESOLVED FURTHER THAT** Resolution Professional / Liquidator be and is hereby authorised to take such steps as may be necessary, in relation to the above, to the extent required and shall file the proposal with Adjudicating Authority and to do all acts, deeds and things that may be necessary, proper, expedient or incidental for the purpose of giving effects to the aforesaid resolution."*

To consider and approve the plan for meeting Liquidation Costs

*"**RESOLVED THAT** pursuant to Regulation 39B of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations,2016 read with Regulation 2A of Liquidation Process Regulations, 2016, the consent of members of CoC be and is hereby accorded to approve the Liquidation Cost as presented to the meeting and the estimated Liquidation Cost amounting to **Rs. 34,49,877 + 50% of the rates specified in Regulation 4 + Out of Pocket Expenses + Applicable taxes** be and is hereby accorded in the event when Liquidation order is passed by Hon'ble AA under section 33 of the Code."*

***RESOLVED FURTHER THAT** the Resolution Professional be and is hereby authorised to take such steps as may be necessary, in relation to the above, to the extent required and to settle all*

matters arising out of and incidental thereto sign and execute all applications, documents and writings that may be required and generally to do all acts, deeds and things that may be necessary, proper, expedient or incidental for the purpose of giving effects to the aforesaid resolution."

To approve the Quotation of Advocate for Drafting, Filing and Appearing for the Liquidation application with Hon'ble Adjudicating Authority

RESOLVED THAT *pursuant to Regulation 31 read with Regulation 33 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other applicable provisions, if any, of the Insolvency and Bankruptcy Code, 2016, professional fees amounting to a maximum of Rs, 50,000 plus OPE, GST and RCM and Court Fees at actuals for drafting, filing and appearing till final disposal, for the Liquidation Application to be filed with Hon'ble AA be and hereby ratified and approved*

RESOLVED FURTHER THAT *pursuant to Regulation 31 read with Regulation 33 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other applicable provisions of the Insolvency and Bankruptcy Code, 2016, the professional fee of lawyer as ratified and approved by the CoC shall be treated as part of the insolvency resolution process cost of the Corporate Debtor."*

RESOLVED FURTHER THAT *the Resolution Professional be and is hereby authorised to take such steps as may be necessary, in relation to the above, to the extent required and to settle all matters arising out of and incidental thereto sign and execute all applications, documents and writings that may be required and generally to do all acts, deeds and things that may be necessary, proper, expedient or incidental for the purpose of giving effects to the aforesaid resolution."*

"RESOLVED THAT *pursuant to Regulation 34B(3) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution*

Process for Corporate Persons) Regulations, 2016 and other applicable provisions, if any, of the Insolvency and Bankruptcy Code, 2016, the members of the COC _ hereby approve the fees of Resolution Professional from the date of filing of the Liquidation petition till the order of the liquidation as Rs.50,000/- per month + GST and out of pocket expenses which shall be paid from the period beginning when the liquidation application is filed till the passing of the order by the Adjudicating Authority, which shall form a part of the CIRP cost."

18. The CoC, with 100% voting share, resolved to initiate liquidation of the Corporate Debtor on the ground that the Resolution Applicant, despite being given an opportunity by this Tribunal vide order dated 23.08.2023, failed to submit a compliant Resolution Plan and sufficient time had been granted to the Resolution Applicant.

19. During the course of hearing on 09.07.2026, this tribunal had passed the following order:

> 1. *This IA has been filed by the RP seeking Liquidation of the Corporate Debtor.*
> 2. *To a specific question whether, this Liquidation Application has been filed under sub-section (1) or sub-section (2) of Section 33 of the IBC, and whether it has been filed within the extended period of CIRP, Ld. Counsel for the Applicant seeks to place the entire details in tabulated form, along with the supporting orders, documents and address us on the next occasion.*
> 3. *Let the same be done by way of filing an Additional Affidavit within ten (10) days.*
> 4. *List this IA accordingly for further consideration on 17.08.2026.*

20. Pursuant to the directions contained in the order dated 09.07.2026, the Applicant has filed an Additional Affidavit dated 14.08.2026, clarifying that the present Liquidation Application has been filed under Section 33(2) of the

IBC. The Applicant has stated that the Resolution Plan submitted by Devang Thakkar and consortium was rejected by the CoC on 14.12.2021, pursuant to which the CoC resolved for liquidation and IA No. 565 of 2022 was filed on 01.03.2022.

21. The Applicant has further clarified that, during the hearing of IA No. 565 of 2022 and IA No. 944 of 2022 on 23.08.2023, this Tribunal permitted the suspended management to submit a revised Resolution Plan. Pursuant thereto, further opportunity was granted to submit a compliant plan; however, no compliant Resolution Plan was ultimately received.

22. Consequently, in the 17th CoC Meeting held on 08.12.2023, the CoC resolved for liquidation of the Corporate Debtor with 100% voting share. The Applicant has also placed on record the computation of the CIRP period, including exclusion of 627 days from 22.01.2022 to 12.10.2023, as allowed by this Tribunal vide order dated 15.01.2024, whereby the extended CIRP period expired on 11.12.2023.

23. Thus, the Applicant has clarified that the present application seeks liquidation under Section 33(2) of the IBC, pursuant to the Resolution of the CoC to liquidate the Corporate Debtor.

Analysis & Findings

24. Heard Ld. Counsel for the Applicant and perused documents available on the record.

25. It is noted that the CoC, in its 9th meeting held on 27.01.2022, had resolved, with 100% voting share, to liquidate the Corporate Debtor, pursuant to which IA No. 565 of 2022 was filed. During the hearing of the said application on 23.08.2023, this Tribunal permitted the suspended management to submit a

revised Resolution Plan, pursuant to which IA No. 565 of 2022 was withdrawn.

26. Despite the opportunity afforded, no compliant Resolution Plan was received. Consequently, the CoC, in its 17th meeting held on 08.12.2023, once again resolved, with 100% voting share, to liquidate the Corporate Debtor.

27. 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 is reproduced below for the ready reference:

> **Section 33 - Initiation of liquidation**
> *(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 sub-section (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.]*"

28. In the facts and circumstances of the case and discussions herein above, this bench is of the considered opinion that the present Interlocutory Application is in consonance with Section 33(2) of the Code. The CoC, in its 17th meeting held on 08.12.2023, has resolved to initiate liquidation proceedings against the Corporate Debtor with 100% voting share, after the Resolution Applicant failed to submit a compliant Resolution Plan despite being afforded an opportunity by this Tribunal.

29. Further, the Applicant has proposed the appointment of S. Gopalakrishnan as the Liquidator of the Corporate Debtor. However, no written consent of the proposed Liquidator is on record. It is also noted that, pursuant to the amendment to Section 34 of the Code by the Insolvency and Bankruptcy Code (Amendment) Act, 2026, with effect from 26.05.2026, this Tribunal, while passing an order under Section 33, is required to refer the matter to the Board for making recommendations for the appointment of an Insolvency Professional as Liquidator. Accordingly, in view of the amended provisions of the Code and the IBBI (Liquidation Process) Regulations, 2016, as applicable with effect from 01.06.2026, the appointment of the Liquidator is required to be considered in accordance with the amended procedure. Accordingly, prayer clause (b), seeking appointment of S. Gopalakrishnan as Liquidator of the Corporate Debtor, is rejected.

30. In view of the facts and circumstances of the case, this Bench deems it just and proper to order liquidation of the Corporate Debtor in the manner laid down in Chapter III of the Code. Therefore, the following order is passed in **I.A. (Liq.) No. 55 of 2024 in C.P. (IB) No. 102 of 2019**:

ORDER

a. The Corporate Debtor, **M/s. Thakkarsons Roll Forming 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. In view of discussion at Para No. 29 of this order, we deem it appropriate to appoint an Insolvency Professional, from the panel of Insolvency Professionals shared by the IBBI, as Liquidator in this case.

Accordingly, **Mr. Dhiren Shantilal Shah,** bearing Registration No IBBI/IPA-001/IP-P00220/2017-18/10419, having address at 702, Matushree Apartment, Sir M V Road, Andheri - East, Near Natraj, Mumbai Suburban, Maharashtra ,400069, Email id: **dss[at]dsshah[dot]in**, having AFA valid upto 31-Dec-27, is appointed 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 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 resolution passed by the CoC in its 17th Meeting held on 08.12.2023, i.e., Rs. 75,000/- per month plus applicable taxes and out of pocket expenses.

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, except when the

business of the Corporate Debtor is continued during the liquidation process by the Liquidator.

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. Interim Resolution Professional, Mr. S. Gopalakrishnan;
   vi. Liquidator, Mr Dhiren Shantilal Shah.

31. Accordingly, the I.A. (LIQ.) No. 55 of 2024 is **partly allowed** in above terms and stands **disposed of**.

Sd/-

VINAY GOEL

Member (Judicial)

Sd/-

CHARANJEET SINGH GULATI

Member (Technical)

Smeet - LRA